



*Manual on*  
**Human Rights**  
*and the*  
**Prevention**  
*of*  
**Genocide**

Jacob Blaustein Institute  
for the Advancement of Human Rights

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In cooperation with the Special Adviser to the United Nations Secretary-General on the Prevention of Genocide

Founded in 1971 under the aegis of the American Jewish Committee, the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) continues in that capacity to strengthen the protection of human rights through the United Nations and other intergovernmental bodies. JBI strives to narrow the gap between the promise of the Universal Declaration of Human Rights and other international human rights agreements and the realization of those rights in practice.

Jerry H. Biederman is Chairman of the JBI Administrative Council, and Felice D. Gaer is the Director of the Institute.

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# Manual on Human Rights and the Prevention of Genocide

Foreword by Adama Dieng,  
Special Adviser to the United Nations Secretary-General  
on the Prevention of Genocide

Jacob Blaustein Institute  
for the Advancement of Human Rights



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\* In this *Manual*, the term “particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide: national, ethnic, racial, and religious groups.

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## Adama Dieng

### Special Adviser to the United Nations Secretary-General on the Prevention of Genocide

The crime of genocide is a grave concern of the international community: its occurrence is not simply a phenomenon of the past, but one that has recurred in diverse parts of the world, including in recent times, with the shocking annihilation of hundreds of thousands and even millions of persons. Since my appointment as the Special Adviser to the United Nations Secretary-General on the Prevention of Genocide in 2012, I have drawn attention to the fact that these events occurred as a result of identity-based conflicts, conflicts rooted in tensions among and discrimination against different national, religious, ethnic and racial groups. If action had been taken earlier to address these tensions, prevent discrimination and promote human rights protection for all and respect for the rule of law, then lives could have been saved.<sup>1</sup>

Looking back at situations such as Germany under Nazi rule or Bosnia-Herzegovina and Rwanda in the 1990s, we have the benefit of seeing clearly how, step by step, the policies, plans and actions leading to genocide were constructed. The challenge we face today is to devise strategies to detect and deter these processes, and the patterns of discrimination and other systematic and serious abuses of human rights that result from identity-based conflicts, before they spiral out of control. The challenge exists at the international level, including for collective action of the States parties to the Convention on the Prevention and Punishment of the Crime of Genocide, but also at the national level, where a practical approach is required.

That is why I am pleased that the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) has produced this *Manual on Human Rights and the Prevention of Genocide* as a tool that can advance practical action by States to prevent a range of “human rights-related risk factors for genocide.”

This *Manual* is another of JBI’s contributions to the prevention of genocide. At the request of my predecessor, former Special Adviser Francis M. Deng, JBI developed a *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, setting out the normative content of the obligation to “prevent” genocide in the Genocide Convention. It was launched together with the Office at the United Nations headquarters in 2011.

Then, as now, JBI convened a prestigious Steering Committee that discussed, defined and approved a list of “human rights-related risk factors for genocide.” The Steering Committee included a number of eminent experts on genocide prevention. JBI’s *Compilation* identifies the “human rights-related risk factors” and presents normative sources that establish that States have pre-existing international legal obligations to prevent not only genocide, per se, but also violations of human rights related to each of the risk factors.

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<sup>1</sup> Statement of the Special Adviser, 6 December 2012, available at <http://www.un.org/en/preventgenocide/adviser/pdf/OGRtoP%206%20December%20Statement.pdf>

This *Manual*, also developed at the request of my Office, follows up on the *JB I Compilation*. It is a user-friendly tool that recommends practical steps that States can take to prevent the emergence of each of the human rights-related risk factors, or to aid them in preventing further escalation. A unique contribution of this *Manual* is the source of its guidance to States, which was developed primarily from recommendations directed to States by independent experts who serve on the human rights treaty monitoring bodies administered by the United Nations. This linkage demonstrates the important contribution of human rights and humanitarian law—as well as United Nations human rights mechanisms—to the prevention of genocide. It also shows that in many ways, compliance by States with their human rights obligations is an essential aspect of genocide prevention.

This *Manual*, and the *Compilation* before it, are consistent with and advance the work of my office to promote action by States in response to warning signs of a risk of genocide. In 2014, my Office produced a Framework of Analysis for Atrocity Crimes that sets out risk factors for all atrocity crimes, by which we are referring to genocide, war crimes and crimes against humanity. The Framework includes eight risk factors that are common to all atrocity crimes, one of which is a “record of serious violations of international human rights and humanitarian law.” This *Manual* complements our Framework by, for example, beginning to explore what such “serious human rights violations” might entail in the particular context of genocide prevention and by offering important guidance for the consideration of States.

This *Manual* demonstrates the relevance of the work of independent human rights monitoring mechanisms, such as the United Nations human rights treaty bodies, to our own efforts. My predecessors and I, like the Secretary-General and High Commissioner for Human Rights, have long recognized that human rights treaty bodies are “well-placed to sound the alarm”<sup>2</sup> when they detect early warning signs of the risk of genocide in the course of their regular monitoring work. This *Manual* demonstrates that these monitoring bodies are an important source of guidance for States on steps that can be taken to prevent human rights violations that target groups or individuals simply because of their identity—violations which have the potential to escalate dramatically if allowed to go unchecked.

I look forward to using this important tool as my Office continues to elaborate on how our broader Framework of Analysis can be applied in situations where warning signs of atrocity crimes—particularly patterns of human rights violations that target particular population groups—are present. I commend it to others within the United Nations system, regional organizations, Member States, and civil society who seek, as I do, to assist States in fulfilling their responsibility to protect their populations by preventing genocide.

New York, March 2015

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2 See United Nations High Commissioner for Human Rights, “Prevention of Genocide,” UN Doc. A/HRC/10/25 (2009) ¶ 56, citing Report of the Secretary-General on the implementation of the Five Point Action Plan and the activities of the Special Adviser on the Prevention of Genocide, UN Doc. E/CN.4/2006/84 (2006), ¶ 22.

## Preface

Since its founding, a central concern of AJC's Jacob Blaustein Institute for the Advancement of Human Rights (JBI) has been to promote greater adherence to and enforcement of the obligation to prevent genocide enshrined in international law. This was motivated by the sad recognition that, during the Holocaust, "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," as the preamble to the 1948 Universal Declaration of Human Rights acknowledges.

Our concern has led to JBI carrying out activities in support of efforts to name, define, and prohibit the crime of genocide; educate the public on the early warning signs of genocide; urge action to prevent genocide through measures taken by States and the United Nations (UN) in cases where such early warning signs are present or in which genocide appears to be occurring; and punish the perpetrators of genocide.

Our efforts to contribute to genocide prevention have been persistent. Following the founding of the UN, AJC worked with Raphael Lemkin, the Polish Jewish legal scholar who coined the term "genocide" and drafted much of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, changing the landscape of international law by not only establishing that genocide is an international crime, but obliging ratifying states to take measures to prevent as well as punish it. AJC collaborated with Lemkin, supporting his efforts to bring about the ratification of the Convention, making space in its national office available to him, and even, when it became necessary much later, providing the memorial stone for his grave. Following the adoption by the UN of the Genocide Convention, AJC and JBI advocated diligently for the United States and other countries to ratify it. In 2001, on the eve of the centenary of his birth and fifty years after the entry into force of the Genocide Convention, JBI published *An Epitaph for Raphael Lemkin*, a monograph by Dr. William F. Korey. At a launch event held at the United Nations, Secretary-General Kofi Annan acknowledged Lemkin, who had never been previously recognized by the UN, as "one of the unsung heroes of the international human rights movement."

Through its grants program, JBI commissioned studies on enhancing enforcement of the obligations to prevent and punish genocide articulated in the Genocide Convention and supported the production of one of the first textbooks to instruct undergraduate students on international human rights issues including genocide prevention. JBI and AJC advocated for and strongly support the UN's Holocaust Remembrance Program and the annual Holocaust Remembrance Day activities carried out at the UN General Assembly, and JBI has called for genocide prevention to be a central component of Holocaust education.

We have also championed efforts to promote accountability for the perpetrators of genocide. JBI and AJC advocated intensely for UN action in response to allegations of genocide in Bosnia-Herzegovina, Darfur and elsewhere. JBI engaged with the prosecutor of the international criminal tribunals for the Former Yugoslavia and Rwanda and encouraged the development of investigative

and witness protection capacity, with a particular focus on the prosecution of sexual violence including rape. JBI has engaged with prosecutors and judges of the International Criminal Tribunal on the former Yugoslavia (ICTY) and the International Criminal Court in The Hague. JBI also worked to ensure adequate funding of the tribunals, including by convening an in-depth expert consultation with members of the UN's Advisory Committee on Administrative and Budgetary Questions to press for adequate funding for the ICTY.

A key focus of JBI's efforts has been supporting the work of the Special Adviser to the UN Secretary-General on the Prevention of Genocide, the first UN post to explicitly address and advise UN leadership on genocide-related issues. JBI strongly supported the establishment of the post and in 2008, at the request of the Special Adviser, JBI began its Genocide Prevention Project (GPP) of which this *Manual* is the most recent product, aimed at the central goal of deepening the world's understanding of what it means to "prevent genocide" and when the presence of patterns of human rights violations triggers States' responsibility to engage in preventive action.

The first stage of the GPP involved the identification of human rights-related "risk factors" for genocide. In this effort, JBI consulted international human rights experts including leading scholars, key UN experts, including the Special Adviser and his core staff, and respected advocates with the aim of identifying human rights-related risk factors for genocide.

The first product of this endeavor was JBI's *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*.<sup>1</sup> Published in 2011, the *Compilation* identifies a set of human rights risk factors for genocide and sets out the international human rights and international humanitarian law norms relevant to their prevention.

This *Manual* follows up on the earlier *Compilation* by offering practical guidance to States and other stakeholders on measures they can take to mitigate the human-rights related risk factors when they are found to be present or at risk of emerging. Each of the guidance points in the *Manual* has been developed with reference to human rights and international humanitarian law sources, and each has been developed based on recommendations made by independent human rights experts, in particular the human rights treaty bodies administered by the UN. Their contributions to genocide prevention, as pointed out by the past UN High Commissioner for Human Rights, Navi Pillay, in March 2009, include not only monitoring state adherence to the treaties, but also making recommendations that offer guidance to states on measures they can take to overcome patterns of discrimination and intolerance.

JBI wishes to express its special appreciation to the expert members of its Genocide Prevention Project Steering Committee who offered advice and guidance on the *Manual*, and reviewed and commented on the text at different stages. Adama Dieng, Jennifer Welsh, Walter Kaelin, Roberta Cohen, Edward Luck, Thomas Buergenthal, Bertrand Ramcharan, Laurie Blank, Irwin Cotler, Tad Stahnke, Ben Majekodunmi, and Naomi Kikoler each provided valuable input during the preparation of the text.

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<sup>1</sup> See Jacob Blaustein Institute for the Advancement of Human Rights, *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide (2011)*, available at <http://www.jbi-humanrights.org/jacob-blaustein-institute/2011/04/jbi-launches-publication-on-preventing-genocide.html>.

JBI is particularly grateful to Adama Dieng, who has served as Special Adviser to the Secretary-General on the Prevention of Genocide since 2012, for his encouragement for this project and the guidance that he has provided throughout its preparation. The project would not have been completed without his interest and support.

The inspiration for this *Manual* originated with Francis M. Deng, former Special Adviser to the Secretary-General on the Prevention of Genocide, who identified the need for a user-friendly document containing practical suggestions for action to prevent genocide drawn from the findings of United Nations human rights mechanisms. Dr. Deng's encouragement of JBI's efforts to bring that vision to fruition has been critically important.

However, none of this would have been accomplished without the inspired leadership, scholarship and writing of Christen Broecker, JBI's Associate Director and Director of Research. Ms. Broecker prepared the *Manual*, and we are particularly grateful for the expertise, care, and professionalism she has brought to every step of this project.

Key research and support on the initial draft was provided by Erin Mooney, a protection specialist who previously assisted the Representative of the Secretary-General for the Human Rights of Internally Displaced Persons. Naomi Kikoler provided important input both on the original *Compilation* and at early conceptual meetings on this *Manual*. Together with Elana Berger, she also carried out background research. JBI also thanks Rita Lascaro for her assistance in the production process.

Additionally, JBI is grateful to Gillian Kitley and Claudia Diaz of the UN Office of the Special Advisers to the Secretary-General on Genocide Prevention and the Responsibility to Protect who reviewed the text at several stages and offered their advice.

A final note of appreciation goes to the members of the JBI Administrative Council, who encouraged JBI to launch and complete this project. The enthusiasm of E. Robert Goodkind, JBI's former Chair, and support of David A. Harris, AJC's Executive Director, have helped move the project to completion. Similarly, we value the ongoing support of Jerry Biederman, JBI's current Chair. Their reminders about the need to do more to prevent and punish perpetrators of genocide helped motivate JBI's staff to complete the project.

As we know from history, notably of the Holocaust, genocide does not begin overnight, and it is always preceded by identifiable warning signs. This *Manual* provides practical guidance on actions to take in the face of such warning signs. It is incumbent upon the United Nations system and the broader international community to bring this and other prevention-related guidance to the attention of those State officials who are most responsible for heeding it. In doing so, we take an important step towards preventing the 'odious scourge' of genocide and making the promise of 'never again' a reality.

Felice Gaer  
Director  
Jacob Blaustein Institute for the Advancement of Human Rights



PART I

Human Rights and the Prevention of Genocide



## Introduction

*. . . [L]et us not wait until the worst has happened, or is already happening. Let us not wait until the only alternatives to military action are futile hand-wringing or callous indifference. Let us . . . be serious about preventing genocide. Only so can we honor the victims. . . . Only so can we save those who might be victims tomorrow.*

—UN SECRETARY-GENERAL KOFI ANNAN<sup>i</sup>

*The world was stunned by the scale and ferocity of the violence [in Rwanda]. But that same world fell woefully short in helping to stem the killings and in heeding the clear warning signs that were visible for months as tensions rose, deadly plans were hatched and guns and machetes were distributed. . . . We honor [the victims'] lives through remembrance and reflection, but also through doing everything that we can to improve protection, response, and safeguarding populations from genocide and other atrocities.*

—UN SECRETARY-GENERAL BAN KI-MOON<sup>ii</sup>

Genocide is “the ultimate crime.” In 1946, in the wake of the Holocaust, as one of its first acts, the United Nations condemned the crime of genocide, calling it “a denial of the right of existence of entire human groups” that “shocks the conscience of mankind, results in great losses to humanity . . . and is contrary to moral law and to the spirit and aims of the United Nations.”<sup>iii</sup>

Genocide is also “a profound and whole-scale violation of human rights.”<sup>iv</sup> It is an attack on individual men, women and children in which those affected are singled out for extermination—and denied their inherent individual dignity—not because of anything they have done as individuals, but because of the group to which they belong.

Today, despite universal condemnation of the crime of genocide, it has been committed in disparate countries and on multiple continents. Millions of lives have been lost, and millions more have been deeply and irreversibly damaged. And the threat of genocide remains ever-present in many places around the world today.

On the tenth anniversary of the 1994 genocide in Rwanda, United Nations Secretary-General Kofi Annan stressed the need to develop more effective strategies for *preventing* genocide, and he called on the world to “recognize the signs of approaching or possible genocide, so that we can act in time to avert it.”<sup>v</sup> He pointed to the United Nations human rights system as having a special responsibility to play in sounding the alarm about the risk of genocide. A decade later, United Nations Secretary-General Ban Ki-moon agreed that “human rights violations must be seen as early warning signals of conflict and mass atrocities,” and stressed the need for swift action to be taken to protect people whenever such risks are detected.<sup>vi</sup>

This *Manual on Human Rights and the Prevention of Genocide* contributes to the goal of preventing genocide by suggesting measures that States can take in order to curb or prevent the emergence of the kinds of patterns of human rights violations that are particularly indicative of the presence of a risk of genocide. It can be used as part of efforts to assess the risk of genocide in a country or in a specific situation, and as a source of guidance for deciding on a plan of action to diminish that risk. This *Manual* can further be used in educational programs on the prevention of genocide and the protection of human rights. The guidance presented in each chapter can be used by government officials, and also by international and regional organizations, by civil society and non-governmental organizations, and by individuals.

## A. *The obligation to prevent genocide*

As outlined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention), genocide occurs when State or non-State actors commit serious offenses against members of a particular national, ethnic, racial, or religious group with the intent to destroy the group as such, in whole or in part.<sup>1</sup>

Genocide is one of the most serious crimes against humankind. Raphael Lemkin, who first coined the term “genocide” and whose advocacy led governments to adopt the Genocide Convention, characterized genocide as a violation of these groups’ basic “right to exist and to develop . . . as free members of international society.”<sup>vii</sup>

In recognition of the great harm that past genocides have caused to all humanity, States that have agreed to be bound by the Genocide Convention have pledged not only to *punish* genocide, but also to endeavor to *prevent* it.<sup>viii</sup>

*Once a risk of genocide has been detected, States have an obligation to employ all means reasonably available to prevent it from taking place.*

The obligation to prevent genocide means that States have to ensure that no one acting under official authority commits acts constituting genocide. States also have an obligation to protect people from suffering from genocidal acts committed by private actors in areas under the State’s control. The obligation to protect people against genocide can also extend to private (non-State) actors not under government control, particularly if they control territory.

In order to effectively fulfill the obligation to prevent genocide, States must (1) take steps to ensure that they are able to *detect* a risk of genocide when it emerges and (2) once a risk has been detected, *respond* to the presence of the risk by taking actions to mitigate it.

The International Court of Justice has elaborated on these obligations. In its *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, it has said

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1 The following acts constitute genocide when committed against members of a national, ethnic, racial or religious group, and with intent to destroy, in whole or in part, the group as such: (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; or (e) forcibly transferring children of the group to another group. Convention on the Prevention and Punishment of the Crime of Genocide, art. 2, entered into force Jan. 12, 1951, 78 U.N.T.S. 277 (hereinafter “Genocide Convention”).

that the duty to prevent genocide “arise[s] at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed,” and that once a serious risk of genocide has been detected, it must “employ all means reasonably available” to prevent genocide from taking place.<sup>ix</sup> The obligation to prevent genocide can thus be seen as an obligation to exercise “due diligence”: to assess the risk of genocide and to respond once a risk has been detected.

This *Manual* aims to assist States to fulfill both aspects of the obligation to prevent genocide—to detect and to respond, and particularly in situations where a risk of genocide is signaled in part by the commission of human rights violations against members of one of the group identities protected by the Genocide Convention (national, ethnic, racial, or religious groups, referred to here as “members of a particular group”).

*In this Manual, the phrase “members of a particular group” is used as shorthand for “members of a particular national, ethnic, racial, or religious group.”*

## ***B. Detecting human rights-related risk factors for genocide***

As the Universal Declaration of Human Rights<sup>x</sup> and the nine core United Nations human rights treaties<sup>xi</sup> underscore, human rights are inherent to all human beings. Furthermore, human rights are universal, interrelated, interdependent, and indivisible.<sup>xii</sup> When a State becomes a party to a human rights instrument, it commits to respect, protect, and fulfill those rights at all times and to all people over whom it has effective control. States may only limit human rights in exceptional situations, as described in those instruments.

In some situations, a pattern of human rights violations against members of a particular group can be a warning sign that a risk of genocide exists. This *Manual* identifies 21 “human rights-related risk factors” for genocide. They have been identified because members of particular national, ethnic, racial, or religious groups have been subjected to one or more of these human rights violations on a widespread (large-scale) or systematic (in a manner suggesting that the violations appear to be organized or planned) basis prior to past incidents of genocide.<sup>xiii</sup>

These human rights-related risk factors for genocide were first set out in a 2011 publication entitled *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, prepared by the Jacob Blaustein Institute for the Advancement of Human Rights in cooperation with the United Nations Secretary-General’s Special Adviser on the Prevention of Genocide.<sup>2</sup> A list of these human rights-related risk factors appears in Part II of this *Manual*.

This *Manual*’s identification of human rights-related risk factors for genocide does not imply that every human rights abuse per se gives rise to a risk of genocide. On the contrary, the selection of these risk factors “incorporates the high threshold inherent in the definition of the crime of genocide into the process of identifying situations in which a risk of genocide is present.”<sup>xiv</sup> At the same time, this selection is not meant to be exhaustive or to deny that in certain cases, less serious patterns of human rights violations might also point to a risk of genocide.

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<sup>2</sup> See Jacob Blaustein Institute for the Advancement of Human Rights, *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide* (2011), available at <http://www.jbi-humanrights.org/files/jbi-compilation-updated.pdf>.

States can take a number of steps to *detect* the presence of these human rights-related risk factors for genocide. These include:

- Ensuring that relevant government officials periodically assess whether any of the human rights-related risk factors listed in this *Manual* are present or are likely to emerge, including by:
  - Establishing or designating a mechanism—such as a national human rights institution or a senior focal point—to periodically undertake a national risk assessment that includes the human rights-related risk factors for genocide described in this *Manual*; and
  - Developing effective data collection systems within the government ministries and departments responsible for preventing the human rights violations outlined in this *Manual* in order to strengthen their capacities to detect discrimination and rights abuses.
- Facilitating free and open discussion about human rights concerns by encouraging dialogue between national authorities and communities representing particular groups, civil society, and independent media; and
- Regularly engaging with international, regional and other mechanisms for monitoring human rights conditions, including the UN human rights treaty bodies and special procedures; the Universal Periodic Review; the UN High Commissioner for Human Rights; and the UN Office on Genocide Prevention and the Responsibility to Protect.

## Other Risk Factors for Genocide

The human rights violations discussed in this *Manual* are not the only identifiable warning signs for genocide. History has demonstrated that there are other factors that can contribute to the risk that genocide will be committed. Moreover, human rights-related risk factors often combine with these other risk factors to create a risk for genocide. The 2011 *Compilation of Risk Factors and Legal Norms for the Prevention of Genocide* identified some of these other warning signs, calling them “Special Circumstances.” They are listed in Part II of this *Manual*.

Additionally, some actors have identified a broader set of factors that can signal a risk of *atrocities crimes*—a term that includes crimes against humanity and war crimes, in addition to genocide. They have shown that human rights violations—including but not limited to those in

this *Manual*—can constitute an early warning sign of the risk of mass atrocities, even where those violations are not occurring on a widespread or systematic basis.

One notable example is the *Framework of Analysis for Atrocity Crimes* developed by the UN Office on Genocide Prevention and the Responsibility to Protect. The Office’s Framework identifies 14 risk factors that can lead to or enable the commission of genocide and other atrocity crimes. Some of these risk factors can be triggered by the same human rights violations that are discussed in this *Manual*.<sup>1</sup>

This *Manual* does not replace nor contradict these important tools. Rather, it should be used to supplement them and as a source of guidance that can curb human rights violations related to the risk of genocide, even at an early-warning stage.

1 UN Office on Genocide Prevention and the Responsibility to Protect, *Framework of Analysis for Atrocity Crimes* (2014) available at <http://www.un.org/en/preventgenocide/adviser/>. See, e.g., Risk Factor 2 (a record of serious violations of international human rights law and international humanitarian law); Risk Factor 9 (intergroup tensions or patterns of discrimination against members of a particular national, ethnic, racial or religious group); and Risk Factor 10 (signs of an intent to destroy in whole or in part a particular national, ethnic, racial or religious group).

### C. Preventing and curbing human rights-related risk factors for genocide

In any case where one of the human rights-related risk factors for genocide listed in this *Manual* is found to be present, or where concern is expressed that the risk factor could emerge, immediate action should be taken by the State concerned, by other States, and by other stakeholders such as international, regional, and non-governmental organizations.

Each chapter of this *Manual* provides a list of *remedial measures* that States can consider taking as part of efforts to curb the human rights violations at the root of each risk factor and to strengthen key laws, policies, and structures that provide necessary human rights protection.

All of the guidance presented in this *Manual* is drawn from recommendations made by independent human rights experts whose work is conducted in official bodies administered by the United Nations, in particular the UN human rights treaty bodies.<sup>3</sup> The human rights treaty bodies are expert committees comprised of independent experts elected by the States parties to the core UN human rights treaties.<sup>xv</sup> Among their functions, the treaty bodies periodically assess the human rights situation in States parties and advise them on steps they should take to come into better compliance with their human rights treaty obligations. The special procedures of the Human Rights Council, which are cited in some of the guidance, are mandates held by independent human rights experts selected by the Council to investigate thematic and country-specific issues.<sup>xvi</sup> Among other functions, they visit States and issue recommendations to States following these visits.

These independent mechanisms have, over the course of the past three decades, received many reports of the occurrence of human rights violations similar to those described in the risk factors in this *Manual*. They have sought further information and clarification and, thereafter, they have made recommendations to the State at issue. Their instructive guidance to States on how to put an end to those violations is synthesized here.

When taken together, the guidance reveals that certain steps are very frequently recommended to States experiencing human rights violations that could amount to risk factors for genocide:

- **Enshrine human rights guarantees in the State's constitution and laws**, and revise or repeal legislation that does not conform to human rights principles;
- **Refrain** from actions that amount to a violation of human rights;
- **Protect all individuals from conduct by private (non-State) actors that infringes on their rights**, exercising due diligence to become aware of and react to patterns of violations by private actors and intervening to protect individuals from violence and discrimination, including members of particular groups;
- Put in place adequate **investigative mechanisms** and, in cases where serious rights violations are confirmed, **ensure accountability** by disciplining, dismissing, and/or

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<sup>3</sup> Most of this guidance is rooted in human rights law. However, in situations of armed conflict, State and non-State actors must also adhere to international humanitarian law. This Manual provides additional guidance that is applicable in conflict situations where relevant.

prosecuting those responsible, whether they are private individuals or State officials, and including all who are found to have perpetrated, ordered, incited or acquiesced in violations;

- Ensure that individuals who believe their rights have been violated have access to adequate **complaints mechanisms**, and to **legal recourse** carried out by a competent administrative or judicial authority in conformity with national legislation and international human rights standards. Ensure that victims obtain fair and adequate compensation and other **redress**;
- Safeguard the ability of **independent monitors**, including civil society and independent media, to observe and comment publicly on human rights conditions, and ensure that all individuals are able to enjoy the rights to freedom of expression and association;
- Ensure that members of the military, and those responsible for law enforcement and judicial processes are **trained** in human rights and international humanitarian law and their relevance to national law;
- Take special measures to protect the rights of individuals especially **vulnerable to abuse**, particularly members of minority groups;
- Proactively establish and encourage **public information and education** initiatives to promote awareness of and respect for the basic principles of human rights and international humanitarian law; and
- Establish effective **government oversight mechanisms** to take corrective action in cases where State actors are accused of infringing on the rights of members of particular groups, for example, national human rights institutions or government oversight bodies that are independent from the officials whose conduct they monitor.

Because the protection of human rights is closely related to the prevention of genocide, it behooves the international community to take steps to identify and address serious and widespread or systematic human rights violations that might lead to genocide. By developing strong national protection systems, regularly undertaking national risk assessments and human rights monitoring, and acting urgently to combat human rights-related risk factors for genocide whenever they are detected, States will be better equipped to fulfill their obligation to prevent genocide. This *Manual* is a tool for helping to accomplish that important goal.

PART II

Human Rights-Related Risk Factors for Genocide

## HUMAN RIGHTS-RELATED RISK FACTORS FOR GENOCIDE

### *Political and Social Exclusion of Members of a Particular Group*

1. The widespread or systematic denial or revocation of the right to a nationality of members of a particular group.
2. The widespread or systematic denial of participation in public affairs to members of a particular group.
3. The existence of a State policy of segregation targeting members of a particular group, or failure of a State to prevent, prohibit, or eradicate practices of this nature against members of a particular group.
4. The widespread or systematic denial of or severe restrictions on access to education for members of a particular group.
5. The widespread or systematic denial of access to justice for members of a particular group.

### *Attacks on the Identity of Members of a Particular Group*

6. The widespread or systematic severe dehumanization or demonization of a particular group by State or non-State actors with a view to inciting persecution and violence against members of that group, and the failure of the State to prevent and punish resulting acts of persecution and violence.
7. The widespread or systematic denial of or severe restrictions on the right of members of a particular group to enjoy their own culture, to choose, profess, and practice their own religion or belief, or to use their own language.
8. The widespread or systematic destruction of cultural, religious, and sacred sites of members of a particular group, or severe restrictions on their use of and access to such sites.
9. The widespread or systematic forcible transfer of children of a particular group from their families to individuals with a different identity.
10. The widespread or systematic forced marriage of members of a particular group to individuals with a different identity, enforced sterilization of members of a particular group, forced pregnancy of members of a particular group committed by individuals with a different identity, or prevention of births of members of a particular group.
11. The widespread or systematic compulsory identification of members of a particular group against their will for the purposes of identifying these members as part of the particular group and subjecting them to severe discrimination and persecution.

### *Restrictions on the Movement of Members of a Particular Group*

12. The widespread or systematic denial of or severe restrictions on the right to freedom of movement of members of a particular group.

13. The widespread or systematic forcible transfer from their habitual place of residence of members of a particular group without compensation or administrative or legal recourse or review.

### *Denial of Access to Basic Necessities to Members of a Particular Group*

14. The widespread or systematic deliberate destruction of subsistence food, water, and medical supplies, including humanitarian aid, intended for members of a particular group, or the widespread or systematic blocking of access to such supplies by members of a particular group.
15. The widespread or systematic denial of or severe restrictions on access to health care targeted at members of a particular group.
16. The widespread or systematic expropriation or destruction of property belonging to members of a particular group with no effective administrative or legal recourse or compensation, or blocking of access to the right to own property for members of a particular group.

### *Violations of the Rights to Life, Liberty, and Personal Integrity of Members of a Particular Group*

17. The widespread or systematic subjection of members of a particular group to forced labor, slavery, or involuntary servitude.
18. The widespread or systematic arbitrary detention of members of a particular group, including their community leaders.
19. The widespread or systematic torture of members of a particular group.
20. The widespread or systematic use of rape and other forms of sexual violence targeting members of a particular group.
21. The widespread or systematic killing or enforced disappearance of members of a particular group.

## SPECIAL CIRCUMSTANCES THAT CAN CONTRIBUTE TO THE RISK OF GENOCIDE

- A history of genocide or widespread or systematic violence against members of a particular group.
- The systematic denial of past genocides and/or mass atrocities by persons in positions of authority and the failure of public figures to condemn such denial.
- A history of severe discrimination, dehumanization, and bias against members of a particular group.
- The existence of an ethnically polarized elite and the systematic exclusion of members of other groups from political and economic power, particularly in the context of an autocratic regime.
- Critical events (such as an election that is split along ethnic, racial, religious, or national lines where the safeguards for free and fair elections are in question; or the outbreak of internal armed conflict).
- Severe political instability, previous State failure and/or an abrupt and arbitrary change in government in countries in which the rights of members of particular groups are not adequately safeguarded.
- The absence of checks on executive power, such as a legislature that is unable or unwilling to prohibit severe abuses against members of particular groups, and/or severe restrictions on non-governmental organizations and independent media.
- State-imposed restrictions on access to information, isolation from other States, and prohibition of national or international monitoring of and reporting on human rights conditions in countries with diverse populations.
- The existence of political or economic motives for leading actors in the State to encourage divisions among ethnic, racial, national, or religious groups.
- Extreme poverty combined with severe economic disparities, real or perceived, between different groups that can be manipulated by political actors to incite violence against one or more particular groups.
- The existence of States or communities abroad fostering extremism and/or providing financial resources or arms to groups advocating or engaging in violence against members of a particular group.
- The existence of militias and/or extreme political groups based on platforms targeting particular groups and engaging in or advocating violence against them.
- The direct or indirect State-sponsored, selective arming of certain groups.
- Ongoing armed conflict between a government and a particular group or between different particular groups and/or the existence of armed opposition forces within a marginalized group, incurring the government's wrath against the entire group.

See also *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 5–6 (2011).

PART III

Preventing Human Rights-Related  
Risk Factors for Genocide

## PART A: PREVENTING POLITICAL AND SOCIAL EXCLUSION OF MEMBERS OF PARTICULAR GROUPS

### Chapter 1: Preventing Violations of the Right to a Nationality

The widespread or systematic denial or revocation of the right to a nationality of members of a particular group\* is a human rights-related risk factor for genocide.

Examples of such denial or revocation include, but are not limited to, non-registration at birth on discriminatory grounds, the sudden and large-scale revocation of citizenship, conditioning citizenship on membership in a dominant group or renunciation of one's identity, and discriminatory exclusion from the national census.

#### Key Norms and Principles:<sup>1</sup>

*Every person has the right to a nationality.*

Every person has the right to a nationality. This includes the right to acquire, change, and retain nationality of a country as well as the right to pass nationality on to one's children, and the right of the child to be registered immediately after birth, without discrimination of any kind.<sup>1</sup>

#### Guidance:

Members of particular groups may be particularly vulnerable to discriminatory measures that take the form of denial of nationality. Such measures may weaken the individual's right to legal protection through State institutions. Nationality is typically the basis for enjoying the State's full protection of the rights to establish residence and to move freely within the State; to vote and participate in public life; and, in some cases, to access health services and higher education, to work legally, and to rent or own property.

\* In this *Manual*, the phrase "members of a particular group" is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These "particular groups" include national, ethnic, racial, and religious groups.

<sup>1</sup> For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 15–18 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Refraining from undertaking any measure that directly or indirectly leads to deprivation of nationality or citizenship on the basis of membership in a particular group;<sup>ii</sup>
2. Repealing or amending any legislation or policy that arbitrarily deprives individuals of their nationality or citizenship on the basis of membership in a particular group;<sup>iii</sup>
3. Registering immediately all births occurring within the State's territorial jurisdiction, without discrimination;<sup>iv</sup>
4. Ensuring that decisions concerning the acquisition, deprivation, or change of nationality or citizenship are not arbitrary or discriminatory;<sup>v</sup>
5. Conducting a comprehensive national campaign to issue citizenship certificates, in particular in areas inhabited by members of particular groups;<sup>vi</sup>
6. Taking all necessary measures to regularize the status of stateless persons by granting them a right to permanent residence and the possibility of acquiring State citizenship;<sup>vii</sup>
7. Informing and raising awareness of parents, including those who are undocumented or in an irregular situation, on the need to register their children.<sup>viii</sup>

## Chapter 2: Preventing Violations of the Right to Participate in Public Affairs

The widespread or systematic denial of participation in public affairs to members of a particular group\* is a human rights-related risk factor for genocide.

Examples of such denial of participation include, but are not limited to, severe restrictions on equal access to public services, employment in the public sector, voting, and being a candidate for office.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

*Every citizen has the right to participate in public affairs.*

Every citizen has the right to participate in public affairs.<sup>i</sup> This consists of the right to take part in the government and the conduct of public affairs at any level, to vote in elections and to stand for election on the basis of equal and universal suffrage, and to have equal access to public service.<sup>ii</sup>

Any conditions on the exercise of the right to participate in public affairs must be based on objective and reasonable criteria.<sup>iii</sup> For instance, setting a minimum age for exercise of the right to vote is a reasonable condition. Under no circumstances may the right to participate in public affairs be subject to distinction based on any form of discrimination, including on the basis of membership in a particular group.<sup>iv</sup>

The right to participate in public affairs includes special protections for members of particular groups. For example:

- Persons belonging to a particular group, when such groups constitute a minority in society, have the right to participate effectively in decisions at the national and, where appropriate, regional level concerning the particular group to which they belong or the regions in which they live;<sup>v</sup> and
- Indigenous persons have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.<sup>vi</sup>

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that the systematic exclusion—in law or in fact—of national, ethnic, racial, or religious groups from positions of power, employment in State institutions, and key professions is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 3.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 19–26 (2011).

The right to participate in public affairs can only be fully realized in the context of enjoyment of several other rights. In particular, freedom of opinion and expression, assembly, and association are essential conditions for the effective exercise of the right to vote and for persons to take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves.<sup>vii</sup>

### **Guidance:**

Members of particular groups may be especially vulnerable to discrimination that takes the form of denial of the right to vote and other forms of participation in public life. When such discrimination occurs against members of a particular group or their representatives, it has the effect of excluding the particular group from decision-making bodies in which its members' concerns can be addressed, permitting such discrimination to go effectively unchecked.

### ***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Abolishing any barriers to participation in public affairs by members of particular groups, for example by ensuring that members of particular groups are not denied the right to vote in elections and referendums or to stand for election to public office;<sup>viii</sup>
2. Abolishing any existing legal barriers to equal access to public services for members of particular groups;<sup>ix</sup>
3. Ensuring and protecting the right of members of particular groups to peaceful assembly<sup>x</sup> and to freedom of association, including by ensuring that they are permitted to form and register associations representing their communities;<sup>xi</sup>
4. Ensuring that information and materials about voting are available in minority languages,<sup>xii</sup> and taking measures to overcome other difficulties, such as illiteracy or impediments to freedom of movement, which prevent persons entitled to vote from exercising their right to do so;<sup>xiii</sup>
5. Facilitating the effective participation in public and political life of members of particular groups,<sup>xiv</sup> for example by carrying out voter-education and awareness-raising campaigns and training programs directed at correcting the low level of participation of members of any particular group in public affairs<sup>xv</sup> and promoting awareness among marginalized or disadvantaged communities of the importance of their active participation in public and political life;<sup>xvi</sup>
6. Ensuring that members of particular groups have equal access to public service positions;<sup>xvii</sup>
7. Taking measures to ensure that members of particular groups—both men and women—are adequately represented in public administration and institutions, for example by establishing specific goals and timetables to increase the representation of members of particular groups in elected and appointed bodies in all areas of public life in cases where proportional representation has not yet been reached;<sup>xviii</sup> and
8. Ensuring that free and fair elections are conducted on a periodic basis, including by maintaining an independent electoral supervisory authority.<sup>xix</sup>

## Chapter 3: Preventing Segregation

The existence of a State policy of segregation targeting members of a particular group,\* or failure of a State to prevent, prohibit, or eradicate practices of this nature against members of a particular group, is a human rights-related risk factor for genocide.<sup>i</sup>

Examples of such segregation include, but are not limited to, forcibly-imposed segregated schools and housing, as well as segregation of members of particular groups in low-skilled sectors of the labor market.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

*States shall condemn, prevent, prohibit, and eradicate all practices of segregation in areas under their territorial jurisdiction.*

States must take measures to ensure that members of particular groups may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law<sup>ii</sup> including by refraining from engaging in any act or practice of discrimination and by ensuring that all public authorities and institutions act in conformity with this obligation.<sup>iii</sup>

States shall particularly condemn racial segregation and undertake to prevent, prohibit, and eradicate all practices of this nature in territories under their jurisdiction.<sup>iv</sup>

### Guidance:

Members of particular groups are especially vulnerable to forcible segregation. When members of particular groups are forcibly segregated, this has the effect of isolating members of the group from the broader community and can lead to violations of other fundamental rights, including but not limited to the right to participate in public affairs and the right to enjoy equal access to education, health care, and employment, without discrimination.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that the existence of State policies of segregation, whether direct or indirect, for example, separate schools and housing areas, is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 7.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 10–14 and 27–30 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Taking measures to prevent, prohibit, and eliminate segregation of any kind;<sup>v</sup>
2. Ensuring that domestic law adequately prohibits and penalizes acts of segregation and discrimination on the basis of membership in a particular group whether committed by individuals or associations,<sup>vi</sup> and repealing without delay any laws, policies, or strategies that discriminate against members of particular groups;<sup>vii</sup>
3. Investigating promptly and thoroughly any reports of segregation<sup>viii</sup> and imposing appropriate penalties for non-compliance with any legislation aimed at desegregation by public and municipal authorities;<sup>ix</sup>
4. Taking steps to prevent segregation of members of particular groups in housing, for example preventing the unlawful expulsion from communities of members of a particular group,<sup>x</sup> invalidating local measures denying residence to members of a particular group, and ensuring the involvement of members of particular groups in the development and implementation of housing policies;<sup>xi</sup>
5. Taking steps to prevent segregation of members of particular groups in education, for example ensuring that placement in schools is carried out on an individual basis and is not influenced by the child's membership in a particular group;<sup>xii</sup> and
6. Taking steps to prevent segregation of members of particular groups in low-skilled job sectors, for example by initiating investigations and bringing prosecutions against private sector-employers alleged to be discriminating against members of a particular group on the basis of their group identity, and encouraging training and recruitment initiatives in the professional and skilled job sectors aimed at members of particular groups that are disproportionately over-represented in low-status job sectors.<sup>xiii</sup>

*See also the guidance in Chapter 12 on "Preventing Violations of the Right to Freedom of Movement" and Chapter 13 on "Preventing Forcible Transfer and Arbitrary Displacement."*

## Chapter 4: Preventing Violations of the Right to Education

The widespread or systematic denial of or severe restrictions on access to education for members of a particular group\* is a human rights-related risk factor for genocide.

Examples of such denial include, but are not limited to, denying members of a particular group access to schools or institutions of higher learning; systematic segregation of such members to education with significantly lower quality; and the teaching of national, ethnic, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

*Everyone has the right to access to justice, without discrimination of any kind*

Everyone has the right to education.<sup>i</sup> Every child shall have access to education, without any discrimination as to race, color, sex, language, religion, national or social origin, property, or birth.<sup>ii</sup>

Members of particular groups have the right to organize their own educational activities, including schools and the teaching of their own language, provided that members of the group are not prevented from understanding the culture and language of the community as a whole and from participating in its activities; that the standard of education is not lower than the general standard of education in the country; and that attendance at such schools is optional.<sup>iii</sup>

### Guidance:

Members of particular groups may be especially vulnerable to discriminatory measures that have the effect of denying or severely restricting their access to education. Denial of the right to education directly affects the ability of members of the group to obtain employment, to found and support families, and to obtain the knowledge and skills necessary to participate fully in public life, thereby threatening the group as a whole.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that the presence of grossly biased versions of historical events in school textbooks and other educational materials is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 5.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 31–40 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring in law and practice that all children have equal access to education,<sup>iv</sup> including by adopting and enforcing legislation that prohibits discrimination in admission to educational institutions;<sup>v</sup>
2. Eliminating barriers to education for members of particular groups, for example by ensuring that whenever possible, persons belonging to particular groups are given adequate opportunities to have instruction in their mother tongue<sup>vi</sup> and sensitizing all educational professionals to the culture and traditions of children of particular groups;<sup>vii</sup>
3. Ensuring that the basic curriculum taught to all children promotes understanding, tolerance and mutual respect among the different groups in the country<sup>viii</sup> and preventing the teaching of national, ethnic, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence;<sup>ix</sup>
4. Encouraging the participation of members of particular groups in school governance<sup>x</sup> and advisory bodies on curricula and teaching;<sup>xi</sup>
5. Promoting diversity in the recruitment of teachers and other educational personnel;<sup>xii</sup>
6. Facilitating separate educational systems or institutions offering an education in keeping with the wishes of the pupil's parents or legal guardians, so long as participation in such systems or attendance at such institutions is optional and the education provided is consistent with official standards for education at the same level;<sup>xiii</sup> and
7. Adopting, whenever necessary, temporary special measures intended to bring about *de facto* equality for any groups disadvantaged in their access to education,<sup>xiv</sup> ensuring that the groups concerned are consulted about such measures.<sup>xv</sup>



## Chapter 5: Preventing Denial of Access to Justice

The widespread or systematic denial of access to justice for members of a particular group\* is a human rights-related risk factor for genocide.

Examples of such denial of access to justice include refusal or reluctance on the part of the police to provide adequate protection to, receive complaints from, or investigate crimes committed against members of a particular group and failure of the authorities to prevent and punish reprisals against members of particular groups who bring claims of rights violations to the police, courts, or other official institutions.<sup>1</sup>

### Key Norms and Principles:

Everyone has the right to equal protection of the law, without discrimination,<sup>i</sup> and to an effective remedy in any case in which his or her fundamental rights are violated.<sup>ii</sup>

Everyone is entitled to access to justice, meaning access to competent judicial, administrative or other authorities provided by the legal system of the State that can ensure effective protection against violations of his or her fundamental rights, and which can ensure that victims of such rights violations receive an effective remedy.<sup>iii</sup>

*Everyone has the right to access to justice, without discrimination of any kind.*

Everyone in the territory or subject to the jurisdiction of a State is entitled to access to justice,<sup>iv</sup> without discrimination of any kind. Members of particular groups have a right to have both *de jure* and *de facto* access to competent courts or tribunals responsible for the administration of justice, and they may not be denied this right for any reason that cannot be justified on objective and reasonable grounds.<sup>v</sup>

### Guidance for States:

Members of particular national, ethnic, racial and religious groups are vulnerable to denial of access to justice. When members of a particular group are denied access to justice on the basis of their identity as members of the group, this can be seen as a signal of the State's unwillingness or inability to protect them, and can increase their vulnerability to many other rights violations.

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1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that the lack of a legislative framework and institutions to prevent racial discrimination and provide recourse to victims of discrimination is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 5.

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring that members of particular groups are not denied protection of their rights by State authorities, including by:
  - Instructing authorities to immediately record complaints brought by members of particular groups;<sup>vi</sup>
  - Ensuring that the police services have an adequate and accessible presence in places where members of particular groups reside;<sup>vii</sup>
  - Ensuring that effective complaints mechanisms, including telephone hotlines or confidential complaints boxes;<sup>viii</sup> and in cases of mass displacement or population movements, mobile courts<sup>ix</sup> are established and that their existence is made known to members of particular groups;
  - Ensuring that any refusal by a police official to accept complaints from members of a particular group leads to disciplinary or penal sanctions;<sup>x</sup> and
  - Protecting members of particular groups, their families, and witnesses to violations against any form of intimidation or reprisals for seeking access to justice before, during, and after any proceedings,<sup>xi</sup> and suspending State agents against whom complaints have been brought, for the duration of such proceedings;<sup>xii</sup>
2. Ensuring that the authorities promptly, thoroughly, and effectively investigate allegations of rights violations made by members of a particular group through independent and impartial bodies,<sup>xiii</sup> that they also undertake investigations on their own initiative whenever there are reasonable grounds to believe that members of particular groups have been subjected to discriminatory acts or other violations of their rights,<sup>xiv</sup> and that investigations revealing violations result in prosecutions or other appropriate enforcement proceedings;<sup>xv</sup>
3. Guaranteeing effective access for members of particular groups to courts and other institutions competent to render enforceable final decisions enabling victims of rights violations to obtain redress,<sup>xvi</sup> including by:
  - Providing information about available legal remedies to members of particular groups,<sup>xvii</sup> and making free legal aid<sup>xviii</sup> and interpreters<sup>xix</sup> available to members of particular groups when needed;
  - Ensuring that judicial proceedings are carried out without discrimination or prejudice,<sup>xx</sup> that they apply gender-sensitive procedures which avoid re-victimization and stigmatization of victims,<sup>xxi</sup> and that they allow the views and concerns of victims to be presented and considered at appropriate stages,<sup>xxii</sup> and
  - Developing procedures to allow groups of victims and organizations working on their behalf to present claims for redress;<sup>xxiii</sup>

4. Taking steps to create a relationship of trust between bodies responsible for the administration of justice and members of particular groups, including by:
  - Fostering dialogue and cooperation between the police and judicial authorities and representatives of particular groups;<sup>xxiv</sup>
  - Ensuring that persons belonging to particular groups are represented in the police and the justice system<sup>xxv</sup> and establishing human rights offices within police forces and units of officers specifically trained to handle cases involving violations against members of particular groups;<sup>xxvi</sup> and
  - Carrying out training programs related to the investigation of discrimination and crimes motivated by prejudice for professionals engaged in the administration of justice including judges, public prosecutors, lawyers, and law enforcement officials, in particular members of the police;<sup>xxvii</sup> and
5. Ensuring that members of particular groups obtain adequate and prompt reparation, including compensation, rehabilitation, restitution, satisfaction, and guarantees of non-repetition in cases in which their rights have been violated.<sup>xxviii</sup>

#### *Special Norms that Apply in Armed Conflict:*

Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without discrimination.<sup>xxix</sup> Parties to armed conflicts are prohibited from convicting or sentencing prisoners of war or civilians, except pursuant to a fair trial by an independent, impartial, and regularly constituted court affording essential judicial guarantees.<sup>xxx</sup>

Prisoners of war have the right to make requests to the detaining military authorities with regard to their conditions of detention;<sup>xxxi</sup> being forced to do prohibited work;<sup>xxxii</sup> being confined as a disciplinary punishment;<sup>xxxiii</sup> and being sentenced to a penalty which deprives them of their liberty.<sup>xxxiv</sup> Internees have the right to present petitions to the detaining authority.<sup>xxxv</sup> All protected persons may make petitions to the International Committee of the Red Cross (ICRC).<sup>xxxvi</sup>

#### *Measures parties to conflicts can take include:*

1. Ensuring that persons forming part of their armed forces immediately transmit any complaints received from detained persons to the appropriate authorities.<sup>xxxvi</sup>
2. Investigating allegations of grave breaches of the laws of armed conflict (including willful killing, torture or inhuman treatment, biological experiments, willfully causing great suffering, causing serious injury to body or health, unlawful and wanton extensive destruction, and appropriation of property not justified by military necessity) and subjecting those responsible for such violations to prosecution and punishment.<sup>xxxviii</sup>
3. Documenting and providing compensation for violations committed by persons forming part of their armed forces.<sup>xxxix</sup>

See also the guidance in Chapter 18 on “Preventing Arbitrary Detention.”

## PART B: PREVENTING ATTACKS ON THE IDENTITY OF MEMBERS OF PARTICULAR GROUPS

### Chapter 6: Preventing Severe Dehumanization and Demonization

The widespread or systematic severe dehumanization or demonization of a particular group\* by State or non-State actors with a view to inciting persecution and violence against members of that group, and the failure of the State to prevent and punish resulting acts of persecution and violence, is a human rights-related risk factor for genocide.

Examples of such demonization or dehumanization include, but are not limited to expressions through the media including television, radio, newsprint, and the Internet by public officials, public figures, or non-State actors that justify or advocate persecution or violence, including public statements by political leaders and elites that dehumanize, condone, justify, or foment violence against members of a particular group, or that incite genocide.<sup>1</sup>

#### Key Norms and Principles:<sup>2</sup>

*No one is permitted to directly and publicly incite others to commit genocide.*

Everyone has the right to freedom of opinion and expression, including the freedom to hold opinions without interference, and to seek, receive, and impart information and ideas through any media and regardless of frontiers.<sup>i</sup> However, restrictions on the right to freedom of expression are permissible when these are provided for by law, which is precisely worded and accessible to everyone; necessary and legitimate to protect the rights

or reputations of others, national security, public order, public health, or morals; and articulated and applied in the least restrictive and proportionate means to achieve the purported aim.<sup>ii</sup>

States should prohibit advocacy that constitutes incitement to violence against members of a particular group on the basis of their identity,<sup>iii</sup> including direct and public incitement to commit genocide,<sup>iv</sup> and should also adopt other measures designed to prevent incitement to discrimination or violence against people on the basis of their national, racial, ethnic, or religious identity.<sup>v</sup>

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that the systematic and widespread use and acceptance of speech or propaganda promoting hatred and/or inciting violence against particular groups, particularly in the media; as well as grave statements by political leaders and/or prominent people that express support for superiority of a race or an ethnic group, dehumanize and demonize members of particular groups, or condone or justify violence against a particular group are indicators of a risk of genocide. CERD, Decision on follow-up to the declaration on the prevention of genocide: indicators of patterns of systematic and massive racial discrimination, UN Doc. CERD/C/67/1 (2005), Indicators 8 and 9.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 46–50 (2011).

## Guidance for States:

Members of particular groups may be especially vulnerable to being targeted by inflammatory public speech that depicts them as inferior or threatening to others. Such speech, if allowed to go unchallenged, can enhance the vulnerability of members of the group to violations of their rights.

### *Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Ensuring that government officials and all political actors refrain from and firmly and publicly condemn hate speech, hate crimes, and acts of discrimination and violence against members of particular groups;<sup>vi</sup>
2. Ensuring that public officials, law enforcement personnel, personnel of public institutions, or politicians who advocate hatred of members of a particular group that constitutes incitement to discrimination or violence are sanctioned, including through disciplinary measures such as removal from office, where appropriate;<sup>vii</sup>
3. Criminalizing direct and public incitement to commit genocide;<sup>viii</sup>
4. Enacting hate crimes legislation,<sup>ix</sup> including criminal law provisions that specify that it is an aggravating circumstance to commit a criminal offence with a discriminatory motivation or aim;<sup>x</sup>
5. Exercising due diligence to prevent and ensure prompt, impartial, independent, and effective investigations into any reports of violence motivated by the victim's membership in a particular group; prosecuting and punishing perpetrators with appropriate penalties; and ensuring victims' access to adequate remedies and compensation;<sup>xi</sup>
6. Launching public information campaigns throughout the territory aimed at addressing negative attitudes towards members of a particular group,<sup>xii</sup> promoting peaceful coexistence between groups,<sup>xiii</sup> and supporting campaigns of this sort that are conducted by non-governmental organizations;<sup>xiv</sup>
7. Addressing the Holocaust and other genocides and their origins, including the role of racism, racial discrimination, xenophobia and religious discrimination, in educational curricula and teacher-training courses;<sup>xv</sup>
8. Empowering members of particular groups to exercise the right to freedom of expression,<sup>xvi</sup> including by facilitating members of particular groups' access to and ownership of media;<sup>xvii</sup>
9. Encouraging the media and Internet service providers to engage in self-monitoring and adopt codes of ethics;<sup>xviii</sup> and
10. Prohibiting by law advocacy of hatred of members of particular groups that incites discrimination and violence against them, ensuring that such laws satisfy the requirements of legality, necessity, proportionality, and non-discrimination; effectively investigating reports of such incitement to discrimination or violence; prosecuting and punishing perpetrators in all serious and extreme cases; and making use of civil or administrative laws in other cases.<sup>xix</sup>



## Chapter 7: Preventing Violations of the Rights to Culture, Religion, and Language

The widespread or systematic denial or severe restrictions on the right of members of a particular group\* to enjoy their own culture, to profess and practice their own religion, or to use their own language is a human rights-related risk factor for genocide.

### Key Norms and Principles:<sup>1</sup>

Everyone has the right, individually or in community with others, to enjoy their own culture; to adopt a religion or belief of their choice and to profess and practice their religion or belief; and to use their own language, in private and in public.<sup>i</sup>

#### *Cultural Life*

Everyone has the right to take part in cultural life, without discrimination.<sup>ii</sup> States should guarantee this right by recognizing cultural practices, refraining from interfering in their enjoyment and development,<sup>iii</sup> and refraining from interfering with peoples' access to cultural goods and services.<sup>iv</sup> Favorable conditions should be created to enable persons belonging to particular groups to express the group's characteristics and to develop its culture, language, religion, traditions, and customs.<sup>v</sup>

The right of everyone to take part in cultural life may be limited in cases where the activity or act concerned is aimed at the destruction of the rights of others;<sup>vi</sup> however, limitations justified on these grounds must be strictly necessary and proportionate.<sup>vii</sup>

#### *Religion or Belief*

Everyone has the right to freedom of thought, conscience, and religion, including the freedom to have or to adopt a religion or belief of one's own choice.<sup>viii</sup> Parents and legal guardians have the liberty to ensure the religious and moral education of their children in conformity with their own convictions.<sup>ix</sup>

The right to freedom of religion or belief includes the freedom, either individually or in community with others and in public or private, to manifest one's own religion or belief in worship, observance, practice, and teaching.<sup>x</sup> The free exercise of freedom of religion or belief should be ensured by protecting members of particular groups and enabling them to practice their faith.<sup>xi</sup>

*Members of particular groups shall not be denied the right, individually or in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language, in private or in public.*

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 62–86 (2011).

*Everyone has the right to freedom of thought, conscience, and religion, without discrimination.*

*Everyone has the right to freedom of opinion and expression, including in one's own language, without discrimination.*

No limits are permissible on the freedom to believe or to have or adopt a religion or belief of one's choice.<sup>xii</sup> The freedom to manifest one's religion or beliefs may be subject only to limitations that are prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.<sup>xiii</sup>

### *Language*

Everyone also has the right to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers, without discrimination.<sup>xiv</sup> Measures should be taken to enable persons belonging to particular groups to communicate in their own language.<sup>xv</sup>

### **Guidance:**

Members of particular groups may be especially vulnerable to widespread or systematic denial or severe restriction of the right to enjoy their own culture, to profess and practice their own religion, or to use their own language. When this occurs, it can lead to forced disintegration or suppression of the cultural characteristics and ways of life central to the group's identity.

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

### *Culture*

1. Protecting the existence of diverse cultural identities of individuals and communities within the territory<sup>xvi</sup> and encouraging conditions for the enjoyment and promotion of such identities;<sup>xvii</sup>
2. Ensuring that persons belonging to particular groups have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group as well as with citizens of other States with whom they share national, ethnic, religious, or linguistic ties;<sup>xviii</sup> and
3. Adopting special measures to protect, preserve, and promote the cultural heritage and way of life of particular groups<sup>xix</sup> and ensuring that members of particular groups are informed and consulted about and participate in the development of such measures.<sup>xx</sup>

### *Religion or Belief*

1. Ensuring that all religions have equal recognition under the law<sup>xxi</sup> and respecting the freedom of members of religious communities to conduct their basic affairs;<sup>xxii</sup> including the right to determine their own leadership, to produce or import materials, including books, related to religion, and to establish or maintain contacts with foreign individuals or organizations with whom they share national, ethnic, religious, or linguistic ties;<sup>xxiii</sup>

2. Guaranteeing the security and freedom of all persons to practice their religion or belief in an appropriate place of worship at all times,<sup>xxiv</sup> preventing the occurrence of violence motivated by the actual or perceived religion of the victim<sup>xxv</sup> and bringing to justice perpetrators of any acts of violence on the basis of religion or of other acts of religious intolerance;<sup>xxvi</sup>
3. Prohibiting coercion that would impair the right to have or adopt a religion or belief; <sup>xxvii</sup>
4. Permitting the display of religious symbols by members of particular groups, ensuring that any limitations are non-discriminatory and directly related and proportionate to their specific purpose;<sup>xxviii</sup> and
5. Ensuring that individuals can freely provide and that children can receive religious education in private at all levels.<sup>xxix</sup>

### *Language*

1. Making public administration services accessible to particular groups that constitute linguistic minorities<sup>xxx</sup> and allowing members of particular groups to use their own language at the level of local government and administration, wherever possible;<sup>xxxi</sup>
2. Encouraging and promoting the use in the media of the languages spoken by members of particular groups;<sup>xxxii</sup> and
3. Ensuring adequate opportunities for children who are members of particular groups to receive instruction in their own language and on their culture, wherever there is sufficient demand.<sup>xxxiii</sup>

## Chapter 8: Preventing Violations of the Right to Use and Have Access to Cultural, Religious and Sacred Sites

The widespread or systematic destruction of cultural, religious, and sacred sites of members of a particular group,\* or severe restrictions on their use of and access to such sites, is a human rights-related risk factor for genocide.<sup>i</sup>

### Key Norms and Principles:<sup>1</sup>

*Members of particular groups have the right to enjoy their own culture and to profess and practice their own religion, without interference.*

Everyone has the right, individually or in community with others, to enjoy their own culture and to profess and practice their own religion or belief, in private and in public, freely and without interference or any form of discrimination.<sup>ii</sup>

This includes the right to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes.<sup>iii</sup>

Indigenous peoples have the right to practice and revitalize their cultural traditions and customs, including the right to maintain, protect, and have access in privacy to their religious and cultural sites and to the use and control of their ceremonial objects; and to repatriation of the human remains of members of their community.<sup>iv</sup>

### Guidance:

Places of worship, religious sites and cemeteries have more than a material significance for the communities that are attached to them.<sup>v</sup> Access to cultural, religious, and sacred sites is intrinsically linked to the right of members of particular groups to enjoy their own culture and to manifest their religion or belief. Attacks on or restrictions on access to places of worship or other religious sites and shrines, as well as the destruction of irreplaceable relics and religious monuments, can impair the enjoyment of the right to freedom of religion or belief of members of a particular group<sup>vi</sup> and prevent enjoyment by members of the group of cultural and religious rights.<sup>vii</sup>

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

<sup>1</sup> For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 87–89 (2011).

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Refraining from attacking and protecting public buildings, places of worship, and religious sites belonging to particular groups, taking additional protective measures in cases where they are vulnerable to desecration or destruction,<sup>viii</sup> and ensuring that perpetrators of attacks on places of worship, cemeteries, and other religious sites are prosecuted;<sup>ix</sup>
2. Preventing the illicit import, export, and transfer of ownership of cultural property and, where this occurs, facilitating the return of such cultural property to its rightful owner;<sup>x</sup>
3. Ensuring equal and non-discriminatory access for members of particular groups to places of worship,<sup>xi</sup> only depriving members of particular groups of access to places of worship if doing so is justified by lawful reasons and if the decision is subject to judicial review, and ensuring that any community affected is provided with a suitable alternative place of worship;<sup>xii</sup>
4. Ensuring that members of particular groups are able to participate any decision-making concerning the identification, interpretation, and stewardship of their cultural heritage;<sup>xiii</sup> and
5. Safeguarding indigenous rights over ancestral lands, especially sacred sites;<sup>xiv</sup> and enabling access to or repatriating indigenous peoples' ceremonial objects and human remains through fair, transparent, and effective mechanisms developed in conjunction with them.<sup>xv</sup>

*Special Norms that Apply in Armed Conflict:*

Parties to armed conflict should respect and protect property of great importance to the cultural heritage of every population, including particular groups.<sup>xvi</sup> Any form of theft, pillage, or misappropriation of, and any acts of vandalism directed against, property of great importance to the cultural heritage of every people is prohibited.<sup>xvii</sup> It is prohibited for parties to armed conflict to make cultural property an object of attack<sup>xviii</sup> or use cultural property for purposes that are likely to expose it to destruction or damage,<sup>xix</sup> unless this is imperatively required by military necessity.

*Measures parties to conflicts can take include:*

1. Taking special care to avoid damage to buildings dedicated to religion, art, science, education, or charitable purposes and historic monuments, unless they are military objectives;<sup>xx</sup>
2. Avoiding the use of cultural property in support of the military effort unless imperatively required by military necessity;<sup>xxi</sup> and
3. Removing movable cultural property from the vicinity of military objectives or providing for adequate on-site protection.<sup>xxii</sup>

## Chapter 9: Preventing Forcible Transfer of Children from their Families to Those of a Different Identity

The widespread or systematic forcible transfer of children of a particular group\* from their families to individuals with a different identity is a human rights-related risk factor for genocide.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

*Every child has the right to preserve his or her identity.*

No one shall be subjected to arbitrary or unlawful interference with his or her family.<sup>i</sup> States are to respect the right of the child to preserve his or her identity, including nationality, name, and family relations, without unlawful interference.<sup>ii</sup>

The removal of children from their parents against their will is only permissible when competent authorities subject to judicial review determine that doing so is in the best interests of the child.<sup>iii</sup>

### Guidance:

When children who are members of a particular group are forcibly transferred from their families to those with a different identity on a widespread or systematic basis, this can lead to the destruction of the particular group by destroying the affected children's family and cultural bonds, as well as other elements of their identity as members of the group, and by undermining the ability of members of the group to reproduce.

\* In this *Manual*, the phrase "members of a particular group" is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These "particular groups" include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that a policy of forced removal of children belonging to a particular group with the purpose of complete assimilation is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (2005), Indicator 6.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 96–97 (2011).

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Ensuring that any removal of a child against the will of his or her family is used only as measure of last resort, when in the best interests of child, and when so decided by a competent authority, and that such decisions are subject to judicial review;<sup>iv</sup>
2. Ensuring that placement of children in alternative care is always assessed by a competent, authority, that placement is for shortest period of time and subject to judicial review, and that the provision of alternative care is never undertaken with a prime purpose of furthering the political, religious, or economic goals of the providers;<sup>v</sup>
3. Ensuring that all allegations of forcible removal of children not justified by international law are effectively and impartially investigated and that victims of improper removal obtain an effective remedy;<sup>vi</sup>
4. Respecting the right of the child to preserve his or her identity, including nationality, name, and family relations, and to know about his or her origin;<sup>vii</sup>
5. Developing and implementing programs to re-integrate children placed in alternative care with their biological and extended family and into their communities of origin;<sup>viii</sup> and
6. Preventing and punishing the wrongful removal of children in cases where a parent or guardian has been subjected to enforced disappearance, and ensuring redress in cases where the adoption or placement of children in alternative care originated in an enforced disappearance.<sup>ix</sup>

## Chapter 10: Preventing Forced Marriage, Enforced Sterilization, Forced Pregnancy, and Prevention of Births

The widespread or systematic forced marriage of members of a particular group to individuals with a different identity, enforced sterilization of members of a particular group, forced pregnancy of members of a particular group committed by individuals with a different identity, or prevention of births of members of a particular group is a human rights risk factor for genocide.<sup>i</sup>

### Key Norms and Principles:<sup>1</sup>

*Everyone has the right to choose one's spouse and to raise a family, without discrimination of any kind.*

Everyone has the right to choose one's spouse and to raise a family, without discrimination of any kind.<sup>ii</sup> In cases where members of a particular group are forced to marry an individual with a different identity, they suffer violations of both the right to enter into marriage freely and the right to be free from discrimination.

Women who are members of particular groups are particularly at risk of discriminatory denial of the right to raise a family on account of their gender.<sup>iii</sup> Gender-specific forms of such discrimination include forced or coerced sterilization and forced pregnancy, which negatively affect women's physical and mental health and violate their rights to reproductive autonomy, to health, to bodily integrity, to be free from torture and inhuman and degrading treatment, and to be free from discrimination.<sup>iv</sup>

### Guidance:

Forced marriage, enforced sterilization, forced pregnancy, and prevention of births of members of particular groups violate the individual rights of those affected, and when such practices are carried out on a widespread or systematic basis against members of a particular group, such practices can lead to the destruction of the group.

\* In this *Manual*, the phrase "members of a particular group" is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These "particular groups" include national, ethnic, racial, and religious groups.

1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 98–99 (2011).

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Preventing forced marriage of members of particular groups to individuals with a different identity, including by ensuring that coercion into marriage is criminalized and subject to penalties more serious than a fine,<sup>v</sup> and investigating, prosecuting, and punishing effectively all cases of forced marriage;<sup>vi</sup>
2. Preventing enforced and coerced sterilization of members of particular groups, including by:
  - Ensuring that any family planning policies adopted or sanctioned by the State are neither discriminatory nor compulsory and are compatible with international human rights law;<sup>vii</sup>
  - Ensuring that any sterilization carried out in the absence of the free, prior, and informed consent of the person concerned is a criminal offense;<sup>viii</sup>
  - Monitoring public and private health facilities to ensure that any sterilization procedures are implemented in full compliance with legislation<sup>ix</sup>
  - Investigating all reported cases of coerced sterilization of members of a particular group and ensuring that perpetrators are prosecuted and punished;<sup>x</sup> and
  - Ensuring that criteria and procedures to be followed for obtaining informed consent for sterilization are well known to practitioners and the public;<sup>xi</sup>
3. Preventing forced abortion and other forcible prevention of births of members of particular groups, including by investigating and prosecuting any reports of abuse and violence, including forced abortion, committed against women who are members of particular groups;<sup>xii</sup> and
4. Preventing forced pregnancy of members of particular groups committed by individuals with a different identity, including by ensuring women can safely access health services or clinics that provide reproductive health services.<sup>xiii</sup>

*See also the guidance in Chapter 15 on “Preventing Violations of the Right to Health,” and Chapter 20 on “Preventing Rape and Other Sexual Violence.”*

# Chapter 11: Preventing Compulsory Identification

The widespread or systematic compulsory identification of members of a particular group\* against their will for the purposes of identifying these members as part of the particular group and subjecting them to severe discrimination and persecution is a human rights-related risk factor for genocide.<sup>1</sup>

## Key Norms and Principles:<sup>2</sup>

*Members of a particular group have the right to identify themselves, if they so choose, as members of the group.*

Every person belonging to a particular group has the right to choose to self-identify himself or herself, or not to self-identify himself or herself, as a member of the group.<sup>i</sup> No disadvantage should result from this choice.<sup>ii</sup>

Everyone has the right to the protection of the law against arbitrary or unlawful interference with his or her privacy.<sup>iii</sup> Limitations on the right to privacy are permitted only where they are set out in law and are directed to a legitimate aim, applied in a non-discriminatory manner, and reasonable in the particular circumstances.<sup>iv</sup>

Everyone has the right to freedom of thought, conscience, and religion,<sup>v</sup> and no one shall be subjected to coercion that would impair his or her freedom to have or to adopt a religion or belief of his or her choice.<sup>vi</sup>

## Guidance:

While members of particular groups may choose to identify themselves as such, compelling individuals to identify themselves as members of a particular group against their will violates their right to privacy and can make them vulnerable to harassment, persecution, and discrimination on the basis of their identify. Compulsory identification of one's religion can also violate the right to freedom of religion or belief.<sup>vii</sup> Examples of impermissible forms of compulsory identification include cases in which the State requires members of a particular group to wear identification reflecting their membership in the group or to reveal their membership in a particular group on identity documents.

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\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that compulsory identification of members of particular groups against their will, including but not limited to the use of identity cards indicating their membership in the group, is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (2005), Indicator 4.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 51–54 (2011).

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Removing from official forms and identification documents such as passports and immigration forms any requirement for individuals to specify their membership in a particular group;<sup>viii</sup>
2. Ensuring and facilitating the right of individuals to self-identification as persons belonging to a particular group in the context of censuses and other targeted surveys of the population;<sup>ix</sup>
3. Safeguarding the right of individuals not to be forced to wear or display symbols indicating membership in a particular group;<sup>x</sup>
4. In cases where members of particular groups who have suffered discrimination or persecution demonstrate reluctance to self-identify as members of the group, taking steps to create conditions that are conducive for them to identify themselves as such;<sup>xi</sup> and
5. Enacting and enforcing legislation that prohibits the use of any registration system for discriminatory purposes, particularly in the fields of employment, marriage, and housing.<sup>xii</sup>

## PART C: PREVENTING RESTRICTIONS ON MOVEMENT BY MEMBERS OF A PARTICULAR GROUP

### Chapter 12: Preventing Violations of the Right to Freedom of Movement

The widespread or systematic denial of or severe restrictions on the right to freedom of movement of members of a particular group\* is a human rights risk factor for genocide.

Examples of such denial include, but are not limited to, compelling members of a particular group to reside in ghettos or segregated areas, placing restrictions on movement by members of particular groups from one region to another, and closing international borders to prevent members of a particular group from leaving.

#### Key Norms and Principles:<sup>1</sup>

*Everyone has the right to freedom of movement, without discrimination.*

Everyone lawfully in the territory of a State has, within that territory, the right to liberty of movement and freedom to choose her or his residence. Citizens of a State are always lawfully within the territory of that State. Everyone also is free to leave any country, including his or her own country, and no one shall be arbitrarily deprived of the right to enter his or her own country.<sup>i</sup>

Restrictions on the right to freedom of movement may be imposed in exceptional circumstances, where necessary to protect national security, public order, public health or morals, or the rights and freedoms of others. To be permissible, any such restrictions also must be provided for by law and be consistent with other rights, as well as the fundamental principles of equality and non-discrimination.<sup>ii</sup>

States should protect the right to freedom of movement and choice of residence from public as well as private interference.<sup>iii</sup>

#### Guidance:

Freedom of movement is an indispensable condition for the free development of a person and for the enjoyment of many other rights.<sup>iv</sup> Widespread or systematic denial or severe restriction of the right to freedom of movement of members of a particular group can cause extreme vulnerability and limit the ability of members of the group to ensure their physical safety.

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1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 46–50 (2011).

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Guaranteeing, including through legislation, the right of everyone to freedom of movement and residence within the borders of the State;<sup>v</sup>
2. Ensuring that members of particular groups are generally allowed to travel within the country and to leave the country without restriction, and that administrative permission, travel permits, or exit visas are only required in individual cases that can be justified;<sup>vi</sup> and more broadly, that any restrictions on the freedom of movement are non-discriminatory, temporary, and exceptional and do not have a disproportionate impact;<sup>vii</sup>
2. If the State requires individuals to register their place of residence, providing members of particular groups with access to relevant registration information, ensuring that registration is not denied to members of particular groups on discriminatory grounds, prohibiting any discriminatory behavior by registration officials, and ensuring the right to appeal allegedly arbitrary or discriminatory registration decisions;<sup>viii</sup>
4. Protecting members of particular groups from all forms of forced internal displacement,<sup>ix</sup> ensuring that any relocation of members of such groups takes place only with their free, prior, and informed consent, after agreement has been reached with them on just and fair compensation and, where possible, with the option of return;<sup>x</sup> and
5. Wherever camps exist to accommodate internally displaced persons:
  - Ensuring that people within the camps are able to move freely in and out of them,<sup>xi</sup> and if it is deemed absolutely necessary to confine people in camps, ensuring that such confinement does not last longer than required by the circumstances;<sup>xii</sup> and
  - Ensuring that, at a minimum, affected persons are provided with and have safe access to essential food and potable water, appropriate clothing, and essential medical services and sanitation, and that family members have the right to remain together;<sup>xiii</sup> and that all affected persons are protected from physical or other abuse.<sup>xiv</sup>

***Special Norms that Apply in Armed Conflict:***

Civilians should not be compelled to leave their own territory for reasons related to armed conflict. However, parties to armed conflict should allow all civilians who desire to leave the territory to do so, unless their departure is contrary to the national interests of the State.<sup>xv</sup>

***Measures parties to conflicts can take include:***

Ensuring that members of particular groups are not arbitrarily denied the ability to leave the territory, and that if they are prohibited from leaving on the grounds that the national interests of the State require it, ensuring that they are able to petition a court or administrative board to review the decision.<sup>xvi</sup>

*See also the guidance in Chapter 13 on “Preventing Forcible Transfer and Arbitrary Displacement” and Chapter 18 on “Preventing Arbitrary Detention.”*



## Chapter 13: Preventing Forcible Transfer and Arbitrary Displacement

The widespread or systematic forcible transfer from their habitual place of residence of members of a particular group\* without compensation or administrative or legal recourse or review is a human rights-related risk factor for genocide.<sup>1</sup>

Examples of such practices include, but are not limited to, creating ghettos or segregating members of particular groups in particular areas; causing members of a particular group to flee their place of residence, including the practice of ethnic cleansing; transferring populations of particular groups to the border with the intention of forcing them to leave the country; and forcibly transferring individuals from the State-favored group to regions inhabited by members of a particular group with the intention of diluting the population concentration of the latter group.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

Everyone lawfully within the territory of a State has the right to liberty of movement and freedom to choose his or her residence within that territory.<sup>ii</sup> Everyone has the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

“Forcible transfer” means the forced displacement of persons by expulsion or other coercive acts from the area in which they are lawfully present without grounds permitted under international law.<sup>iii</sup> It may entail the deportation of affected persons out of their country or their displacement within the borders of their own country.<sup>iv</sup> The “forcible” nature of such transfers is not limited to physical force, but may also include the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, abuse of power, or by taking advantage of a coercive environment.<sup>v</sup>

Forcible transfers of population for the purpose of ethnic cleansing and similar purposes aimed at or resulting in altering the ethnic, religious, or racial composition of the affected population can never be justified under international law; such transfers constitute arbitrary displacement.<sup>vi</sup>

*Everyone lawfully within the territory of a State has the right to liberty of movement and freedom to choose his or her residence within that territory.*

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that a significant flow of refugees and internally displaced persons, especially when those concerned belong to particular groups, is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 13.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 116–118 (2011).

Everyone also has the right to be protected against displacement in cases of large-scale development projects not justified by compelling and overriding public interests; in cases of disasters, unless the safety and health of those affected requires evacuation; and from displacement intended as collective punishment.<sup>vii</sup>

*Everyone has the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.*

In the limited and exceptional circumstances in which displacement is permitted, it must be carried out according to law and in conformity with due process and other human rights guarantees, including non-discrimination, and must not violate the rights to life, dignity, liberty, and security of those affected.<sup>viii</sup> Displacement must last no longer than required by the circumstances.<sup>ix</sup> Further, prior to any displacement, all feasible alternatives must be explored. Where no alternatives exist, States must take all available measures to minimize displacement and its adverse effects,

including by ensuring, to the greatest practicable extent, that the displaced persons receive proper accommodation and that the displacement is carried out in satisfactory conditions of safety, nutrition, health, and hygiene and that members of the same family are not separated.<sup>x</sup>

Outside of the emergency stages of armed conflicts and disasters, States must also seek the free and informed consent of those to be displaced and provide full information to those to be displaced on the reasons and procedures for their displacement and, where applicable, on compensation and relocation.<sup>xi</sup>

#### **Guidance:**

Members of particular groups often suffer disproportionately from forcible transfers and forced evictions.<sup>xii</sup> When members of a particular group are forcibly transferred from a geographic area on a widespread or systematic basis, this can eliminate or seriously reduce the possibility for the group to reconstitute itself in the future.<sup>xiii</sup> Such forced displacement may also facilitate the commission of other rights violations against members of the group or lead to other adverse consequences for their safety and well-being.

#### ***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Refraining from arbitrary displacement and adopting and enforcing legislation and transparent policies and procedures that prohibit it, specifying in detail the precise circumstances in which evictions and interference with the right to freedom of movement or to own property are permitted, and ensuring that these laws and policies apply to all agents acting under the authority of the State;<sup>xiv</sup>
2. Ensuring that any transfer, relocation, or displacement affecting members of a particular group is carried out only as a last resort, after all feasible alternatives have been explored,<sup>xv</sup> and ensuring open, public, and participatory consultations are held with the persons to be affected,<sup>xvi</sup> and that measures are taken to minimize displacement and its adverse effects;<sup>xvii</sup>

3. Ensuring that persons who are transferred, relocated, or displaced are provided without discrimination with, and have safe access to, at a minimum, essential food and potable water, basic shelter and housing, appropriate clothing, essential medical services, and sanitation<sup>xviii</sup> and are protected from physical or other abuse;<sup>xix</sup> and ensuring that such persons are able to recover or are provided with adequate redress for loss of property and possessions as a result of their displacement<sup>xx</sup> as well as for resulting suffering,<sup>xxi</sup> and have access to appropriate judicial authorities to review such decisions;<sup>xxii</sup> and
4. Respecting the right of all persons to seek safety in another part of the country, to leave their country, to seek asylum in another country, and to be protected against forcible return to or resettlement in any place where their life, safety, liberty, or health would be at risk;<sup>xxiii</sup> and ensuring that all displaced persons have the opportunity to choose freely whether to return, to integrate locally, or resettle within the country, and that they can access reintegration assistance regardless of the solution they choose.<sup>xxiv</sup>

***Special Norms that Apply in Armed Conflict:***

Everyone has the right to be protected against displacement in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so require.<sup>xxv</sup> Forcible transfers or deportation of persons from an occupied territory to the territory of another State are prohibited in all circumstances.<sup>xxvi</sup> It is prohibited for an occupying power to forcibly transfer its own civilians into the occupied territory.<sup>xxvii</sup>

***Measures parties to conflicts can take include:***

1. Refraining from forcibly displacing members of particular groups during armed conflict;<sup>xxviii</sup> and
2. Ensuring that any displacement of persons that is necessary for imperative reasons of security includes accommodations for hygiene, health, safety, and nutrition and provisions to keep members of the same family together.<sup>xxix</sup>

*See also the guidance in Chapter 12 on “Preventing Violations of the Right to Freedom of Movement.”*



## PART D: PREVENTING DENIAL OF ACCESS TO BASIC NECESSITIES BY MEMBERS OF A PARTICULAR GROUP

### Chapter 14: Preventing Deliberate Destruction of or Blocking Access to Subsistence Food and Medical Supplies

The widespread or systematic deliberate destruction of subsistence food and medical supplies, including humanitarian aid, intended for members of a particular group,\* or blocking access to such supplies for members of a particular group, is a human rights-related risk factor for genocide.<sup>1 i</sup>

#### Key Norms and Principles:<sup>2</sup>

Everyone has the right to a standard of living adequate for his or her health and the health of his or her family, including access to food and medical care.<sup>ii</sup> Every State is obliged to ensure that all persons under its jurisdiction have access, without discrimination, to the minimum essential food to ensure freedom from hunger, and which is sufficient, nutritionally adequate, and safe.<sup>iii</sup> Every State is also obliged to ensure that all persons under its jurisdiction have access, without discrimination, to the highest attainable standard of physical and mental health.<sup>iv</sup>

*Everyone has the right to access to adequate food and to medical care without discrimination.*

Any discrimination in access to food and to means and entitlements for its procurement that has the purpose or effect of impairing equal enjoyment or exercise of the right to food is prohibited.<sup>v</sup> Health facilities, goods and services likewise must be accessible, in law and fact, to everyone, especially to the most vulnerable or marginalized sections of the population, without discrimination,<sup>vi</sup> and within safe physical reach of all segments of the population, especially vulnerable or marginalized groups.<sup>vii</sup>

#### Guidance:

When members of a particular group are denied access to food or to medical supplies on a widespread or systematic basis, this denial can lead directly to violations of other fundamental rights, including the right to life, and can potentially endanger the existence of the group as such.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that policies that are aimed at preventing the delivery of essential services or assistance, including obstruction of aid delivery or access to food, water, sanitation or essential medical supplies in certain regions or targeting specific groups is an indicator of a risk of genocide. CERD, Decision on Follow-up to the Declaration on Prevention of Genocide: Indicators of Systematic and Massive Patterns of Racial Discrimination, UN Doc. CERD/C/67/1 (14 October 2005), Indicator 15.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 100–103 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Refraining from any measures having the intent or effect of discriminating against members of particular groups in their access to adequate food<sup>viii</sup> or to their traditional food,<sup>ix</sup> or to health facilities, goods, and services;<sup>x</sup>
2. Protecting access to means of subsistence for members of particular groups, including by protecting members of particular groups from employment discrimination,<sup>xi</sup> and by protecting the lands, territories, and resources of indigenous peoples, with due respect for their customs, traditions, and land tenure systems;<sup>xii</sup>
3. Ensuring that non-State actors do not deliberately deprive members of particular groups of access to adequate food,<sup>xiii</sup> or impede their right to health,<sup>xiv</sup> including on discriminatory grounds;
4. Establishing mechanisms to give priority in the provision of water, food, and medical supplies to the most vulnerable or marginalized groups of the population, including members of particular groups;<sup>xv</sup>
5. Ensuring equal access to rations and food vouchers, including for members of particular groups;<sup>xvi</sup>
6. Refraining from arbitrarily denying humanitarian access and facilitating access for United Nations agencies<sup>xvii</sup> and international and national humanitarian organizations to provide humanitarian assistance, including food aid, to persons in need of such assistance, without discrimination;<sup>xviii</sup>
7. Ensuring in situations of internment that daily food rations for internees are sufficient to keep internees in a good state of health,<sup>xix</sup> supplying internees with sufficient drinking water,<sup>xx</sup> and ensuring that internees have access to adequate health facilities;<sup>xxi</sup> and
8. Avoiding impunity for any deliberate destruction or blocking of access to food, including by ensuring prosecution of public officials who limit access to food on discriminatory grounds.<sup>xxii</sup>

### *Special Norms that Apply in Armed Conflict:*

In armed conflict, it is prohibited to attack, destroy, remove, or render useless any objects indispensable to the survival of civilians for the specific purpose of denying sustenance to the civilian population, for any motive, unless such actions are required by imperative military necessity.<sup>xxiii</sup> It is likewise prohibited to attack civilian hospitals and other medical facilities, or to use them for military purposes.<sup>xxiv</sup>

Parties to a conflict have an obligation to permit the free passage of all essential foodstuffs and medicines to civilians in need other than in cases of imperative military necessity.<sup>xxv</sup> Although they may take measures to control the content and delivery of humanitarian aid, parties to a conflict must refrain from deliberately impeding the delivery of relief supplies to civilians in need in areas under their control.<sup>xxvi</sup> Parties to a conflict shall not arbitrarily withhold consent to international humanitarian organizations and other appropriate actors to carry out their services, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.<sup>xxvii</sup>

During occupation, the occupying power has the duty to ensure the food and medical supplies of the population, must bring in the necessary foodstuffs and other necessities if resources are inadequate, and may not requisition foodstuffs or medical supplies unless and until the requirements of the civilian population have been taken into account.<sup>xxviii</sup>

### *Measures parties to conflicts can take include:*

1. Refraining from attacking, destroying, removing, or rendering useless objects indispensable to the survival of the civilian population and from attacking civilian hospitals, unless such actions are required by imperative military necessity and undertaken on territory under the State's control;<sup>xxix</sup> and
2. Ensuring safe and unimpeded passage of food and medical assistance, including assistance provided by humanitarian organizations to civilians in need<sup>xxx</sup> to all conflict-affected areas in a timely manner, refraining at all times from arbitrarily denying humanitarian access.<sup>xxxi</sup>

*See also the guidance in Chapter 15 on "Preventing Violations of the Right to Health."*

# Chapter 15:

## Preventing Violations of the Right to Health

The widespread or systematic denial of or severe restrictions on access to health care targeted at members of a particular group,\* including, although not limited to, denying members of a particular group access to hospitals, medical centers, and physicians, is a human rights risk factor for genocide.<sup>1</sup>

### Key Norms and Principles:<sup>1</sup>

*Everyone has the right to enjoy facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health, without discrimination.*

Everyone has the right to a standard of living adequate for the health and well-being of himself or herself and of his and her family.<sup>ii</sup> All persons shall have access, without discrimination, to the highest attainable standard of physical and mental health,<sup>iii</sup> and to equal access to health facilities, goods, and services<sup>iv</sup> that are within safe physical reach<sup>v</sup> and that are culturally appropriate.<sup>vi</sup> Access to health services should never be limited as a punitive measure.<sup>vii</sup>

### Guidance:

When members of a particular group are denied access to adequate health care on a widespread or systematic basis, this can lead to violations of other fundamental rights, in particular the right to life.

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring equitable access to affordable and adequate health services for members of particular groups,<sup>viii</sup> including for women, displaced persons,<sup>ix</sup> and those without personal identity documents;<sup>x</sup>
2. Ensuring, including through anti-discrimination legislation, effective protection against discrimination in access to health care;<sup>xi</sup>
3. Undertaking anti-discrimination training for public and private health-care providers,<sup>xii</sup> particularly those working in communities of members of particular groups;<sup>xiii</sup> and
4. Taking measures, in consultation with members of particular groups,<sup>xiv</sup> to address any obstacles that prevent or limit their access to adequate health care,<sup>xv</sup> for example ensuring that all members of particular groups have access to personal documents that are necessary for them to obtain health care<sup>xvi</sup> and ensuring, to the extent possible, that members of particular groups have access to health care information and services in a language that they understand.<sup>xvii</sup>

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 41–45 (2011).

### *Special Norms that Apply in Armed Conflict:*

Medical personnel, medical units, and medical transports exclusively assigned to medical duties must be respected and protected by all parties in all circumstances,<sup>xviii</sup> and hospitals and places where the sick and wounded are gathered should not be intentionally attacked unless they are legitimate military objectives.<sup>xix</sup> Parties to conflicts should allow medical personnel and medical equipment to pass into besieged areas and should permit persons requiring medical attention to be removed from such areas.<sup>xx</sup>

### *Measures parties to conflicts can take include:*

1. Refraining from directing attacks against hospitals, medical establishments, and medical units, unless they are being used for military action;<sup>xxi</sup>
2. Respecting and protecting medical personnel and other persons performing medical duties against attack so long as they do not take a direct part in hostilities;<sup>xxii</sup>
3. Ensuring safe passage for medical staff and people seeking treatment;<sup>xxiii</sup> and
4. Ensuring in situations of internment that internees may receive required medical attention.<sup>xxiv</sup>

*See also the guidance in Chapter 14 on “Preventing Deliberate Destruction of or Blocking Access to Subsistence Food and Medical Supplies” and Chapter 10 on “Preventing Forced Marriage, Enforced Sterilization, Forced Pregnancy, and Prevention of Births.”*



# Chapter 16:

## Preventing Violations of the Right to Own Property

The widespread or systematic expropriation or destruction of property belonging to members of a particular group\* with no effective administrative or legal recourse or compensation, or blocking access to the right to own property for members of a particular group, is a human rights-related risk factor for genocide.<sup>1</sup>

### Key Norms and Principles:<sup>1</sup>

Everyone has the right to own property, alone as well as in association with others, and no one shall be arbitrarily deprived of his or her property.<sup>ii</sup> Everyone also has the right to a standard of living adequate for the health and well-being of himself and his family, including housing,<sup>iii</sup> and no one shall be subjected to arbitrary or unlawful interference with his or her home.<sup>iv</sup> These rights apply to all persons, without discrimination.<sup>v</sup>

*No one shall be arbitrarily deprived of his property, nor subjected to arbitrary or unlawful interference with his or her home.*

The right to own property also includes protections for members of particular groups. For example, indigenous peoples have the right to own, use, develop, and control the lands, territories, and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired,<sup>vi</sup> and they should not be removed from their lands or territories without their free, prior, and informed consent and after agreement on just and fair compensation and, where possible, the option of return.<sup>vii</sup>

Evictions, meaning the permanent or temporary removal against their will of individuals from the homes and/or land which they occupy, are permissible only in cases envisaged by the law, deemed justifiable and unavoidable, and carried out in a manner which is in compliance with international human rights standards and the principles of non-discrimination, reasonableness, and proportionality.<sup>viii</sup> “Forced eviction,” meaning the eviction of individuals, families, or communities without the provision of, and access to, appropriate forms of legal or other protection, is prohibited.<sup>ix</sup>

### Guidance:

Members of particular groups suffer disproportionately from practices of expropriation of property and forced eviction.<sup>x</sup> When members of a particular group are deprived of their property or denied the right to own property on a widespread or systematic basis, this can impede their ability to engage in conduct central to maintaining the identity of the group, affecting many rights such as the rights to maintain their culture, to practice their religion or belief, and to found families.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 90–91 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring respect for property rights irrespective of the owner's national, ethnic, racial, or religious identity<sup>xi</sup> and effectively investigating cases of property confiscation involving members of particular groups;<sup>xii</sup>
2. Taking measures including legal and policy reform to facilitate the equal exercise by members of particular groups of their right to own property<sup>xiii</sup> and to ensure that women enjoy property rights in full equality with men, including the rights to own and inherit property;<sup>xiv</sup>
3. Upholding everyone's right to fair and equitable compensation for property confiscated for public use;<sup>xv</sup>
4. Ensuring that anyone who has been arbitrarily or unlawfully deprived of housing, land, or property is able to submit a claim for restitution and/or compensation for any affected property, both personal and real, to an independent and impartial body and to receive notice of the determination;<sup>xvi</sup>
5. Ensuring that, when relocation or eviction is unavoidable, all relevant State and private actors carry out relocation and eviction in a manner compatible with principles of non-discrimination, reasonableness, and proportionality;<sup>xvii</sup> preventing and punishing the use of excessive force;<sup>xviii</sup> and ensuring that adequate alternative housing is provided to people who are evicted,<sup>xix</sup> particularly where those affected are unable to provide it for themselves;<sup>xx</sup>
6. Legally recognizing the lands, territories, and resources of indigenous peoples, with due respect to their customs, traditions, and land tenure systems;<sup>xxi</sup> and requiring prior consultation and securing the free, prior, and informed consent of those concerned in relation to all decisions that would affect their property and lands;<sup>xxii</sup> and
7. Assisting returned or resettled internally displaced persons, formerly deported persons, and refugees to recover, to the extent possible, their property and possessions, or to obtain appropriate compensation or other reparation;<sup>xxiii</sup> ensuring that restitution programs are carried out in consultation with those affected.<sup>xxiv</sup>

### *Special Norms that Apply in Armed Conflict:*

Parties to a conflict must distinguish between civilian objects and military objectives<sup>xxv</sup> and may not direct attacks against civilian objects.<sup>xxvi</sup> In cases of doubt, parties to a conflict should presume that objects normally dedicated to civilian purposes, such as houses, places of worship, or schools, are civilian objects.<sup>xxvii</sup> Those who plan and decide on attacks must do everything feasible to verify that objectives to be attacked are military objectives and must cancel or suspend an attack if it becomes apparent that the objective is not a military one.<sup>xxviii</sup> They must also refrain from launching an attack which may be expected to cause damage to civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated.<sup>xxix</sup>

Parties to armed conflict should respect private property and should prohibit its confiscation except where the destruction or seizure of such property is required by military necessity.<sup>xxx</sup> Pillage, the forcible taking of private property by armed forces from civilians for private or personal use, is always prohibited.<sup>xxxi</sup>

Parties to armed conflict should also protect private property from pillage, direct or indiscriminate attacks or other acts of violence, being used to shield military operations or objectives, being made the object of reprisal, and being destroyed or appropriated as a form of collective punishment.<sup>xxxii</sup>

### *Measures parties to conflicts can take include:*

1. Protecting the civilian character of objects such as homes and schools,<sup>xxxiii</sup> including by prohibiting armed forces from occupying them, using them,<sup>xxxiv</sup> or establishing bases near them, which could jeopardize their neutrality;
2. Respecting the private property of members of particular groups,<sup>xxxv</sup> and
3. Protecting property and possessions of members of particular groups, including property left behind by internally displaced persons and refugees, against pillage, arbitrary destruction, and illegal appropriation, occupation, or use.<sup>xxxvi</sup>

## PART E: PREVENTING VIOLATIONS OF THE RIGHTS TO LIFE, LIBERTY AND PERSONAL INTEGRITY OF MEMBERS OF PARTICULAR GROUPS

### Chapter 17: Preventing Forced Labor, Slavery, and Involuntary Servitude

The widespread or systematic subjection of members of a particular group\* to forced labor, slavery, or involuntary servitude is a human rights risk factor for genocide.<sup>1</sup>

#### Key Norms and Principles:<sup>1</sup>

No one shall be held in slavery<sup>2</sup> or servitude.<sup>ii</sup>

*Forced labor imposed as a means of racial, social, national, or religious discrimination is absolutely prohibited.*

No one shall be required to perform forced<sup>3</sup> or compulsory labor.<sup>iii</sup> No one can be compelled against his or her will to perform work imposed as a means of discrimination on the basis of membership in a particular group or as a means of exploitation of members of a particular group.<sup>iv</sup> No one can be compelled to work for the purpose of political coercion or education or as a punishment for holding or expressing political or ideological views opposed to the established political, social, or economic system.<sup>v</sup>

#### Guidance:

Slavery and forced labor involve the subjugation of an individual to the control of a third party. These practices are prohibited in their own right; they also contribute to the denial of many fundamental rights, including but not limited to the rights to liberty and security of person, the right to freedom of movement, and the right not to be subjected to cruel, inhuman, or degrading treatment. Members of particular groups are particularly vulnerable to being subjected to slavery or forced labor imposed as a means of political coercion, discrimination, or punishment.

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1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 94–95 (2011).

2 “Slavery” means the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, such as such as purchasing, selling, lending, or bartering a person or imposing on a person a similar deprivation of liberty. The prohibition of slavery and servitude includes the prohibition of practices similar to slavery that reduce people to a servile status, including debt bondage, serfdom, and trafficking in persons, in particular women and children. The prohibition of slavery is so fundamental as to constitute an *erga omnes* obligation owed by States to the international community as a whole.

3 “Forced labor” does not include work or service exacted as part of compulsory military service, provided the work is of a purely military character; work or service exacted as a response to an emergency (e.g. floods, fire, famine, or epidemic) threatening the well-being of the general population, in whole or in part; work or service exacted as a consequence of a conviction in a court of law, provided that the work or service is carried out under the supervision and control of a public authority; or minor communal services performed by members of a community in the direct interest of the community, provided that members of the community or their direct representatives have the right to be consulted regarding the need for such services.

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring that national legislation prohibits slavery in all its forms;<sup>vi</sup> the slave trade, meaning all acts involved in the capture, acquisition, or disposal of a person with intent to reduce him or her to slavery; and trade or transport in slaves;<sup>vii</sup> and ensuring that legislation also prohibits forced labor in line with international norms;<sup>viii</sup>
2. Investigating and prosecuting cases of all forms of slavery and forced labor, particularly cases involving members of particular groups;<sup>ix</sup> to this end, providing special training to law enforcement officials, investigators, and judges and on how to identify situations of all forms of slavery and forced labor;<sup>x</sup>
3. Preventing the subjugation of members of particular groups to all forms of slavery and forced labor by private actors, including by training labor inspectors to identify and report signs of slavery or forced labor and ensuring regular inspections;<sup>xi</sup> and
4. Introducing a civil cause of action to allow victims of all forms of slavery and forced labor and their representatives to directly request judicial relief.<sup>xii</sup>

***Special Norms that Apply in Armed Conflict:***

Slavery and uncompensated or abusive forced labor are always prohibited in armed conflict.<sup>xiii</sup> Prisoners of war may be made to work only if they are paid and if the work has no direct connection with the operations of war; only if they are physically fit and the work will not damage their physical or mental health; only if the work would not be seen by the prisoners' forces as humiliating; and only if the work is not unhealthy or dangerous, unless it is undertaken voluntarily.<sup>xiv</sup>

Protected civilians may not be compelled to perform work that is directly related to the conduct of military operations, and if they are compelled to perform other work, they must be paid.<sup>xv</sup> Civilian internees may not be compelled to work, and if they desire to work, they must be paid.<sup>xvi</sup>

***Measures parties to conflicts can take include:***

1. Refraining from engaging in slavery or the slave trade and from imposing forced labor on prisoners of war or protected civilians and from compelling them to perform prohibited or dangerous work;<sup>xvii</sup>
2. Prohibiting all forces under the party's control from engaging in slavery or the slave trade and from imposing forced labor;<sup>xviii</sup>
3. Ensuring that independent investigations are undertaken into any allegation that members of a particular group are being enslaved or compelled to perform prohibited work or being subjected to abusive or uncompensated work and that those found responsible are held accountable for such conduct.<sup>xix</sup>



# Chapter 18: Preventing Arbitrary Detention

The widespread or systematic arbitrary detention of members of a particular group,\* including their community leaders, is a human rights-related risk factor for genocide.<sup>i</sup>

## Key Norms and Principles:<sup>1</sup>

Everyone has the right to liberty of person.<sup>ii</sup> States are obligated to protect the right to liberty of person of all persons within their territory and of all persons subject to their jurisdiction.<sup>iii</sup>

“Liberty of person” signifies freedom from physical confinement.<sup>iv</sup> No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.<sup>v</sup> Arrest or detention on discriminatory grounds is arbitrary.<sup>vi</sup> Anyone who is arrested or detained is entitled to access a court that can decide without delay on the lawfulness of detention and, if detention is not lawful, order his or her release.<sup>vii</sup>

*Everyone has the right to liberty of person. No one shall be deprived of his or her liberty except on grounds and in accordance with procedures established by law.*

Internment and administrative detention<sup>2</sup> are exceptional measures that may be undertaken only in a situation of officially-proclaimed public emergency that threatens the life of the nation and if such measures are strictly required to protect State security or public order.<sup>viii</sup> Moreover, even in time of public emergency, it is prohibited to discriminate on the basis of membership in a particular group in ordering internment or detention.<sup>ix</sup>

## Guidance:

Members of particular groups may be particularly vulnerable to arbitrary detention, particularly in cases where they seek to assert their rights to freedom of expression, peaceful assembly, or association. When members of a particular group are subjected to arbitrary detention on a widespread or systematic basis, including in cases where their leaders are targeted for detention, this can have the additional effect of making the group as a whole more vulnerable to rights violations and marginalization.

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1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 104 (2011).

2 The terms “internment” and “administrative detention” refer to the deprivation of a person’s or persons’ liberty which has been initiated or ordered by the executive branch, rather than the judiciary, and without criminal charges being made against the person or persons concerned.

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Refraining from arbitrarily detaining members of a particular group, including by defining in legislation the lawful grounds for arrest or detention with sufficient precision to avoid overly broad or arbitrary application;<sup>x</sup>
2. Establishing and ensuring compliance with procedural safeguards to prevent and address arbitrary detention of members of particular groups, including:
  - Holding persons deprived of their liberty only in officially acknowledged places of detention;<sup>xi</sup>
  - Establishing independent and impartial mechanisms that visit and inspect all places of detention;<sup>xii</sup>
  - Maintaining official registers of places of detention, ensuring their accuracy, and making them publicly accessible;<sup>xiii</sup>
  - Allowing persons in detention prompt, regular access to their lawyers and family members;<sup>xiv</sup>
  - Ensuring that anyone deprived of his or her liberty is brought promptly before a judge or other independent, objective, and impartial officer<sup>xv</sup> empowered to order release if there is no lawful basis for continuing the detention,<sup>xvi</sup> and
  - Facilitating access to places of detention by representatives of relevant international and regional mechanisms;<sup>xvii</sup>
3. Investigating all cases of arbitrary detention involving members of particular groups;<sup>xviii</sup>
4. Taking measures to protect against abduction and unlawful detention of persons by non-State actors within the State's territory<sup>xix</sup> and preventing arbitrary or unlawful exercise of power by any private individuals or entities authorized by the State to exercise powers of arrest or detention;<sup>xx</sup> and
5. Undertaking internment or administrative detention only in the specific exceptional circumstances permitted under international law described above, and only on an individual basis, without discrimination of any kind,<sup>xxi</sup> and ensuring that administrative detainees and internees can challenge the lawfulness of their detention before an independent and impartial body.<sup>xxii</sup>

*Special Norms that Apply in Armed Conflict:*

Although soldiers or other enemy fighters may be detained without charge for the duration of active hostilities, civilians may be interned or subject to administrative detention only if absolutely necessary for the security of the State<sup>xxiii</sup> or for imperative reasons of security,<sup>xxiv</sup> and only for such time as the individualized basis for such detention continues to exist. It is prohibited to discriminate on the basis of membership in a particular ethnic, racial, or religious group in ordering internment or detention.<sup>xxv</sup>

*Measures parties to conflicts can take include:*

1. Undertaking internment or administrative detention of civilians only if absolutely necessary for the security of the State<sup>xxvi</sup> or for imperative reasons of security<sup>xxvii</sup> and only on an individual basis, without discrimination of any kind;<sup>xxviii</sup> and
2. Ensuring that civilian administrative detainees and internees can challenge the lawfulness of their detention before an independent and impartial body, that the reasons for their detention are reviewed periodically for lawfulness,<sup>xxix</sup> and that they are released once the basis for detention ceases to exist.

*See also the guidance in Chapter 12 on “Preventing Violations of the Right to Freedom of Movement” and Chapter 13 on “Preventing Forcible Transfer and Arbitrary Displacement.”*

# Chapter 19: Preventing Torture

The widespread or systematic torture of members of a particular group\* on the basis of their membership in the group is a human rights risk factor for genocide.<sup>1</sup>

## Key Norms and Principles:<sup>1</sup>

*No one, under any circumstances, shall be subjected to torture.*

No one shall be subjected to torture,<sup>ii</sup> meaning “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>iii</sup>

The prohibition of torture applies in all circumstances, including during armed conflict and in situations of public emergency. No justification or extenuating circumstances may be invoked to excuse a violation for any reason, including those based on an order from a superior officer or public authority.<sup>iv</sup>

States have a duty to protect, through legislative, administrative, judicial and other measures as may be necessary, every person against torture and ill-treatment.<sup>v</sup> The protection of individuals or populations especially at risk of torture, including members of particular groups, is a part of the obligation to prevent torture and ill-treatment.<sup>vi</sup>

## Guidance:

The infliction of severe physical or mental harm on members of a particular group can constitute torture when it is inflicted for a discriminatory reason.<sup>vii</sup> Members of particular groups are vulnerable to torture, particularly in contexts in which widespread or systematic discrimination against members of the group is already occurring. The infliction of torture is intended to dehumanize victims, and when torture is committed against members of particular groups on a widespread or systematic basis, this can signal an intention to silence, intimidate, and ultimately destroy the group as such, in whole or in part.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 105–111 (2011).

***Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:***

1. Ensuring that torture is an offense under criminal law;<sup>viii</sup>
2. Publicly condemning torture and sending a clear and unambiguous message, particularly to law enforcement personnel, that it is unacceptable;<sup>ix</sup>
3. Ensuring prompt and impartial investigations into all allegations of torture and other cruel, inhuman or degrading treatment, and prosecuting and, if found guilty, punishing perpetrators, irrespective of the alleged victim's membership in a particular group,<sup>x</sup> taking all necessary measures to avoid impunity;<sup>xi</sup>
4. Giving special attention to ensuring the protection of members of particular groups especially at risk of being tortured, including women and non-citizens;<sup>xii</sup>
5. Ensuring that all persons detained by the authorities have the right to contact relatives, a lawyer of their choice, and an independent doctor promptly upon being deprived of their liberty, and establishing confidential, accessible mechanisms in places of detention to receive complaints of torture or ill-treatment of members of a particular group;<sup>xiii</sup>
6. Ensuring that public officials and any other persons who may be involved in the custody, interrogation, or treatment of any individual subjected to any form of arrest, detention, or imprisonment receive training on the prohibition against torture,<sup>xiv</sup> and conduct sensitization training in contexts where torture or ill-treatment is particularly likely to be committed against members of particular groups;<sup>xv</sup> and
7. Promoting the hiring of persons belonging to particular groups in order to diversify the composition of the police force and correctional services.<sup>xvi</sup>

## Chapter 20: Preventing Rape and Other Sexual Violence

The widespread or systematic use of rape and sexual violence targeting members of a particular group,\* including the incitement thereof, is a human rights-related risk factor for genocide.<sup>1</sup>

### Key Norms and Principles:

*States must prevent public authorities and persons acting in an official capacity from directly committing, instigating, inciting, encouraging, acquiescing in or otherwise participating or being complicit in acts of sexual violence.*

Everyone has the right to bodily integrity, an aspect of the right to security of person.<sup>ii</sup> Everyone also has the right to be free from torture and cruel, inhuman, or degrading treatment or punishment,<sup>iii</sup> and to be free from arbitrary or unlawful interference with privacy.<sup>iv</sup>

“Sexual violence” is defined as causing a person to engage in a sexual act by force, by threat of force or coercion, or by taking advantage of a coercive environment or a person’s incapacity to give genuine consent.<sup>v</sup> It includes rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence of comparable gravity perpetrated against women, men, or children.<sup>vi</sup>

Sexual violence always violates the rights to bodily integrity and the right to be free from torture and arbitrary or unlawful interference with privacy.<sup>vii</sup> Sexual violence against women, whether in public or in private life, is a severe form of gender-based violence that violates the prohibition of discrimination against women and girls<sup>viii</sup> as well as the right to sexual and reproductive autonomy.<sup>ix</sup>

States must take effective measures to prevent public authorities and other persons acting in an official capacity from directly committing, instigating, inciting, encouraging, acquiescing in, or otherwise participating or being complicit in acts of sexual violence.<sup>x</sup>

Where State authorities or others acting in official capacity or under color of law know or have reasonable grounds to believe that sexual violence is being committed by private actors and they fail to exercise due diligence to prevent, investigate, prosecute, and punish such private actors, they assume responsibility for consenting or acquiescing to such acts.<sup>xi</sup>

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that serious patterns of individual attacks on members of particular groups which appear to be principally motivated by the victims’ membership in the group is an indicator of a risk of genocide. CERD, Decision on follow-up to the declaration on the prevention of genocide: Indicators of Patterns of Systematic and Massive Racial Discrimination, UN Doc. CERD/C/67/1 (2005), Indicator 11.

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 112–115 (2011).

## Guidance:

Sexual violence, including rape, involves the infliction of serious bodily and mental harm on victims. Sexual violence can also constitute an attack on a particular group as such, where infliction of sexual violence is aimed at inflicting suffering on victims on the basis of their identity as members of a particular group; at degrading and dehumanizing members of the particular group; and, in the case of sexual violence against women, at preventing members of the particular group from reproducing together with other members of their group or forcing them to reproduce with members of a different group. When members of particular groups are subjected to sexual violence on a widespread or systematic basis, this can signal an intention to destroy the group as such, in whole or in part.

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Ensuring that the criminal law penalizes any sexual act committed against a nonconsenting person<sup>xii</sup> and that sexual violence is included in national legislation prohibiting torture;<sup>xiii</sup>
2. Issuing clear orders through chains of command prohibiting sexual violence,<sup>xiv</sup> prohibiting sexual violence in Codes of Conduct, military and police field manuals, or the equivalent, and ensuring that armed forces and law enforcement personnel are trained on this absolute prohibition;<sup>xv</sup>
3. Vetting armed and security forces for any past commission of sexual violence;<sup>xvi</sup>
4. Protecting members of particular groups, including women affected by conflict,<sup>xvii</sup> internally displaced women,<sup>xviii</sup> and women and girls in refugee camps<sup>xix</sup> from sexual violence,<sup>xx</sup> and evacuating women and children under imminent threat of sexual violence to safety;<sup>xxi</sup>
5. Preventing sexual violence in detention, including by separating juvenile detainees and adults, and female detainees and males, and ensuring that female officers guard female inmates;<sup>xxii</sup>
6. Encouraging individuals to report acts of sexual violence, including by establishing independent and confidential mechanisms that can receive sexual violence complaints, including in detention facilities<sup>xxiii</sup> and in camps for refugees and displaced persons,<sup>xxiv</sup> ensuring that victims who report abuse are protected from retaliation,<sup>xxv</sup> and sanctioning anyone who prevents or discourages victims from reporting sexual violence;<sup>xxvi</sup>
7. Conducting prompt, thorough, and impartial investigations of all cases of rape and sexual violence, whether committed by State officials or non-State actors, including all such acts against members of particular groups;<sup>xxvii</sup>
8. Ensuring the existence of appropriate and easily accessible health care services and immediate medical and forensic examinations for victims of rape so that proper evidence can be collected as needed for prosecutions;<sup>xxviii</sup> and
9. Prosecuting and punishing the perpetrators of sexual violence,<sup>xxix</sup> upholding the principle of superior responsibility,<sup>xxx</sup> and enforcing a zero-tolerance policy providing for the dismissal of perpetrators of sexual violence.<sup>xxxi</sup>

*See also the guidance in Chapter 10 on “Preventing Forced Marriage, Enforced Sterilization, Forced Pregnancy, and Prevention of Births” and Chapter 6 on “Preventing Severe Dehumanization and Demonization.”*



## Chapter 21: Preventing Killing and Enforced Disappearance

The widespread or systematic killing or enforced disappearance of members of a particular group\* is a human rights-related risk factor for genocide.<sup>1</sup>

Examples of this practice include extrajudicial, summary, and arbitrary executions of members of a particular group, including as evidenced by the existence of mass graves resulting from such killings; the killing of community leaders and prominent intellectuals, professionals, educators, and religious leaders associated with a particular group; or intentional targeting during armed conflict of civilian members of a particular group.<sup>1</sup>

### Key Norms and Principles:<sup>2</sup>

Everyone has the right to life and to security of person<sup>ii</sup> No one shall be arbitrarily deprived of his or her life.<sup>iii</sup>

*Everyone has the right to life and to security of person.*

All individuals, without discrimination, have the right to security of person and to protection by the State against arbitrary or excessive violence or bodily harm, whether inflicted by government officials or by any individual, group or institution.<sup>iv</sup>

State actors are prohibited from engaging in arbitrary killing<sup>v</sup> and may only intentionally use lethal force when strictly unavoidable in order to protect life.<sup>vi</sup> States are responsible for the actions of non-State actors that operate at the request of the State or with its knowledge or acquiescence, such as private militias and paramilitary groups, private contractors, corporations, and consultants who engage in State activities, and must prevent them from engaging in arbitrary killing.<sup>vii</sup> In cases where private actors engage in a pattern of killings, the State must exercise due diligence and take appropriate measures to investigate, prosecute, and punish perpetrators.<sup>viii</sup>

No one shall be subjected to enforced disappearance.<sup>ix</sup> An “enforced disappearance” is the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State or by persons or groups acting with the authorization, support, or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.<sup>x</sup>

*No one shall be subjected to enforced disappearance.*

\* In this *Manual*, the phrase “members of a particular group” is used to refer to the group identities protected by the UN Convention on the Prevention and Punishment of the Crime of Genocide. These “particular groups” include national, ethnic, racial, and religious groups.

1 The Committee on the Elimination of Racial Discrimination (CERD), one of the United Nations human rights treaty bodies, has found that serious patterns of individual attacks on members of particular groups which appear to be principally motivated by the victims’ membership in the group is an indicator of a risk of genocide. CERD, Decision on follow-up to the declaration on the prevention of genocide: Indicators of Patterns of Systematic and Massive Racial Discrimination, UN Doc. CERD/C/67/1 (2005), Indicator 11.

2 For a summary of relevant legal norms and principles, see *Jacob Blaustein Institute for the Advancement of Human Rights, Compilation of Risk Factors and Legal Norms for the Prevention of Genocide*, 119–129 (2011).

## Guidance for States:

The arbitrary killing of members of a particular group violates the victims' right to life. In cases in which members of the group are killed on a widespread or systematic basis, or in which prominent members and community leaders of such groups are killed or subjected to enforced disappearance, this can signal that other members of the group may be killed or subjected to other violations of their rights with impunity, and can even signal an intention to destroy the group as such, in whole or in part.

*Among the recommended measures States can take, alone or with relevant stakeholders, to address this risk are:*

1. Ensuring that extrajudicial, arbitrary, and summary executions and enforced disappearance are recognized as offences under criminal law and are punishable by appropriate penalties that reflect their seriousness;<sup>xi</sup>
2. Preventing excessive use of force or enforced disappearance by public officials against members of particular groups,<sup>xii</sup> ensuring strict control over law enforcement and security personnel, including a clear chain of command over all relevant officials,<sup>xiii</sup> and providing adequate training to the police and security forces on standards governing the use of force;<sup>xiv</sup>
3. Taking measures to protect the security of members of particular groups and leaders of their communities<sup>xv</sup> and guaranteeing effective protection to individuals and groups in danger of extrajudicial executions and members of their families, including those who receive death threats;<sup>xvi</sup>
4. Investigating cases of killing and enforced disappearance committed by non-State actors against members of particular groups, including but not limited to instances of collective (mob) violence, and prosecuting and punishing the perpetrators of such acts of violence;<sup>xvii</sup>
5. Investigating any allegations of the existence of death squads and disbanding any such groups that are found to exist<sup>xviii</sup> and punishing all those responsible for killings and disappearances, including individuals exercising superior authority;<sup>xix</sup>
6. Taking disciplinary or criminal law measures against law enforcement officers who refuse to protect members of particular groups or to investigate crimes committed against them;<sup>xx</sup>
7. Recruiting members of particular groups into the police;<sup>xxi</sup>
8. Ensuring that persons deprived of their liberty are held in officially recognized places of detention and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence;<sup>xxii</sup>
9. Publicly disclosing all civilian casualties that occur in the custody of the State or its agents;<sup>xxiii</sup> and
10. Establishing effective, independent mechanisms to investigate allegations of excessive use of force or enforced disappearance by public officials against members of particular groups,<sup>xxiv</sup> ensuring that persons suspected of having committed an offense are not in a position to influence the progress of an investigation.<sup>xxv</sup>

### *Special Norms that Apply in Armed Conflict:*

In armed conflict, all parties to the conflict are prohibited from intentionally or indiscriminately committing acts of violence to life and person against persons who are not participating, or who are no longer participating, in hostilities,<sup>xxvi</sup> and likewise are prohibited from threatening to commit such acts.<sup>xxvii</sup>

Parties to an armed conflict must treat persons taking no active part in the hostilities humanely, without discrimination.<sup>xxviii</sup> They must take constant care to spare the civilian population, at all times distinguishing between civilians and combatants, and may not direct attacks against civilians.<sup>xxix</sup> Those who plan and decide on attacks must do everything feasible to verify that only military objectives are attacked and must cancel or suspend an attack if it becomes apparent that the objective is a civilian or civilian object.<sup>xxx</sup> They must also refrain from launching an attack which may be expected to cause incidental loss of civilian life or injury to civilians which would be excessive in relation to the concrete and direct military advantage anticipated.<sup>xxxi</sup>

### *Measures parties to conflicts can take include:*

1. Ensuring that State agents, including all security forces and militia under State control, do not target civilians in areas affected by armed conflict;<sup>xxxii</sup>
2. Ensuring that State bodies and agents protect civilian members of particular groups<sup>xxxiii</sup> in areas affected by military operations,<sup>xxxiv</sup> including from violations by third parties;<sup>xxxv</sup>
3. Establishing a permanent training program for members of the military forces on the principles of distinction and proportionality and protection of the civilian population;<sup>xxxvi</sup>
4. Protecting civilians from the threat of harm, including by prohibiting armed forces from using civilians as human shields;<sup>xxxvii</sup>
5. Ensuring that no financial support or arms are channeled to forces or non-State actors that engage in the deliberate targeting of civilians;<sup>xxxviii</sup> and
6. Ensuring that legislation provides criminal jurisdiction over all State agents, private contractors and civilian employees of the armed forces, and members of militias; that all allegations of willful killing of people not taking active part in hostilities are promptly and effectively investigated; that those found responsible are held accountable;<sup>xxxix</sup> and that witnesses, victims, and justice officials receive adequate protection before, during, and after any investigation.<sup>xl</sup>

*See also the guidance in Chapter 18 on “Preventing Arbitrary Detention.”*



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### Introduction

- i. Press Release, Secretary-General Kofi Annan, Action plan to prevent genocide, UN Press Release SG/SM/9197 AFR/893 (Apr. 7, 2004).
- ii. Ban Ki-moon, UN Secretary-General, Remarks at ceremony honouring UN staff victims of Rwanda Genocide (Apr. 7, 2014).
- iii. UN General Assembly, The Crime of Genocide, G.A. Res 96(I), UN Doc A/RES/96(I) (Dec. 11, 1946).
- iv. Navi Pillay, UN High Commissioner for Human Rights, Opening Remarks at the 25th Session of the Human Rights Council: High Level Panel Discussion dedicated to the sixty-fifth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide (Mar. 7, 2014).
- v. Press Release, Secretary-General Kofi Annan, Action plan to prevent genocide, UN Press Release SG/SM/9197 AFR/893 (Apr. 7, 2004).
- vi. Ban Ki-moon, UN Secretary-General, Remarks at the commemoration of the 20th anniversary of the Rwandan genocide (Apr. 7, 2014).
- vii. Raphael Lemkin, *Genocide*, 15 AMERICAN SCHOLAR 227, 229 (1946).
- viii. Convention on the Prevention and Punishment of the Crime of Genocide, art. 2, Jan. 12, 1951, 78 U.N.T.S. 277.
- ix. Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 2007 I.C.J. 43, ¶ 430–431 (Feb. 26, 2007).
- x. Universal Declaration of Human Rights, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948).
- xi. Office of the UN High Commissioner for Human Rights, *The Core International Human Rights Monitoring Instruments*, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.
- xii. *World Conference on Human Rights, Vienna Declaration And Programme of Action*, ¶ 5 (1993).
- xiii. See, e.g., Prosecutor v. Kordić and Čerkez, Case No. IT-95-14/2-A, Judgment, ¶ 94 (Int'l Crim. Trib. For the Former Yugoslavia Dec. 17, 2004) (“the phrase ‘widespread’ refers to the large-scale nature of the attack and the number of targeted persons, while the phrase ‘systematic’ refers to the organised nature of the acts of violence and the improbability of their random occurrence,” and is commonly expressed by “[p]atterns of crimes, in the sense of the non-accidental repetition of similar criminal conduct on a regular basis”). See also Prosecutor v. Blaskić, Case No. IT-95-14-A, Judgement, ¶ 101 (Int'l Crim. Trib. For the Former Yugoslavia Jul. 29, 2004) and Prosecutor v. Kunarac, Kovac and Vokovic, Case No. IT-96-23&IT-96-23/1-A, Judgment, ¶ 94 (Int'l Crim. Trib. For the Former Yugoslavia Jun 12, 2002). The Committee against Torture considers that torture is being committed on a “systematic” basis when incidents of torture “have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate . . .” See Committee Against Torture, *Confidential inquiries under article 20 of the Convention against Torture*, <http://www.ohchr.org/EN/HRBodies/CAT/Pages/InquiryProcedure.aspx>.
- xiv. See Francis Deng, *Foreword*, in Jacob Blaustein Institute for the Advancement of Human Rights, *Compilation of Risk Factors and Legal Norms for the Prevention Of Genocide* (2011), available at <http://www.jbi-humanrights.org/files/jbi-compilation-updated.pdf>.
- xv. See Office of the High Commissioner for Human Rights, *Monitoring the core international human rights treaties*, <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.
- xvi. See Office of the High Commissioner for Human Rights, *Special Procedures of the Human Rights Council*, <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>.

### Chapter 1: Preventing Violations of the Right to a Nationality

- i. Universal Declaration of Human Rights (UDHR), art 15.1, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5d(iii), Dec. 21, 1965, 660 U.N.T.S. 195. International Covenant on Civil and Political Rights (ICCPR), art. 24.3, Dec. 16, 1966, 999 U.N.T.S. 171. Convention on the Rights of the Child (CRC), art. 7.1, Nov. 20, 1989, 1577 U.N.T.S. 3.
- ii. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/60/18, ¶ 322 (2005); Report of the CERD, UN Doc. A/61/18, ¶ 180 (2006); Report of the CERD, UN Doc. A/56/18, ¶ 374 (2001).
- iii. UDHR, *supra* note i, Art. 15.1.
- iv. CRC, *supra* note i, art. 7.1. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 34(17) (2009); Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/42/3 ¶ 72 (2006).
- v. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 50(10) (2011); Report of the CERD, UN Doc. A/57/18, ¶ 100 (2002); Report of the Special Rapporteur on Contemporary Forms of Racism and the Independent Expert on Minority Issues, UN Doc. A/HRC/7/19/Add.5, ¶ 129 (2008).
- vi. See, e.g., Report of the Committee on Economic, Social and Cultural Rights, UN Doc. E/2011/22, ¶ 355 (2010).
- vii. See, e.g., Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), ¶ 68(9) (2010).
- viii. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/153, ¶ 143 (2005); Report of the Special Rapporteur on Contemporary Forms of Racism and the Independent Expert on Minority Issues, UN Doc. A/HRC/7/19/Add.5, ¶ 129 (2008).

## Chapter 2: Preventing Violations of the Right to Participate in Public Affairs

- i. International Covenant on Civil and Political Rights (ICCPR), art. 25, Dec. 16, 1966, 999 U.N.T.S. 171.
- ii. *Id.*
- iii. Human Rights Committee, *General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote) The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service* (General Comment No. 25), UN Doc. CCPR/C/21/Rev.1/Add.7, ¶¶ 3–4 (1996).
- iv. ICCPR, *supra* note i, at art. 25. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.
- v. UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2.3, G.A. Res. 47/135, UN Doc. A/47/49 (Vol. 1) (1992).
- vi. UN General Assembly, Declaration on the Rights of Indigenous Peoples, art. 18, G.A. Res. 61/295, UN Doc. A/61/L.67 (Sept. 13, 2007).
- vii. Human Rights Committee, General Comment No. 25, *supra* note iii, ¶¶ 8 and 12. See ICCPR arts. 19, 21, and 22.
- viii. Human Rights Committee, General Comment No. 25 *supra* note iii, ¶¶ 14–15. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/65/18, ¶ 33(7) (2010); Report of the CERD, UN Doc. A/61/18, ¶ 30 (2006). See also Report of the CERD, UN Doc. A/59/18, ¶ 65 (2004); Report of the CERD, UN Doc. A/57/18, ¶ 96 (2002).
- ix. See, e.g., Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. 1), ¶ 85(26) (2006).
- x. See, e.g., Report of the CERD, UN Doc. A/67/18, ¶ 37(17)(2012).
- xi. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 38(15) and 45(17) (2009); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2, ¶¶ 93 and 96 (2012); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/10/11/ADD.3, ¶¶ 84 and 90 (2009).
- xii. See Human Rights Committee, General Comment No. 25, *supra* note iii, ¶ 12.
- xiii. *Id.* See also Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/13/23, ¶ 46 (2010)
- xiv. See, e.g., Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. 1), ¶ 85(26) (2006); Report of the CERD, UN Doc. A/63/18, ¶ 268 (2008); Report of the CERD, UN Doc. A/64/18, ¶ 34(16) (2009).
- xv. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 60(17) (2011).
- xvi. See, e.g., Report of the CERD, UN Doc. A/59/18, ¶ 132 (2004).
- xvii. See Human Rights Committee, General Comment No. 25, *supra* note iii, ¶ 24.
- xviii. See, e.g., Report of the CERD, UN Doc. A/57/18 (2002), ¶ 96; Report of the Human Rights Committee, UN Doc. A/67/40 (Vol. 1), 110(22) (2012).
- xix. See Human Rights Committee, General Comment No. 25, *supra* note iii, ¶ 19.

## Chapter 3: Preventing Segregation

- i. Persecution, meaning the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity, and apartheid, when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity. Rome Statute, arts. 7(1)(h) and (j) and 7(2)(g) and (h).
- ii. International Covenant on Civil and Political Rights, art. 26, Dec. 16, 1966, 999 U.N.T.S. 171. UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. Res. 47/135, UN Doc. A/47/49 (Vol. 1), art. 1 (Dec. 18, 1992); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.
- iii. ICERD, *supra* note ii, at art. 2. UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, G.A. Res. 36/55, UN Doc. A/RES/36/55, art. 2 (Nov. 25, 1981).
- iv. ICERD, *supra* note ii, at art. 3.
- v. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/59/18, ¶ 127 (2004); Report of the CERD, UN Doc. A/68/18, ¶ 47(17) (2013); Report of the CERD, UN Doc. A/67/18, ¶ 28(11) (2012). See Report of the CERD, UN Doc. A/60/18, ¶ 290 (2005); Report of the CERD, UN Doc. A/68/18, ¶ 49(11) (2013).
- vi. See, e.g., Report of the CERD, UN Doc. A/56/18, ¶ 369 (2001); Report of the CERD, UN Doc. A/56/18, ¶ 434 (2001).
- vii. See, e.g., Report of the Special Rapporteur on the Right to Adequate Housing, UN Doc. A/HRC/25/54/Add.1, ¶ 81(n) (2013)
- viii. See, e.g., Report of the CERD, UN Doc. CERD/C/304/ADD.110, ¶ 9 (2001).
- ix. See, e.g., Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2, ¶ 82 (2012).
- x. See, e.g., Report of the CERD, UN Doc. A/63/18, ¶ 236 (2008); Report of the CERD, UN Doc. A/67/18, ¶ 29(15) (2012).
- xi. See, e.g., Report of the CERD, UN Doc. A/63/18, ¶ 236 (2008); Report of the CERD, UN Doc. A/68/18, ¶ 49(12) (2013).
- xii. See, e.g., Report of the Human Rights Committee, UN Doc. A/58/40 (Vol. 1), ¶ 82(18) (2003); Report of the CERD, UN Doc. A/65/18, ¶¶ 33(11) and 49(14) (2010); Report of the CERD, UN Doc. A/62/18, ¶ 111 (2007).
- xiii. See, e.g., Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2 ¶¶ 83–86 (2012).

## Chapter 4: Preventing Violations of the Right to Education

- i. Universal Declaration of Human Rights, art 26, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Economic, Social, and Cultural Rights, art. 2(2), 13, Jan. 3, 1976, 993 U.N.T.S. 3. Convention on the Rights of the Child (CRC), art. 28, Nov. 20, 1989, 1577 U.N.T.S. 3. Convention Against Discrimination in Education (UNESCO Convention), art. 1, Dec. 14, 1960, 429 U.N.T.S. 93.
- ii. See CRC, arts. 2(2) and 28.
- iii. UNESCO Convention, *supra* note i, art. 2(b). See International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(e)(v), Dec. 21, 1965, 660 U.N.T.S. 195. See also UN General Assembly, Declaration on the Rights of Indigenous Peoples (Indigenous Peoples Declaration), art. 14.1, G.A. Res. 61/295, UN Doc. A/61/L.67 (Sept. 13, 2007).
- iv. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/65/18, ¶ 35(16) (2010); Report of the CERD, UN Doc. A/58/18, ¶ 163 (2003); Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/44/3 ¶ 449 (2007); Report of the Committee on Economic, Social and Cultural Rights (CESCR), UN Doc. E/2006/22 ¶ 195 (2006); Report of the Human Rights Committee, UN Doc. A/58/40 (Vol. I), ¶ 82(18) (2003).
- v. See UNESCO Convention, *supra* note i, art. 3.
- vi. See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 42(12) (2013); Report of the CERD, UN Doc. A/60/18, ¶ 62 (2005); See Report of the CERD, UN Doc. A/60/18, ¶ 171 (2005); Report of the CERD, UN Doc. A/59/18 (2004), ¶ 449; Report of the CRC Committee, UN Doc. CRC/C/45/3 ¶ 82(2) (2007). See also UNESCO Convention, *supra* note i, art. 5(1)(c).
- vii. See, e.g., Report of the CERD, UN Doc. A/58/18, ¶ 386 (2003).
- viii. CRC, *supra* note i, at art. 29.1. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/45/3 ¶ 82(c) (2007); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/7/10/Add.3, ¶ 69 (2008); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/19/60/Add.2, ¶¶ 68, 78 (2012). See also Indigenous Peoples Declaration, *supra* note iii, at art. 15(1); ODIHR Advisory Council of Experts on Freedom of Religion or Belief, Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools (Toledo Guiding Principles), 40–45 (2007).
- ix. See, e.g., Report of the CERD, UN Doc. A/61/18, ¶ 426 (2006); Report of the CRC Committee, UN Doc. CRC/C/41/3, ¶ 774–775 (2006). See also Human Rights Council, Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, Res. 16/18, UN Doc. A/HRC/RES/16/18, ¶ 5(g) (2011).
- x. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/111, ¶ 581(d) (2001)
- xi. See, e.g., Report of the independent expert in the field of cultural rights, UN Doc. A/HRC/17/38/Add.1, ¶ 94 (2011); UN Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/7/10/Add.3 ¶ 69 (2008). See also Toledo Guiding Principles, *supra* note viii, at 16.
- xii. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 56(15) (2011); Report of the CERD, UN Doc. A/58/18, ¶ 97 (2003).
- xiii. See CESCR, *General Comment No. 13: The Right to Education (Art. 13)* (General Comment No. 13), UN Doc. E/C.12/GC/21, ¶ 33 (2009). See UNESCO Convention, *supra* note i, art. 2.
- xiv. See CESCR, *General Comment No. 13*, *supra* note xiii, at ¶ 32.
- xv. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 58(14) (2011).

## Chapter 5: Preventing Denial of Access to Justice

- i. Universal Declaration of Human Rights (UDHR), art 7, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Civil and Political Rights (ICCPR), arts. 26, 14(1), and 2, Dec. 16, 1966, 999 U.N.T.S. 171. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5(a) and 6, Dec. 21, 1965, 660 U.N.T.S. 195.
- ii. UDHR, *supra* note i, at art. 8. ICCPR, *supra* note i, at art. 2(3)(a).
- iii. UDHR, *supra* note i, at art. 8. ICCPR, *supra* note i, at art. 2(3). ICERD, *supra* note i, at art. 6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), art. 14, Dec. 10, 1984, 1465 U.N.T.S. 112. See also Committee on the Elimination of Racial Discrimination (CERD), General recommendation No. 31: *Prevention of racial discrimination in the administration and functioning of the criminal justice system* (General Recommendation No. 31), UN Doc. A/60/18 (2004).
- iv. Human Rights Committee, *General Comment No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial* (General Comment No. 32), UN Doc. CCPR/C/GC/32, ¶ 9 (2007).
- v. *Id.*
- vi. CERD, General Recommendation No. 31, *supra* note iii, ¶ 11.
- vii. *Id.* at ¶ 10.
- viii. Committee against Torture (CAT Committee), *General Comment No. 3: Implementation of article 14 by States parties* (General Comment No. 3), UN Doc. CAT/C/GC/3, ¶ 23 (2012).
- ix. CERD, General Recommendation No. 31, *supra* note iii, ¶ 5(g).
- x. *Id.*, at ¶ 12. See Report of the Special Rapporteur on Extrajudicial, Arbitrary and Summary Executions, ¶ 110 UN Doc. A/HRC/23/47/Add.1 (2013).

- x. CERD, General Recommendation No. 31, *supra* note iii, ¶ 17(d). See UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy), GA Res. 60/147, ¶ 13 (2005).
- xii. CERD, General Recommendation No. 31, *supra* note iii, ¶ 17(e).
- xiii. Human Rights Committee, *General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, ¶ 15 (2004). CERD, General Recommendation No. 31, *supra* note iii, ¶ 11. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 58(10) (2011); Report of the CAT Committee, UN Doc. A/63/44, ¶ 42(19) (2008).
- xiv. See, e.g., Report of the CERD, UN Doc. A/60/18, ¶ 327 (2005); Report of the CERD, UN Doc. A/63/18, ¶ 272 (2008); Report of the CAT Committee, UN Doc. A/62/44 ¶ 45(15) (2007). See also CAT Committee, General Comment No. 3, *supra* note viii, at ¶ 23.
- xv. See, e.g., Report of the CERD, UN Doc. A/65/18, ¶ 49(15) (2010).
- xvi. CAT Committee, General Comment No. 3, *supra* note viii, at ¶ 24.
- xvii. See CERD, General Recommendation No. 31, *supra* note iii, at ¶ 8. See, e.g., Report of the CERD, UN Doc. A/68/18 ¶ 49(7) (2013); Report of the CERD, UN Doc. A/68/18 ¶ 39(18) (2013). See also Human Rights Committee, General Comment No. 32: *Article 14: Right to equality before courts and tribunals and to a fair trial* (General Comment No. 32), UN Doc. CCPR/C/GC/32, ¶ 10 (2007).
- xviii. See, e.g., Report of the CERD, UN Doc. A/61/18, ¶ 400 (2006). See also CERD, General Recommendation No. 31, *supra* note iii, at ¶ 8; Human Rights Committee, General Comment No. 32, *supra* note xvii, at ¶ 10.
- xix. See, e.g., Report of the CERD, UN Doc. A/61/18, ¶ 400 (2006). See also CERD, General Recommendation No. 31, *supra* note iii, at ¶ 17(b).
- xx. CERD, General Recommendation No. 31, *supra* note iii, at ¶ 19(b).
- xxi. See CAT Committee, General Comment No. 3, *supra* note viii, at ¶¶ 33–34.
- xxii. UN General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN Doc. A/RES/40/34, ¶ 6(b) (1985).
- xxiii. CERD, General Recommendation No. 31, *supra* note iii, at ¶ 17(a). See UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy), GA Res. 60/147, ¶ 13 (2005).
- xxiv. CERD, General Recommendation No. 31, *supra* note iii, at ¶ 5(c).
- xxv. *Id.* at ¶ 5(d). See, e.g., Report of the CAT Committee, UN Doc. A/63/44, ¶ 42(19) (2008); Report of the CAT Committee, UN Doc. A/62/44, ¶ 45(15) (2007); Report of the CAT Committee, UN Doc. A/67/44, ¶ 65(12) (2012).
- xxvi. CAT Committee, General Comment No. 3, *supra* note viii, at ¶¶ 31 and 34.
- xxvii. See, e.g., Report of the Committee on Economic Social and Cultural Rights (CESCR), UN Doc. E/2009/22, ¶ 270 (2008); Report of the CERD, UN Doc. A/67/18, ¶ 39(18) (2012).
- xxviii. UDHR *supra* note i, at art. 8. ICCPR, *supra* note i, at art 2(3). See CAT, *supra* note iii, at art. 14. See also Basic Principles on the Right to a Remedy, *supra* note xviii, at ¶¶ 19–23.
- xxix. Common Article 3 to the Geneva Conventions. See, e.g., Geneva Convention Relative to the Treatment of Prisoners of War (Geneva Convention III) art. 3, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.
- xxx. *Id.* See also Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva Convention I), art. 49, Aug. 12, 1949, 75 U.N.T.S. 31. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva Convention II), art. 50(4), Aug. 12, 1949, 75 U.N.T.S. 8. Geneva Convention III, *supra* note xxix, at arts. 102–108. Geneva Convention Relative to the Protection of Civilian Persons (Geneva Convention IV), arts. 5 and 66–75, Aug. 12, 1949, 75 U.N.T.S. 105. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Geneva Convention Protocol I), art. 75(4), June 8, 1977, 1125 U.N.T.S. 3. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 6(2), June 8, 1977, 1125 U.N.T.S. 609.
- xxxi. Geneva Convention III, *supra* note xxix, at art. 78.
- xxxii. *Id.* at art. 50.
- xxxiii. *Id.* at art. 98.
- xxxiv. *Id.* at art. 78.
- xxxv. Geneva Convention IV, *supra* note xxx, at art. 101.
- xxxvi. Geneva Convention III, *supra* note xxix, at art. 52.
- xxxvii. *Id.* at art. 96.
- xxxviii. See Report of the Representative of the Secretary-General on the human rights of internally displaced persons, UN Doc. A/HRC/13/21/Add.3, ¶ 50 (2009). Geneva Convention I, *supra* note xxx, at art. 49. Geneva Convention II, *supra* note xxx, at art. 50. Geneva Convention III, *supra* note xxix, at art. 129. Geneva Convention IV, *supra* note xxx, at art. 146.
- xxxix. See, e.g., Report of the CAT Committee, UN Doc. A/68/44, ¶ 70(12) (2013). Geneva Convention Protocol I, *supra* note xxx, at art. 91.

## Chapter 6: Preventing Severe Dehumanization and Demonization

- i. Universal Declaration of Human Rights, art 19, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948); International Covenant on Civil and Political Rights (ICCPR), art. 19(1), Dec. 16, 1966, 999 U.N.T.S. 171.
- ii. ICCPR, *supra* note i, at art. 19(3). Human Rights Committee, *General Comment No. 34: Article 19 (Freedoms of opinion and expression)*, UN Doc. CCPR/C/GC/34, ¶ 22 (2011). Report of the Special Rapporteur on the Right to Freedom of Expression, UN Doc. A/67/357, ¶ 41 (2012).
- iii. See ICCPR, *supra* note i, at art. 20(2).
- iv. Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), art. 3, Jan. 12, 1951, 78 U.N.T.S. 277.
- v. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 4, Dec. 21, 1965, 660 U.N.T.S. 195.
- vi. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/60/18, ¶ 317 (2005); Report of the Committee against Torture (CAT Committee), UN Doc. A/63/44 ¶ 42(19) (2008); Report of the CAT Committee, UN Doc. A/62/44, ¶ 45(15) (2007); Report of the CERD, UN Doc. A/62/18, ¶ 327 (2007); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/19/60/Add.2, ¶¶ 66 and 80 (2012); Report of the Special Rapporteur on Racism, UN Doc. A/HRC/20/33/Add.1, ¶ 66 (2012).
- vii. CERD, *General Recommendation No. 35: Combating racist hate speech* (General Recommendation No. 35), UN Doc. CERD/C/GC/35, ¶ 22 (2013). See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 47(12) (2013).
- viii. Genocide Convention, *supra* note iv, at art. 3. Rome Statute of the International Criminal Court, art. 25(3)(e), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ix. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 56(13) (2011).
- x. See, e.g., Report of the CERD, UN Doc. A/59/18 ¶ 366 (2004); Report of the CERD, UN Doc. A/63/18, ¶ 368 (2008).
- xi. See, e.g., Report of the CAT Committee, UN Doc. A/63/44 ¶ 42(19) (2008); Report of the CAT Committee, UN Doc. A/62/44, ¶ 45(15) (2007); Report of the CERD, UN Doc. A/68/18 (2013), ¶¶ 47(18) and 42(20); Report of the CERD, UN Doc. A/63/18 (2008), ¶ 241.
- xii. See, e.g., Report of the Human Rights Committee, UN Doc. A/63/40 (Vol. I), ¶ 74(20) (2008); Report of the CERD, UN Doc. A/68/18, ¶ 42(14) (2013); Report of the CERD, UN Doc. A/61/18, ¶ 429 (2006).
- xiii. See, e.g., Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), ¶ 68(11) (2009); Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), ¶ 65(9–10) (2009); Report of the CERD, UN Doc. A/66/18, ¶ 56(17) (2011).
- xiv. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 56(17) (2011).
- xv. See, e.g., Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/19/60/Add.2, ¶ 78 (2012).
- xvi. CERD, *General Recommendation No. 35*, *supra* note vii, at ¶ 41.
- xvii. *Id.* See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 42(13) (2013).
- xviii. CERD, *General Recommendation No. 35*, *supra* note vii, at ¶¶ 39 and 42. See, e.g., Report of the CERD, UN Doc. A/65/18, ¶ para. 42(10) (2010).
- xix. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 48(13) (2011); Report of the Special Rapporteur on Freedom of Expression, UN Doc. A/67/357, ¶ 48 (2012).

## Chapter 7: Preventing Violations of the Rights to Culture, Religion, and Language

- i. International Covenant on Civil and Political Rights (ICCPR), arts. 18 and 27, Dec. 16, 1966, 999 U.N.T.S. 171. International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 15, Dec. 16, 1966, 993 U.N.T.S. 3. See also Committee on Economic, Social, and Cultural Rights (CESCR), *General Comment No. 21: Right of everyone to take part in cultural life* (General Comment No. 21), ¶ 44, UN Doc. CCPR/C/GC/34 (2011) (Culture includes: ways of life; language; oral and written literature; music and song; non-verbal communication; religion or belief systems; rites and ceremonies; sport and games; methods of production or technology; natural and man-made environments; food, clothing and shelter; and the arts, customs, and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives). UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (Minorities Declaration), art. 2(1), UN Doc. A/RES/47/135 (1992).
- ii. ICESCR, *supra* note i, at art. 15. See also International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5(e)(vi), Dec. 21, 1965, 660 U.N.T.S. 195. Convention on the Elimination of All Forms of Discrimination Against Women, art. 13(c), Dec. 18, 1979, 1249 U.N.T.S. 13. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 43(1)(g), UN Doc. GA/45/158, (Dec.18, 1990). Convention on the Rights of Persons with Disabilities, art. 30(1), UN Doc. A/RES/61/106 (2006).
- iii. CESCR, *General Comment No. 21*, *supra* note i, at ¶ 44.
- iv. *Id.* At ¶ 6.

- v. Minorities Declaration, *supra* note i, at art. 4(2).
- vi. Universal Declaration of Human Rights (UDHR), art. 30, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). ICCPR, *supra* note i, at art. 5.1.
- vii. CESCR, General Comment 21, *supra* note i, at ¶¶ 19, 20 and 45.
- viii. ICCPR, *supra* note i, at art. 18. *See also* UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (FORB Declaration), art. 1, UN Doc. A/RES/36/55 (1981).
- ix. ICCPR, *supra* note i, at art. 18(4).
- x. ICCPR, *supra* note i, at art. 18(1).
- xi. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2005/61, ¶ 42 (2004).
- xii. Human Rights Committee, *General Comment 22: Article 18 (Freedom of Thought, Conscience or Religion)*, ¶ 3, UN Doc. CCPR/C/GC/34 (2011).
- xiii. ICCPR, *supra* note i, at art. 18(3). FORB Declaration, *supra* note viii, at art. 1(3).
- xiv. UDHR, *supra* note vi, at art. 19. ICCPR, *supra* note i, at art. 19.
- xv. Minorities Declaration, *supra* note v, at arts. 4(2) and 4(3). UN General Assembly, Declaration on the Rights of Indigenous Peoples (Indigenous Peoples Declaration), art. 14(3), UN Doc. A/61/L.67 /Add.1 (2007).
- xvi. CESCR, General Comment No. 21, *supra* note i, at ¶ 23. *See, e.g.*, Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/60/18, ¶ 321 (2005).
- xvii. Minorities Declaration, *supra* note v, at art. 1(1–2).
- xviii. Indigenous Peoples Declaration, *supra* note xv, at art. 36. *See also* FORB Declaration, *supra* note viii, at art. 6(i).
- xix. *See, e.g.*, Report of the CERD, UN Doc. A/66/18, ¶ 46(16) (2011); Report of the CERD, UN Doc. A/61/18, ¶ 428 (2006).
- xx. CESCR, General Comment No. 21, *supra* note i, at ¶ 16(c). *See, e.g.*, Report of the CERD, UN Doc. A/61/18, ¶ 311 (2006); Report of the Special Rapporteur on Cultural Rights, UN Doc. A/HRC/23/34/Add.1, ¶ 108(b) (2013).
- xxi. *See, e.g.*, Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/10/11/Add.3, ¶ 104 (2009).
- xxii. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/6/5, ¶ 16 (2007). FORB Declaration, *supra* note viii, at art. 6(g).
- xxiii. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/13/40/Add.4, ¶ 69 (2009). *See also* FORB Declaration, *supra* note viii, at art. 6(d).
- xxiv. *See, e.g.*, Report of the Human Rights Committee, UN Doc. A/58/40 (Vol. 1), ¶ 77(17) (2003); Report of the CERD, UN Doc. A/66/18, ¶ 61(16) (2011). *See also* FORB Declaration, *supra* note viii, at art. 6(a) and (e).
- xxv. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/13/40/Add.3 ¶ 57 (2009); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2, ¶ 92 (2012).
- xxvi. *See, e.g.*, Report of the CAT Committee, UN Doc. A/63/44 ¶ 42(19) (2008); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2005/61, ¶ 42 (2004).
- xxvii. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2005/61, ¶ 47 (2004). ICCPR, *supra* note i, at art. 18(3).
- xxviii. *See, e.g.*, Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2006/5, ¶ 66 (2006).
- xxix. *See, e.g.*, Report of the CERD, UN Doc. A/66/18, ¶ 61(16) (2011); Report of the CERD, UN Doc. A/64/18, ¶ 32(20) (2009).
- xxx. *See, e.g.*, Report of the CERD, UN Doc. A/58/18, ¶ 445 (2003); Report of the CERD, UN Doc. A/65/18 ¶ 38(13) (2010).
- xxxi. *See, e.g.*, Report of the Human Rights Committee, UN Doc. A/63/40 (Vol. 1), ¶ 72(17) (2007).
- xxxii. *See, e.g.*, Report of the CERD, UN Doc. A/61/18, ¶ 227 (2006).
- xxxiii. Minorities Declaration, *supra* note i, at art. 4(3).

## Chapter 8: Preventing Violations of the Rights to Use and Have Access to Cultural, Religious, and Sacred Sites

- i. In situations of armed conflict, intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives, constitutes a war crime. Rome Statute of the International Criminal Court, art. 8(2)(b), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ii. International Covenant on Civil and Political Rights (ICCPR), art. 27, Dec. 16, 1966, 999 U.N.T.S. 171. UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religions and Linguistic Minorities (Minorities Declaration), art. 2(1) and 2(2), UN Doc. A/RES/47/135 (1992).
- iii. UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (FORB Declaration), art. 6, UN Doc. A/RES/36/55 (1981).
- iv. UN General Assembly, Declaration on the Rights of Indigenous Peoples (Indigenous Peoples Declaration), art. 11(1) and 12(1), UN Doc. A/61/L.67 /Add.1 (2007).

- v. See, e.g., Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/10/8, ¶¶ 52–53 (1999).
- vi. See, e.g., Report of the Special Rapporteur on Religious Intolerance, UN Doc. E/CN.4/2005/61, ¶ 51 (2005).
- vii. See, e.g., Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/10/8, ¶¶ 52–53 (1999).
- viii. See, e.g., Report of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. E/CN.4/2006/71/Add.5, ¶ 77(d) (2005); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/13/40/Add.3, ¶ 71 (2009).
- ix. See, e.g., Report of the Human Rights Committee, UN Doc. A/60/40, ¶ 85(19) (Vol. I) (2004); Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/61/18, ¶ 418 (2006); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2005/61, ¶ 51 (2005); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/13/40/Add.3, ¶ 57 (2009).
- x. See Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, art. 2(1), 2(2), *adopted* Nov. 14, 1970, 823 U.N.T.S. 231.
- xi. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶ 31(15) (2011).
- xii. See, e.g., Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/4/21/Add.2, ¶ 99 (2006); Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. A/HRC/10/8/Add.4, ¶ 66 (2009).
- xiii. See, e.g., Report of the Special Rapporteur on Cultural Rights, UN Doc. A/HRC/23/34/Add.1, ¶ 108(a) (2013).
- xiv. See, e.g., Report of the CERD, UN Doc. A/59/18, ¶ 246 and ¶ 450 (2004).
- xv. Indigenous Peoples Declaration, *supra* note iv, at art. 12(2).
- xvi. Hague Convention For the Protection of Cultural Property in Armed Conflict (Cultural Property Convention), *entered into force* Aug. 7, 1956, 249 U.N.T.S. 240. Second Protocol to the Hague Convention of 1954 for the Protection in the Event of Armed Conflict (Cultural Property Convention Protocol II), art. 7, *adopted* May 26, 1999, UNESCO Doc. HC/1999/7. Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Geneva Convention Protocol I), art. 53, *adopted* June 8, 1977, 1125 U.N.T.S. 3. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 16, Jun. 8, 1977, 75 U.N.T.S. 287.
- xvii. Cultural Property Convention, *supra* note xvi. Cultural Property Convention Protocol II, *supra* note xvi. Geneva Convention Protocol I, *supra* note xvi, at art. 53. Geneva Convention Protocol II, *supra* note xvi, at art. 16. See also Statute for the International Criminal Tribunal for the Former Yugoslavia, art. 3(d), S.C. Res. 827, UN SCOR, 48th Sess., UN Doc S/RES/827 (1993).
- xviii. Geneva Conventions Protocol I, *supra* note xvi, at art. 48, 52(2). Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II to the 1980 Convention on Certain Conventional Weapons, art. 3(7), as amended May 3, 1996, 1342 U.N.T.S. 137. Rome Statute of the International Criminal Court, art. 8(2)(b)(ii), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- xix. Cultural Property Convention, *supra* note xvi, at art. 4.
- xx. Cultural Property Convention Protocol II, *supra* note xvi, at art. 7, *adopted* May 26, 1999, UNESCO Doc. HC/1999/7.
- xxi. Geneva Conventions Protocol I, *supra* note xviii, at art. 53.
- xxii. Cultural Property Convention Protocol II, *supra* note xx, at art. 7.

## Chapter 9: Preventing Forcible Transfer of Children from their Families to Those of a Different Identity

- i. International Covenant on Civil and Political Rights (ICCPR), art. 17(1), Dec. 16, 1966, 999 U.N.T.S. 171.
- ii. Convention on the Rights of the Child (CRC), art. 8(1), Nov. 20, 1989, 1577 U.N.T.S. 3.
- iii. *Id.* at art. 9(1).
- iv. *Id.* See, e.g., Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/41/3, ¶ 481–484 (2006); Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/56/18, ¶ 212 (2001). See also UN General Assembly, Guidelines for the Alternative Care of Children (Alternative Care Resolution), A/RES/64/142, ¶ 14, (24 February 2010).
- v. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/153, ¶ 581 (2006). See also Alternative Care Resolution, *supra* note iv, at ¶ 20.
- vi. See, e.g., Report of the CERD, UN Doc. A/56/18, ¶ 212 (2001); Report of the Human Rights Committee, A/50/40 vol. II, p. 24 (1995).
- vii. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/137, 566 (2004); Report of the CRC Committee, UN Doc. CRC/C/45/3 426 (2007).
- viii. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/153, ¶ 57 (2006).
- ix. International Convention for the Protection of All Persons from Enforced Disappearance, G.A. Res. 61/77, art. 25, UN Doc. A/RES/61/177 (Jan. 12, 2007).

## Chapter 10: Preventing Forced Marriage, Enforced Sterilization, Forced Pregnancy, and Prevention of Births

- i. Enforced sterilization as well as forced pregnancy constitute crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population. Rome Statute of the International Criminal Court, art. 7(1)(g), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. In situations of armed conflict, enforced sterilization and forced pregnancy constitute war crimes. *Id.* at art. 8(2)(b)(xxii).
- ii. Universal Declaration of Human Rights (UDHR), art. 16(2), G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Civil and Political Rights (ICCPR), art. 23(2) and 23(3), Dec. 16, 1966, 999 U.N.T.S. 171. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5, Dec. 21, 1965, 660 U.N.T.S. 195. International Covenant on Economic, Social, and Cultural Rights, art. 10, 13, Jan. 3, 1976, 993 U.N.T.S. 3. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, art. 1, Nov. 7, 1962, 521 U.N.T.S. 231.
- iii. See Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General Recommendation No. 25: On Temporary Special Measures* (General Recommendation No. 25), ¶ 12, UN Doc. HRI/GEN/1/Rev.7 (2004).
- iv. ICCPR, *supra* note ii, at art. 7 (No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation). Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), art. 16, ¶ 1, Dec. 18, 1979, 1249 U.N.T.S. 13. CEDAW Committee, *General Recommendation 19: Violence against women (Article 16)* (General Recommendation No. 19), ¶¶ 1–5, 22 and 24(m), UN Doc. A/47/38 (1992). Human Rights Committee, *General Comment 28: The equality of rights between men and women (Article 3)*, ¶¶ 11 and 20, UN Doc. HRI/GEN/1/Rev.6 at 179 (2000). Human Rights Committee, *General Comment No. 19: Protection of the family, the right to marriage and equality of the spouses (Article 23)* (General Comment No. 19), ¶ 5, UN Doc. HRI/GEN/1/Rev.6 at 146 (1990).
- v. See, e.g., Report of the Special Rapporteur on violence against women, its causes and consequences, UN Doc. A/HRC/14/22/Add.2, ¶ 93 (2010).
- vi. See, e.g., Report of the CEDAW Committee, UN Doc. A/62/38, ¶ 612–613 (2007).
- vii. Human Rights Committee, *General Comment No. 19, supra* note iv, at ¶ 5.
- viii. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/62/18, ¶108 (2007).
- ix. See, e.g., Report of the CERD, UN Doc. A/65/18, ¶ 49(18) (2010); CEDAW Committee, Communication no. 4/2004, ¶ 11.5, UN Doc. CEDAW/C/36/D/4/2004 (2006).
- x. See, e.g., Report of the Human Rights Committee, UN Doc. A/58/40 (Vol. I), ¶ 82(18) (2003); Report of the CERD, UN Doc. A/62/18, ¶ 108 (2007); Report of the CERD, UN Doc. A/68/18, ¶ 49(13) (2013).
- xi. See, e.g., Report of the CERD, UN Doc. A/62/18, ¶ 108 (2007); Report of the CERD, UN Doc. A/68/18, ¶ 49(13) (2013).
- xii. See, e.g., Report of the CEDAW Committee, UN Doc. A/61/38(SUPP), ¶ 448 (2006)
- xiii. CEDAW Committee, *General Recommendation 24: Article 12, Women and Health*, ¶ 14, UN Doc. A/54/38/Rev.I (1999).

## Chapter 11: Preventing Compulsory Identification

- i. Committee on the Elimination of Racial Discrimination (CERD), *General Recommendation 8: Membership of racial or ethnic groups based on self-identification*, UN Doc. A/45/18 at 79 (1990).
- ii. See Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2, ¶ 95 (2012). See also Eur. Consult. Ass., Framework Convention for the Protection of National Minorities, art. 3.1, Doc. No. H (95) 10 (1995).
- iii. International Covenant on Civil and Political Rights (ICCPR), art. 17, Dec. 16, 1966, 999 U.N.T.S. 171.
- iv. Human Rights Committee (ICCPR Committee), *General Comment 16: Article 17* (General Comment No. 16), ¶¶ 2–4, UN Doc. HRI/GEN/1/Rev.9 at 91 (1988).
- v. ICCPR, *supra* note iii, at art. 18.1.
- vi. *Id.* at art. 18(2).
- vii. Human Rights Committee, *General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, ¶ 3, UN Doc. CCPR/C/GC/34 (2011).
- viii. See, e.g., Report of the CERD, UN Doc. A/63/18, ¶ 171 (2008); Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance, UN Doc. E/CN.4/1996/95/Add.2, ¶ 107 (9 Feb 1996); Report of the Special Rapporteur on Contemporary Forms of Racism, UN Doc. A/HRC/17/40/Add.2, ¶ 66 (2011).
- ix. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 33(24) (2009); Report of the CERD, UN Doc. A/58/18 ¶ 306 (2003); Report of the CERD, UN Doc. A/66/18, ¶ 36(10) (2011); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/19/56/Add.2 ¶ 95 (2012).
- x. See, e.g., Report of the Special Rapporteur on Freedom of Religion or Belief, UN Doc. E/CN.4/2006/5, ¶ 60 (2006); Report of the Special Rapporteur on Religious Intolerance, UN Doc. E/CN.4/1996/95/Add.2, ¶ 97 (9 Feb. 1996); Report of the Special Rapporteur on Religious Intolerance, UN Doc. A/51/542/Add.2, ¶ 140 (11 Nov. 1996).

- xi. See, e.g., Report of the Committee on the Elimination of Racial Discrimination, UN Doc. A/64/18 ¶ 35(14) (2009). UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religions and Linguistic Minorities, art. 4(2), UN Doc. A/RES/47/135 (1992).
- xii. See, e.g., Report of the CERD, UN Doc. A/65/18 ¶ 43(18) (2010).

## Chapter 12: Preventing Violations of the Right to Freedom of Movement

- i. International Covenant on Civil and Political Rights (ICCPR), art. 12, Dec. 16, 1966, 999 U.N.T.S. 171. Universal Declaration of Human Rights (UDHR), art. 13(1), G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). Human Rights Committee, *General Comment No. 27: Article 12 (Freedom of Movement)* (General Comment No. 27), UN Doc. CCPR/C/21/Rev.1/Add.9, ¶ 4 (1999).
- ii. ICCPR, *supra* note i, at art. 12(3). See also Human Rights Committee, *General Comment No. 27, supra* note i, at ¶¶ 11–18.
- iii. Human Rights Committee, *General Comment No. 27, supra* note i, at ¶ 6.
- iv. *Id.* at ¶ 1.
- v. See, e.g., Report of the Human Rights Committee A/61/40, (Vol. I) ¶ 85(19); Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/67/18, ¶ 31(17) (2012).
- vi. See, e.g., Report of the CERD, UN Doc. A/61/18 para. 225. (2006); Report of the CERD, UN Doc. A/65/18, ¶ 39(16) (2010); Report of the Human Rights Committee, UN Doc. A/66/40 (Vol. I), ¶ 94(18) (2012).
- vii. Human Rights Committee, *General Comment No. 27, supra* note i, at ¶¶ 6, 11, 13, and 18. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5, opened for signature Dec. 21, 1965, 660 U.N.T.S. 195. See Report of the CERD, UN Doc. A/60/18, ¶ 320 (2005).
- viii. See, e.g., Report of the CERD, UN Doc. A/63/18, ¶ 372 (2008); Report of the CERD, UN Doc. A/58/18, ¶ 183 (2003); Report of the Human Rights Committee, UN Doc. A/66/40 (Vol. I), ¶ 94(18) (2012).
- ix. Human Rights Committee, *General Comment No. 27, supra* note i, at 7.
- x. UN General Assembly, Declaration on the Rights of Indigenous Peoples (Indigenous Peoples Declaration), art. 8(2), UN Doc. A/61/L.67 /Add.1 (2007).
- xi. Representative of the Secretary-General on Internally Displaced Persons, *Guiding Principles on Internal Displacement*, Principle 14.2, UN Doc. E/CN.4/1998/53/Add.2 (1998) (noted in Comm. Hum. Rts. res. 1998/50).
- xii. *Id.*, Principle 12.2.
- xiii. *Id.*, Principle 17.4 and 18.2(a).
- xiv. See, e.g., Report of the Human Rights Committee, UN Doc. A/59/40 (Vol. I), ¶ 70(12) (2004); Report of the Committee against Torture (CAT Committee), UN Doc. A/64/44, ¶ 46(20) (2009); Report of the CAT Committee, UN Doc. A/65/44, ¶ 56(19) (2010). See *Guiding Principles on Internal Displacement, supra* note iv, at Principles 8, 10 and 11.
- xv. Geneva Convention relative to the Protection of Civilian Persons in Time of War, art. 35, *adopted* Aug. 12, 1949, 75 U.N.T.S. 287.
- xvi. *Id.*

## Chapter 13: Preventing Forcible Transfer and Arbitrary Displacement

- i. Forcible transfer of population, when committed as part of a widespread or systematic attack directed against a civilian population is a crime against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. In armed conflict, unlawful deportation or transfer of population constitutes a war crime. *Id.*, art. 8.
- ii. International Covenant on Civil and Political Rights (ICCPR), art. 12, Dec. 16, 1966, 999 U.N.T.S. 171. Universal Declaration of Human Rights (UDHR), art. 13(1), G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948).
- iii. Rome Statute, *supra* note i, at art. 7.2(d).
- iv. Representative of the Secretary-General on Internally Displaced Persons, *Guiding Principles on Internal Displacement*, ¶ 2, UN Doc. E/CN.4/1998/53/Add.2 (1998) (noted in Comm. Hum. Rts. res. 1998/50). Persons who, as a result of or in order to avoid, such measures are forced or obliged to flee or to leave their homes or places of habitual residence but who do not cross an internationally recognized State border are internally displaced persons. *Id.*
- v. See *Prosecutor v. Krstic*, Case No. IT-93-3-T, Judgment, ¶529 (Int'l Crim. Trib. For the Former Yugoslavia Aug. 2, 2001).
- vi. *Guiding Principles on Internal Displacement, supra* note iv, at Principle 6(2)(a).
- vii. *Id.* at Principle 6(1) and 6(2).
- viii. *Id.* at Principles 4 and 8.
- ix. *Id.* at Principle 6.3.
- x. *Id.* at Principle 7.1 and 7.2.
- xi. *Id.* at Principle 7(3)(b).
- xii. See, e.g., Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions* (General Comment No. 7), UN Doc. E/1998/22, ¶¶ 6 and 10 (1997).

- xiii. Prosecutor v. Krstić, Case No. IT-98-33-A, Judgment, ¶ 31 (Int'l Crim. Trib. For the Former Yugoslavia April 19, 2004).
- xiv. CESCR, General Comment no. 7, *supra* note xii, at ¶¶ 9 and 14. See, e.g., Report of the Committee on Economic, Social, and Cultural Rights (CESCR), UN Doc. E/2009/22, ¶ 384 (2009); Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/65/18, ¶ 31(20) (2010); Report of the CERD, UN Doc. A/62/18, ¶ 110 (2007). See also Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles), Principles 5 and 8, UN Doc. E/CN.4/Sub.2/2005/17 (Jun 28, 2005).
- xv. See, e.g., Report of the CESCR, UN Doc. E/2009/22, ¶ 384 (2009); Report of the CERD, UN Doc. A/60/18, ¶ 170 (2005).
- xvi. See, e.g., Report of the CESCR, UN Doc. E/2010/22, ¶¶ 193–194 (2010).
- xvii. Guiding Principles on Internal Displacement, *supra* note iv, at Principle 7(1).
- xviii. See, e.g., Report of the CESCR, UN Doc. E/2010/22, ¶ 208 (2010). See also Guiding Principles on Internal Displacement, *supra* note iv, at Principle 18.
- xix. See, e.g., Report of the Human Rights Committee, UN Doc. A/59/40 (Vol. I), ¶ 70(12) (2004); Report of the Committee against Torture (CAT Committee), UN Doc. A/64/44, ¶ 46(20) (2009); Report of the CAT Committee, UN Doc. A/65/44, ¶ 56(19) (2010); Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. A/HRC/8/6/Add.4, ¶ 87 (2008). See Guiding Principles on Internal Displacement, *supra* note iv, at Principles 8, 10 and 11.
- xx. See, e.g., Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I), ¶ 85(15) (2006); Report of the CAT Committee, UN Doc. A/65/44 51, ¶ (26) (2010). Report of the CERD, UN Doc. A/64/18, ¶ 33(19) (2009); Report of the CERD, UN Doc. A/61/18, ¶ 425 (2006); Report of the CESCR, UN Doc. E/2009/22, ¶ 288 (2009). See also Guiding Principles on Internal Displacement, *supra* note iv, at Principle 29.2; Pinheiro Principles, *supra* note xiv, at Principles 2 and 21.
- xxi. See, e.g., Report of the CERD, UN Doc. A/57/18, ¶ 99 (2002).
- xxii. See, e.g., Report of the CERD, UN Doc. A/57/18 ¶ 101 (2002). See also Guiding Principles on Internal Displacement, *supra* note iv, at Principle 7(3)(f).
- xxiii. *Id.* at Principle 15. Convention Relating to the Status of Refugees, art. 33, Jul. 28, 1951, 189 U.N.T.S. 137. CAT, Article 3.1.
- xxiv. See, e.g., Report of the CERD, UN Doc. A/56/18, ¶ 214 (2001). ICCPR, *supra* note 2, at art. 12. International Labour Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), art. 16, Jun 27, 1989, 1650 U.N.T.S. 384. Committee on Economic, Social and Cultural Rights (CESCR), *General Recommendation No. 22: Article 5 and refugees and displaced persons*, art. 2, UN Doc. A/54/18 (1996). Guiding Principles on Internal Displacement, *supra* note iv, at Principle 28.
- xxv. Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), art. 49, *adopted* Aug. 12, 1949, 75 U.N.T.S. 287. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 17, Jun. 8, 1977, 75 U.N.T.S. 287.
- xxvi. Geneva Convention IV, *supra* note xxiv, at art. 49.
- xxvii. *Id.*
- xxviii. See, e.g., Report of the CAT Committee, UN Doc. A/65/44, ¶ 51(18) (2010); Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I), ¶ 80(15) (2006); Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. A/HRC/8/6/Add.4, ¶ 87 (2008).
- xxix. See, e.g., Report of the CERD, UN Doc. A/56/18, ¶ 213 (2001).

## Chapter 14: Preventing Deliberate Destruction of or Blocking Access to Subsistence Food and Medical Supplies

- i. Intentional infliction of conditions of life, including deprivation of access to food and to medicine, calculated to bring about the destruction of part of a population, when committed as part of a widespread or systematic attack directed against a civilian population, is a crime against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7, UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies, is a war crime. *Id.*, art. 8.2(xxv), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ii. Universal Declaration of Human Rights (UDHR), art. 25(1), G.A. Res. 217 (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Economic, Social and Cultural Rights (ICESCR), arts. 2 and 11–12, Dec. 19, 1966, 993 U.N.T.S. 3. Convention on the Rights of the Child, art. 24, Nov. 20, 1989, 1577 U.N.T.S. 3.
- iii. ICESCR, *supra* note ii, at arts. 11(2) and 2(2). Committee on Economic, Social and Cultural Rights (CESCR), *General Comment 12: The Right to Adequate Food (Article 11)* (General Comment No. 12), ¶ 14, UN Doc. E/C.12/1999/5 (2003).
- iv. ICESCR, *supra* note ii, at art. 12(1). CESCR, General Comment No. 12, *supra* note iii, at ¶ 9.
- v. CESCR, General Comment No. 12, *supra* note iii, at ¶ 18. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), arts. 2 and 11(1), Dec. 21, 1965, 660 U.N.T.S. 195.
- vi. CESCR, *General Comment 14, The right to the highest attainable standard of health* (General Comment No. 14), ¶¶ 12(b), 18 and 19, UN Doc. E/C.12/2000/4 (2000). ICERD, *supra* note v, at arts. 2 and 12.
- vii. CESCR, General Comment No. 14, *supra* note vi, at ¶ 12(b).
- viii. CESCR, General Comment No. 12, *supra* note iii, at ¶ 15.

- ix. See, e.g., Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, UN Doc. E/CN.4/2006/16/Add.2, ¶ 85 (2006).
- x. CESCR, General Comment No. 14, *supra* note vi, at ¶ 43(a).
- xi. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/59/18, ¶ 127 (2004).
- xii. See, e.g., Report of the Special Rapporteur on the Right to Food, UN Doc. A/HRC/13/33/Add.5, ¶ 83(h) (2010); Report of the Special Rapporteur on the Right to Food, UN Doc. E/CN.4/2006/44/Add.1, ¶ 58(b) (2006).
- xiii. CESCR, General Comment No. 12, *supra* note iii, at ¶¶ 15 and 19.
- xiv. CESCR, General Comment No. 14, *supra* note vi, at ¶ 51.
- xv. *Id.* at ¶ 65.
- xvi. See, e.g., Report of the CERD, UN Doc. A/62/18, ¶ 182 (2007).
- xvii. See, e.g., Report of the CERD, UN Doc. A/60/18, ¶ 173 (2005).
- xviii. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/15/Add.223, ¶ 71 (2004); CESCR, General Comment No. 12, *supra* note iii, at ¶ 19.
- xix. Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), art. 100, *adopted* Aug. 12, 1949, 75 U.N.T.S. 287.
- xx. *Id.* at art. 89. See also Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 5(1), ¶ 1, June 8, 1977, 1125 U.N.T.S. 609.
- xxi. Geneva Convention IV, *supra* note xix, at art 91.
- xxii. See, e.g., Report of the Special Rapporteur on the Right to Food, ¶ 31, UN Doc. A/HRC/7/5/Add.2 (2008).
- xxiii. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Geneva Convention Protocol I), art. 54(2), June 8, 1977, 1125 U.N.T.S. 3. Geneva Convention Protocol II, *supra* note xx, at art. 14.
- xxiv. Geneva Convention IV, *supra* note xix, at art. 18.
- xxv. *Id.*, at arts. 23, 59. Geneva Convention Protocol I, *supra* note xxiii, at art. 70–71. Geneva Convention Protocol II, *supra* note xx, at art. 18(2).
- xxvi. Rome Statute, *supra* note i, at art. 8.2(xxv).
- xxvii. Representative of the UN Secretary-General on Internally Displaced Persons, *Guiding Principles on Internal Displacement*, Principle 25(2). UN Doc. E/CN.4/1998/53/Add.2 (1998) (noted in Comm. Hum. Rts. res. 1998/50).
- xxviii. Geneva Convention IV, *supra* note xix, at art. 55.
- xxix. Geneva Convention Protocol I, *supra* note xxiii, at art. 54(2), 54(5).
- xxx. See, e.g., Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. A/HRC/8/6/Add.4, ¶ 87 (2008). Geneva Convention IV, *supra* note xix, at arts. 23, 59; Geneva Convention Protocol I, *supra* note xxiii, at arts. 70–71. Geneva Convention Protocol II, *supra* note xx, at art. 18(2).
- xxxi. See, e.g., Report of the Special Rapporteur on the human rights of internally displaced persons, UN Doc. A/67/931, ¶ 76(c) (2013); Report of the Special Rapporteur on the human rights of internally displaced persons, UN Doc. E/CN.4/2006/71/Add.2, ¶ 67 (2006).

## Chapter 15: Preventing Violations of the Right to Health

- i. In any circumstance, intentional infliction of conditions of life, including deprivation of access to medicine, calculated to bring about the destruction of part of a population, when committed as part of a widespread or systematic attack directed against a civilian population, is a crime against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7, UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. In situations of armed conflict, intentionally directing attacks against hospitals and places where the sick and wounded are gathered, provided these are not military objectives, or against medical personnel, units, or transports that are being used within their humanitarian function, constitutes a war crime. *Id.* at arts. 8(2)(b)(ix) and (xxiv) and 8(2)(e)(ii) and (iv).
- ii. Universal Declaration of Human Rights (UDHR), art. 25, G.A. Res. 217 (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 2(2) and 12, Dec. 19, 1966, 993 U.N.T.S. 3. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5 Dec. 21, 1965, 660 U.N.T.S. 195. Convention on the Elimination of All Forms of Discrimination against Women, art. 14, ¶ 2, Dec. 18, 1979, 1249 U.N.T.S. 13. Convention on the Rights of the Child (CRC), art. 24, Nov. 20, 1989, 1577 U.N.T.S. 3.
- iii. ICESCR, *supra* note ii, at art. 12(1).
- iv. CESCR, *General Comment 14, The right to the highest attainable standard of health* (General Comment No. 14), ¶¶ 12(b), 18 and 19, UN Doc. E/C.12/2000/4 (2000). ICERD, *supra* note ii, at arts. 2 and 12.
- v. CESCR, General Comment No. 14, *supra* note iv, at ¶12(b).
- vi. Committee on Economic, Social and Cultural Rights (CESCR), *General Comment 12: The Right to Adequate Food (Article 11)* (General Comment No. 12), ¶¶ 8 and 11, UN Doc. E/C.12/1999/5 (2003). CESCR, General Comment No. 14, *supra* note iv, at ¶¶ 12(c) and 27.

- vii. CESCR, General Comment No. 14, *supra* note iv, at ¶ 34.
- viii. *See, e.g.*, Report of the CERD, UN Doc. A/62/18, ¶ 182 (2007); Report of the CERD, UN Doc. A/65/18, ¶ 49(14) (2010).
- ix. *See, e.g.*, Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I), ¶ 85(14) (2006); Report of the CERD, UN Doc. A/62/18, ¶ 182 (2007).
- x. *See, e.g.*, Report of the CERD, UN Doc. A/62/18, ¶ 415 (2007).
- xi. *See, e.g.*, Report of the CERD, UN Doc. A/65/18, ¶ 46(11) (2010).
- xii. *See, e.g.*, Report of the CERD, UN Doc. A/68/18, ¶ 49(13) (2013).
- xiii. *See, e.g.*, Report of the Committee on Economic, Social and Cultural Rights, UN Doc. E/2008/22, ¶ 176 (2008).
- xiv. *See, e.g.*, Report of the CERD, UN Doc. A/66/18, ¶ 41(14) (2011).
- xv. *See, e.g.*, Report of the CERD, UN Doc. A/64/18, ¶ 24 (2009).
- xvi. *See, e.g.*, Report of the CERD, UN Doc. A/61/18 ¶ 36 and ¶ 421 (2006).
- xvii. *See, e.g.*, Report of the Committee on the Rights of the Child, UN Doc. CRC/C/124, ¶ 262–263 (2003).
- xviii. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva Convention I), arts. 19, 24–26, 35, Aug. 12, 1949, 75 U.N.T.S. 31. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva Convention II), art. 36, Aug. 12, 1949, 75 U.N.T.S. 8. Geneva Convention Relative to the Protection of Civilian Persons (Geneva Convention IV), arts. 18, 20–21, Aug. 12, 1949, 75 U.N.T.S. 105. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Geneva Convention Protocol I), arts. 12, 15, 21, June 8, 1977, 1125 U.N.T.S. 3. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 11, ¶ 1, June 8, 1977, 1125 U.N.T.S. 609.
- xix. Rome Statute, *supra* note i, at arts. 8(2)(b)(ix) and (xxiv) and 8(2)(e)(ii) and (iv).
- xx. Geneva Convention IV, *supra* note xviii, at arts. 14, 17, and 132.
- xxi. Geneva Convention Protocol I, *supra* note xviii, at art. 52(1).
- xxii. Geneva Convention I, *supra* note xviii, at arts. 24–26; Geneva Convention II, *supra* note xviii, at art. 36. Geneva Convention IV, *supra* note xviii, at art. 20. Geneva Convention Protocol I, *supra* note xviii, at arts. 15 and 51(3). Geneva Convention Protocol II, *supra* note xviii, at arts. 9(1) and 13(3). *See, e.g.*, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UN Doc. A/HRC/8/6/Add.4, ¶ 87 (2008).
- xxiii. Geneva Convention IV, *supra* note xviii, at art. 23. *See, e.g.*, Report of the CESCR, UN Doc. E/2004/22, ¶ 278 (2004).
- xxiv. Geneva Convention IV, *supra* note xviii, at art. 91.

## Chapter 16: Preventing Violations of the Right to Own Property

- i. In situations of armed conflict, extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; pillage; and destroying or seizing the enemy's property where such destruction is not imperatively demanded by the necessities of war, are war crimes. Rome Statute of the International Criminal Court (Rome Statute), arts. 8(2)(a)(iv) and 8(2)(b)(xii) and (xvi), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ii. Universal Declaration of Human Rights (UDHR), art. 17(1–2), G.A. Res. 217 (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948).
- iii. *Id.* at art. 25. International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 11(1), Dec. 19, 1966, 993 U.N.T.S. 3.
- iv. International Covenant on Civil and Political Rights (ICCPR), art. 17, Dec. 16, 1966, 999 U.N.T.S. 171.
- v. UDHR, *supra* note ii, at art. 2; ICESCR, *supra* note iii, at art. 2. ICCPR, *supra* note iv, at art. 2.
- vi. Committee on the Elimination of Racial Discrimination (CERD). *General Recommendation No. 23: Rights of Indigenous Peoples*, ¶ 5, UN Doc. A/52/18, annex V at 122 (1997). International Labour Organization, *Indigenous and Tribal Peoples Convention*, 1989 (No. 169), art. 13, Jun 27, 1989, 1650 U.N.T.S. 384. UN General Assembly, *Declaration on the Rights of Indigenous Peoples (Indigenous Peoples Declaration)*, art. 26(2), UN Doc. A/61/L.67 /Add.1 (2007).
- vii. *Indigenous Peoples Declaration*, *supra* note vi, at art. 10.
- viii. CESCR, *General Comment No. 7, The Right to Adequate Housing (Art. 11.1): Forced Evictions* (General Comment No. 7), UN Doc. E/1998/22, ¶10, 14 (1997). Human Rights Committee, *General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation* (General Comment No. 16), ¶3 UN Doc. HRI/GEN/1/Rev.1 (1988).
- ix. CESCR, *General Comment No. 7*, *supra* note viii, ¶ 3.
- x. *Id.* at ¶ 10.
- xi. *See, e.g.*, Report of the CERD, UN Doc. A/63/18, ¶ 177 and ¶ 144 (2008); Report of the CERD, UN Doc. A/62/18 ¶ 228 (2007); Report of the CERD, UN Doc. A/56/18, ¶ 213 (2001)..
- xii. *See, e.g.*, Report of the Special Rapporteur on Housing, ¶ 105(r), UN Doc. E/CN.4/2006/41/Add.2 (2006).
- xiii. *See, e.g.*, Report of the CERD, UN Doc. A/63/18, ¶ 298 (2008).

- xiv. See, e.g., Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/4/9/Add.3, ¶ 99 (2007).
- xv. See, e.g., Report of the CERD, UN Doc. A/56/18 ¶ 213 (2001); Report of the CERD, UN Doc. A/62/18, ¶ 177 (2007); Report of the CERD, UN Doc. A/61/18, ¶ 145 (2006).
- xvi. CESCR, General Comment No. 7, *supra* note viii, at ¶ 13. Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles), Principles 13, 21, UN Doc. E/CN.4/Sub.2/2005/17 (2005).
- xvii. CESCR, General Comment No. 7, *supra* note viii, at ¶ 9.
- xviii. See, e.g., Report of the Committee against Torture, UN Doc. A/64/44, ¶ 42(22) (2009); Report of the CERD, UN Doc. A/65/18, ¶ 31(21) (2010).
- xix. See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 47(16) (2013); Report of the CERD, UN Doc. A/67/18, ¶ 29(15) (2012); Report of the CERD, UN Doc. A/66/18, ¶ 40(11) (2011).
- xx. CESCR General Comment No. 7, *supra* note viii, at ¶ 16. See, e.g., Report of the CERD, UN Doc. A/65/18, ¶ 49(14) (2010).
- xxi. See, e.g., Report of the CERD, UN Doc. A/65/18, ¶ 35(18) (2010); Report of the CERD, UN Doc. A/61/18, ¶ 144 (2006); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/4/9/Add.3, ¶ 99 (2007). See also Indigenous Peoples Declaration, *supra* note vi, art. 26(3).
- xxii. See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 47(20) (2013); Report of the CERD, UN Doc. A/65/18, ¶ 40(11) (2010); Report of the CERD, UN Doc. A/64/18, ¶¶ 33(20) and 41(14) (2009); Report of the CERD, UN Doc. A/62/18, ¶178 (2007); Report of the Independent Expert on Minority Issues, UN Doc. A/HRC/16/45/Add.1, ¶99 2011.
- xxiii. See, e.g., Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I). ¶ 85(15) (2006); Report of the CAT Committee, UN Doc. A/65/44 51, ¶ (26) (2010). Report of the CERD, UN Doc. A/64/18, ¶ 33(19) (2009); Report of the CERD, UN Doc. A/61/18, ¶ 425 (2006). See also Representative of the Secretary-General on Internally Displaced Persons, *Guiding Principles on Internal Displacement* (Guiding Principles on Internal Displacement), Principle 29(2), UN Doc. E/CN.4/1998/53/Add.2 (1998) (noted in Comm. Hum. Rts. res. 1998/50).
- xxiv. Pinheiro Principles, *supra* note xvi, at Principle 14.
- xxv. Civilian objects are all objects that are not military objectives. Protocol additional to the Geneva Convention of 12 August 1949, and relating to the protection of victims of international armed conflicts (Geneva Convention Protocol I), art. 52(1)-(2), *adopted* Jun. 8, 1977, 1125 U.N.T.S. 17512. Military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. *Id.* at art. 52(2).
- xxvi. *Id.* at arts. 48 and 52(2).
- xxvii. *Id.* at art. 52(3).
- xxviii. *Id.* at art. 57(2)(a).
- xxix. *Id.* at arts. 51(5)(b) and 57. Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, art. 3(3), Apr. 10, 1981.
- xxx. Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (Hague Regulations), art. 46, Oct 18, 1907, 187 Consol. T.S. 227.
- xxxi. *Id.* at arts. 28 and 47. Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), art. 33, Aug. 12, 1949, 75 U.N.T.S. 287. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 4(2)(g), Jun. 8, 1977, 75 U.N.T.S. 287.
- xxxii. Rome Statute, *supra* note i, at art. 8(2)(b)(xvi). Geneva Convention IV, *supra* note xxxi, at arts. 33(2) and 53. Geneva Convention Protocol I, *supra* note xxv, at arts. 51(4)(a) and 52. Geneva Convention Protocol II, *supra* note xxxi, at art. 4(2)(g). See also *Guiding Principles on Internal Displacement*, *supra* note xxiii, at Principle 22(2).
- xxxiii. See, e.g., Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/42/3, ¶ 100(i) (2006).
- xxxiv. See, e.g., Report of the Committee Against Torture (CAT Committee), UN Doc. A/65/44, ¶ 51(29) (2010).
- xxxv. See, e.g., Report of the CAT Committee, UN Doc. A/65/44, ¶ 51(26) (2010). See also Report of the Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Representative of the Secretary-General on human rights of internally displaced persons; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, UN Doc. A/HRC/2/7, ¶¶ 103, 105–106 (2006).
- xxxvi. *Guiding Principles on Internal Displacement*, *supra* note xxiii, at Principle 22(3).

## Chapter 17: Preventing Forced Labor

- i. In all circumstances, enslavement is among the acts that when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1)(c), UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ii. Universal Declaration of Human Rights (UDHR), art. 3, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Civil and Political Rights (ICCPR), art. 8(1–2), Dec. 16, 1966, 999 U.N.T.S. 171. Slavery Convention, art. 1(1), Mar. 9, 1927 L.N.T.S. 254. Supplementary Convention on the Abolition of Slavery, the Slave Trade,

- and Institutions and Practices Similar to Slavery, art. 6, Sept. 7, 1956, 266 U.N.T.S. 3. International Criminal Court, Elements of Crimes, art. 7(1)(c), UN Doc. PCNICC/2000/1/Add.2 (2000). On the *egra omnes* nature of the prohibition of slavery, see Case Concerning the Barcelona Traction, Light and Power Co., Ltd. (Belgium v. Spain), Reports of Judgments, Advisory Opinions and Orders, 1970 I.C.J. 3.
- iii. ICCPR, *supra* note ii, at art. 8.3.
  - iv. Abolition of Forced Labour Convention (ILO No. 105) art. 1(e), Jan. 17, 1959, 320 U.N.T.S. 291.
  - v. *Id.* at art. 2(a).
  - vi. UDHR, *supra* note ii, at art. 3. ICCPR, *supra* note ii, at art. 8(1). See, e.g., Report of the Committee against Torture (CAT Committee), UN Doc. A/68/44, ¶ 73(21) (2013); Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/121 ¶ 281 (2002); Report of the Special Rapporteur on Contemporary Forms of Slavery, UN Doc. A/HRC/15/20/Add.2, ¶ 19 (2010).
  - vii. Slavery Convention, *supra* note ii, at art. 1(2).
  - viii. See, e.g., Report of the CERD, UN Doc. A/62/38, ¶ 231 (2007).
  - ix. See, e.g., Report of the CERD, UN Doc. A/66/18, ¶¶ 43(18) and 53(16) (2011); Report of the CRC Committee, UN Doc. CRC/C/121 ¶ 281 (2002); Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I), ¶ 78(14) (2006).
  - x. See, e.g., Report of the CAT Committee, UN Doc. A/68/44, ¶ 73(21) (2013); Report of the Special Rapporteur on Contemporary Forms of Slavery, UN Doc. A/HRC/24/43/Add.1, ¶¶ 132–134 (2013).
  - xi. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/111, ¶ 383 (2001); Report of the CERD, UN Doc. A/66/18 ¶ 53(16) (2011).
  - xii. See, e.g., Report of the CAT Committee, UN Doc. A/68/44, ¶ 73(21) (2013); Report of the Special Rapporteur on Contemporary Forms of Slavery, UN Doc. A/HRC/15/20/Add.2, ¶ 105 (2010).
  - xiii. Geneva Convention relative to the Treatment of Prisoners of War (Geneva Convention III), art. 49–68, 109–119, Aug. 12, 1949, 75 U.N.T.S. 135. Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), arts. 51–52, 95–96, 132–135. See also Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 4(2) (f), Jun. 8, 1977, 75 U.N.T.S. 287.
  - xiv. Geneva Convention III, *supra* note xiii, at art. 49, 50, 52.
  - xv. Geneva Convention IV, *supra* note xiii, at arts. 40 and 51.
  - xvi. *Id.* at art. 95.
  - xvii. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/121, ¶ 281 (2002).
  - xviii. See, e.g., *Id.* See also Report of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, UN Doc. E/CN.4/Sub.2/1998/13, ¶ 102 (1998).
  - xix. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/15/Add.223, ¶ 71 (2004).

## Chapter 18: Preventing Arbitrary Detention

- i. In all circumstances, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law is among the acts that when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1) (e) UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90.
- ii. International Covenant on Civil and Political Rights (ICCPR), art.9(1), Dec. 16, 1966, 999 U.N.T.S. 171.
- iii. Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 10 (2004).
- iv. Human Rights Committee, *General Comment No. 35: Article 9 (Liberty and security of person)* (General Comment No. 35), ¶ 3, UN Doc. CCPR/C/GC/35 (2014).
- v. ICCPR, *supra* note ii, at art. 9.1. The UN Working Group on Arbitrary Detention defines deprivation of liberty as arbitrary when: it is clearly impossible to invoke any legal basis justifying the deprivation of liberty; the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by particular provisions of the UDHR or ICCPR, Articles 12, 18, 19, 21, 22, 25, 26 and 27; or the total or partial non-observance of the international norms relating to the right to a fair trial is of such gravity as to give the deprivation of liberty an arbitrary character. Office of the UN High Commissioner for Human Rights, *Fact Sheet No. 26: The Working Group on Arbitrary Detention*, available at <http://www2.ohchr.org/english/about/publications/docs/fs26.htm#IV>.
- vi. ICCPR, *supra* note ii, at art. 4(1).
- vii. ICCPR, *supra* note ii, at art. 9(4).
- viii. *Id.* at art. 4(1). Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 75(3), Jun. 8, 1977, 75 U.N.T.S. 287.
- ix. ICCPR, *supra* note ii, at art. 4(1). Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), art. 3, *adopted* Aug. 12, 1949, 75 U.N.T.S. 287. Geneva Convention Protocol II, *supra* note viii, at art. 75(1).

- x. See, e.g., Report of the Committee against Torture (CAT Committee), UN Doc. A/65/44, ¶ 63(8) (2010); Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/56/18 ¶ 373 (2001); Report of the Human Rights Committee, UN Doc. A/53/40 ¶ 124 (1998).
- xi. See Report of the CAT Committee, UN Doc. A/62/44, ¶ 36(24) (2007); Report of the CAT Committee, UN Doc. A/67/44, ¶ 66(11) (2012).
- xii. See, e.g., Report of the Human Rights Committee, UN Doc. A/63/40 (Vol. I) ¶ 76(11) (2008).
- xiii. See, e.g., *Id.*
- xiv. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 17 (2009). See, e.g., Committee On the Rights of the Child (CRC Committee), *General Comment No. 10: Children's rights in juvenile justice*, ¶ 87, UN Doc. CRC/C/GC/10 (2007). See also UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, G.A. Res. 43/173, art. 17–19, 24, UN Doc. A/43/49 (1988).
- xv. See, e.g., Report of the Human Rights Committee, UN Doc. A/63/40 (Vol. I) ¶ 76(12) (2008).
- xvi. See ICCPR, *supra* note ii, at art. 9.4. See, e.g., Report of the Human Rights Committee, UN Doc. A/60/40 (Vol. I), ¶ 92(12) (2005)
- xvii. See, e.g., Report of the CAT Committee, UN Doc. A/65/44 ¶ 63(14) (2010); Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/16/47/Add.2 ¶ 127 (2011). Geneva Convention IV, *supra* note ix, at art.143.
- xviii. See, e.g., Report of the CAT Committee, UN Doc. A/65/44, ¶ 63(8) (2010); Report of the Human Rights Committee, UN Doc. A/64/40 (Vol. I), ¶ 93(10) (2009).
- xix. See, e.g., Report of the Human Rights Committee, UN Doc. A/59/40 (Vol. I), ¶ 70(12) (2004); Report of the CERD, UN Doc. CERD/C/304/Add.116, ¶ 12 (2001).
- xx. See, e.g., Report of the Human Rights Committee, UN Doc. A/67/40 (Vol. I) 109(16) ¶ (2012); Report of the CERD, UN Doc. A/68/18, ¶ 47(14) (2013).
- xxi. Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, UN Doc. CCPR/C/21/Rev.1/Add.11, ¶ 11 (2001). See, e.g., Report of the Committee against Torture, UN Doc. A/65/44, ¶ 51(20) (2010).
- xxii. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 32(15) (2009); Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/10/21/Add.3, ¶ 103(h) (2009).
- xxiii. Geneva Convention IV, *supra* note ix, at art. 42.
- xxiv. *Id.* at art. 78.
- xxv. *Id.* at art. 3. Geneva Convention Protocol II, *supra* note viii, at art. 75(1).
- xxvi. Geneva Convention IV, *supra* note ix, at art. 42.
- xxvii. *Id.* at art. 78.
- xxviii. See Geneva Convention IV, *supra* note ix, at art. 78. Protocol additional to the Geneva Convention of 12 August 1949, and relating to the protection of victims of international armed conflicts (Geneva Convention Protocol I), art. 75(2)(d), *adopted* Jun. 8, 1977, 1125 U.N.T.S. 17512. Geneva Convention Protocol II, *supra* note viii, at art. 4 (2)(b).
- xxix. Geneva Convention IV, *supra* note ix, at arts. 43 and 78.

## Chapter 19: Preventing Torture

- i. In all circumstances, torture is among the acts that when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1)(f) UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. In situations of armed conflict, torture or inhuman treatment constitutes a war crime. *Id.* at art. 8(2)(a)(ii).
- ii. Universal Declaration of Human Rights (UDHR), art. 5, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Civil and Political Rights (ICCPR), art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.
- iii. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), art.1, Dec. 10, 1984, 1465 U.N.T.S. 85.
- iv. Human Rights Committee, *General Comment No. 20: Article 7 (General Comment No. 20)*, ¶ 3, Sept. 30, 1992, UN Doc. HRI/GEN/1/Rev.1 at 30. CAT, *supra* note iii, at art. 2(2).
- v. CAT, *supra* note iii, at article 2(1). ICCPR, General Comment, No. 20, *supra* note iii, at ¶ 2. The obligations to prevent torture and to prevent cruel, inhuman, or degrading treatment or punishment (hereinafter “ill-treatment”) are “indivisible, interdependent and interrelated.” Committee against Torture (CAT Committee), *General Comment 2, Implementation of article 2 by States Parties* (General Comment No. 2), ¶ 3, UN Doc. CAT/C/GC/2 (2008).
- vi. CAT Committee, *General Comment No. 2, supra* note v, at ¶ 21.
- vii. CAT, *supra* note iii, at art. 1(1).
- viii. *Id.* at art. 4(1).
- ix. See, e.g., Report of the CAT Committee, UN Doc. A/65/44, ¶ 58(20) (2010).
- x. See, e.g., Report of the CAT Committee, UN Doc. A/61/44, ¶ 25(10) (2006); Report of the CAT Committee, UN Doc. A/64/44 ¶ 46(22) (2009).
- xi. See, e.g., Report of the CAT Committee, UN Doc. A/65/44 ¶ 58(20) (2010).

- xii. CAT Committee, General Comment No. 2, *supra* note v, at ¶ 21.
- xiii. *See, e.g.*, Report of the CAT Committee, UN Doc. A/64/44, ¶ 38(23) (2009)
- xiv. CAT, *supra* note iii, at art. 10.
- xv. CAT Committee, General Comment No. 2, *supra* note v, at ¶ 24.
- xvi. *See, e.g.*, Report of the CAT Committee, UN Doc. A/59/44(SUPP), ¶ 33(b) (2004); Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, UN Doc. E/CN.4/2006/53/Add.5, ¶ 78 (2006).

## Chapter 20: Preventing Rape and Other Sexual Violence

- i. Rape, sexual slavery, enforced prostitution, and other forms of sexual violence of comparable gravity, when committed as part of a widespread or systematic attack directed against a civilian population, constitute crimes against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1)(g) UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. When committed in armed conflict, they constitute war crimes. *Id.* at art. 8(2)(b)(xxii).
- ii. Universal Declaration of Human Rights (UDHR), art. 3, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948). International Covenant on Civil and Political Rights (ICCPR), arts. 9 and 17, Dec. 16, 1966, 999 U.N.T.S. 171. *See* Human Rights Committee, *General Comment No. 35: Article 9 (Liberty and security of person)* (General Comment No. 35), ¶ 3, UN Doc. CCPR/C/GC/35 (2014) (the right to security of the person includes freedom from injury to the body and the mind, or bodily and mental integrity).
- iii. ICCPR, *supra* note ii, at art. 7. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), art.1, Dec. 10, 1984, 1465 U.N.T.S. 85. Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)* (General Comment No. 28), ¶ 11, HRI/GEN/1/Rev.9 (Vol. I) (2000).
- iv. ICCPR, *supra* note ii, at art. 17. Human Rights Committee, *General Comment No. 16*, ¶ 8, UN Doc. CCPR/C/GC/16 (1988) (addressing personal and body searches).
- v. International Criminal Court, *Elements of Crimes*, art. 8(2)(b)(xxii)-6, UN Doc. PCNICC/2000/1/Add.2 (2000). “Coercion” includes that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person(s) or another person.
- vi. Report of the Secretary-General on Sexual Violence in Conflict, ¶ 5, UN Doc. S/2013/149 (2013).
- vii. ICCPR, *supra* note ii, at art. 9. CAT, *supra* note iii, at art. 2.
- viii. Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General Recommendation 19, Violence against women* (General Recommendation No. 19), ¶ 6, UN Doc. A/47/38 at 1 (1993). Gender-based violence is violence directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life. *See also* UN General Assembly, *Declaration on the Elimination of Violence against Women*, art. 1, UN Doc. A/RES/48/104 (1993).
- ix. Convention on the Elimination of All Forms of Discrimination Against Women, art. 16(1), Dec. 18, 1979, 1249 U.N.T.S. 13. *See also* Report of the Fourth World Conference on Women (Beijing, 4–15 September 1995), *Platform for Action*, ¶ 95, UN Doc. A/CONF.177/20 (1995).
- x. Committee against Torture (CAT Committee), *General Comment 2, Implementation of article 2 by States Parties* (General Comment No. 2), ¶ 3, UN Doc. CAT/C/GC/2 (2008).
- xi. CEDAW Committee, *General Recommendation No. 19 supra* note viii, at ¶ 9. *See also* CAT Committee, *General Comment No. 2, supra* note x, at ¶ 18.
- xii. *See, e.g.*, Report of the CEDAW Committee, UN Doc. A/61/38 ¶190 (2006).
- xiii. *See, e.g.*, Report of the CAT Committee, UN Doc. A/68/44, ¶ 62(16) (2013).
- xiv. UN Security Council, Resolution 2106, ¶ 10, UN Doc. S/RES/2106 (2013).
- xv. *See, e.g.*, Report of the CAT Committee, UN Doc. A/67/44, ¶ 59(20) (2012). Security Council Resolution 1820 ¶ 3, UN Doc. S/RES/1820 (2008).
- xvi. UN Security Council, Resolution 1820, *supra* note xv, at ¶ 3.
- xvii. *See, e.g.*, Report of the CAT Committee, UN Doc. A/63/44 ¶ 42(16) (2008).
- xviii. *See, e.g.*, Report of the CAT Committee, UN Doc. A/67/44, ¶ 59(20) (2012).
- xix. *See, e.g.*, Report of the Committee on Economic, Social and Cultural Rights (CESCR), UN Doc. E/2010/22, ¶ 337 (2010).
- xx. *See, e.g.*, Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/68/18, ¶ 42(7) (2013).
- xxi. Security Council Resolution 1820, *supra* note xv, at ¶ 3.
- xxii. *See, e.g.*, Report of the CAT Committee, UN Doc. A/62/44, ¶ 32(16) (2007)
- xxiii. *See, e.g.*, Report of the CAT Committee, UN Doc. UN Doc. A/64/44 ¶ 41(7) (2009).
- xxiv. *See, e.g.*, Report of the CAT Committee, UN Doc. A/64/44, ¶ 46(20) (2009); Report of the CRC Committee, UN Doc. CRC/C/43/3, ¶¶ 190–191 (2007).
- xxv. *See, e.g.*, Report of the CAT Committee, UN Doc. A/62/44, ¶ 33(19) (2007)

- xxvi. See, e.g., Report of the CERD, UN Doc. A/63/18, ¶ 173 (2008).
- xxvii. See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 42(7) (2013); Report of the CAT Committee, UN Doc. A/64/44, ¶ 38(28) (2009); Report of the CERD, UN Doc. A/63/18 ¶ 304 (2008); Report of the CAT Committee, UN Doc. A/63/44, ¶ 38(15) (2008).
- xxviii. See, e.g., Report of the Special Rapporteur on Violence against Women, UN Doc. A/HRC/17/26/Add.2 ¶ 77 (2011).
- xxix. See, e.g., Report of the CERD, UN Doc. A/68/18, ¶ 42(7) (2013); Report of the CAT Committee, UN Doc. A/67/44, ¶ 59(20) (2012); Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), 76(18) ¶ (2010). Security Council Resolution 2106 (2013) para 2.
- xxx. UN Security Council, Resolution 1820, *supra* note xv, at 3. See Report of the Special Rapporteur on Violence against Women, UN Doc. A/HRC/7/6/Add.4 ¶ 108 (2008).
- xxxi. See, e.g., Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), 76(18) ¶ (2010); Report of the Special Rapporteur on Violence Against Women, UN Doc. A/HRC/7/6/Add.4 ¶ 108 (2008).

## Chapter 21: Preventing Killing and Enforced Disappearance

- i. In all circumstances, murder and extermination are among the acts that when committed as part of a widespread or systematic attack directed against any civilian population, constitute crimes against humanity. Rome Statute of the International Criminal Court (Rome Statute), art. 7(1)(a–b) UN Doc. A/CONF.183/9, (1998) 2187 UNTS 90. Enforced disappearances, when committed as part of a widespread or systematic attack directed at a civilian population, constitute a crime against humanity. *Id.* at art. 7(1)(i). In situations of armed conflict, the willful killing of people not taking active part in hostilities constitutes a grave breach of international humanitarian law and a war crime. Rome Statute, art. 8(2)(a)(i). Intentionally directing attacks against the civilian population as such, against individual civilians not taking direct part in hostilities, or against civilian objects constitutes a war crime. *Id.* at art. 8(2)(b)(i – ii), 8(2)(e)(i). Killing or wounding a combatant who, having laid down his arms or having no longer means of defense, has surrendered at discretion, is a war crime. *Id.* at art. 8(2)(b)(vi).
- ii. Universal Declaration of Human Rights (UDHR), art. 3, G.A. Res. 217A (III) A, UN Doc. A/RES/217(III) (Dec. 10, 1948).
- iii. International Covenant on Civil and Political Rights (ICCPR), art. 6(1), Dec. 16, 1966, 999 U.N.T.S. 171.
- iv. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 5 Dec. 21, 1965, 660 U.N.T.S. 195.
- v. Human Rights Committee, *General Comment 6: Article 6 (Right to Life)* (General Comment No. 6), ¶ 3, UN Doc. HRI/GEN/1/Rev.6 at 127 (2003).
- vi. See Basic Principles on the Use of Firearms by Law Enforcement, G.A. Res. 45/166, UN Doc. A/CONF.144/28/Rev.1 at 122 (1990) (“Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to prevent life.”).
- vii. See Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, UN Doc. A/HRC/14/24, ¶ 46(a)-(b) (2010).
- viii. *Id.* at ¶ 46(d).
- ix. International Convention for the Protection of All Persons from Enforced Disappearance (CED), art. 1, Feb. 6, 2007, 2716 U.N.T.S. 3. ICCPR, *supra* note iii, at art. 6.
- x. CED, *supra* note ix, at art. 2.
- xi. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Principles on Prevention and Investigation of Extra-Legal Executions), ¶ 1, E.S.C. res. 1989/65, UN Doc. E/1989/89 (May 24, 1989). CED, *supra* note ix, at art. 4.
- xii. See, e.g., Report of the Committee on the Elimination of Racial Discrimination (CERD), UN Doc. A/57/18 ¶ 225 (2002); Report of the CERD, UN Doc. A/62/18, ¶ 141 (2007); Report of the CERD, UN Doc. A/56/18 ¶ 373 (2001). See also CED, *supra* note ix, at art. 12.1.
- xiii. Principles on Prevention and Investigation of Extra-Legal Executions, *supra* note xi, at ¶ 2.
- xiv. See, e.g., Report of the Human Rights Committee, UN Doc. A/60/40 (Vol. I), ¶ 90(9) (2005).
- xv. See, e.g., Report of the Committee on Economic, Social and Cultural Rights, UN Doc. E/2009/22, ¶ 483 (2009); Report of the CERD, UN Doc. A/65/18, ¶¶ 33(14) and 33(15) (2010); Report of the CERD, UN Doc. A/62/18, ¶ 141 (2007); Report of the CERD, UN Doc. A/62/18, ¶ 172 (2007); Report of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, ¶103, UN Doc. A/HRC/14/24/Add.2 (2010).
- xvi. Principles on Prevention and Investigation of Extra-Legal Executions, *supra* note xi, at ¶ 4.
- xvii. See, e.g., Report of the Committee Against Torture (CAT Committee), UN Doc. A/63/44, ¶ 38(16) (2008)
- xviii. See, e.g., Report of the CERD, UN Doc. A/60/18, ¶ 291 (2005). See Report of the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, UN Doc. AA/HRC/11/2/Add.6, ¶ 86 (2009).

- xix. See, e.g., Report of the CAT Committee, UN Doc. A/68/44, ¶ 70(10) (2013).
- xx. See, e.g., Report of the CERD, UN Doc. A/62/18, ¶ 172 (2007).
- xxi. See, e.g., Report of the CAT Committee, UN Doc. A/59/44(SUPP), ¶ 33(b) (2004); Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, UN Doc. E/CN.4/2006/53/Add.5, ¶ 78 (2006).
- xxii. Principles on Prevention and Investigation of Extra-Legal Executions, *supra* note xi, at ¶ 6.
- xxiii. See, e.g., Report of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, UN Doc. A/HRC/11/2/Add.5, ¶ 78 (2009).
- xxiv. See, e.g., Report of the CERD, UN Doc. A/62/18, ¶ 141 (2007); Report of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, UN Doc. A/HRC/11/2/Add.6, ¶ 86 (2009).
- xxv. CED, *supra* note ix, at art. 12.4.
- xxvi. See Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), arts. 3, 27 and 32, Aug. 12, 1949, 75 U.N.T.S. 287. Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of Non-International Armed Conflicts (Geneva Convention Protocol II), art. 75(2), Jun. 8, 1977, 75 U.N.T.S. 287. Protocol additional to the Geneva Convention of 12 August 1949, relating to the protection of victims of international armed conflicts (Geneva Convention Protocol I), art. 4, Jun. 8, 1977, 1125 U.N.T.S. 17512.
- xxvii. Geneva Convention Protocol I, *supra* note xxv, at arts. 4 and 75(2).
- xxviii. Geneva Convention IV, *supra* note xxv, at art. 3.
- xxix. Geneva Convention Protocol I, *supra* note xxv, at arts. 48 and 51. Geneva Convention Protocol II, *supra* note xxv, at art. 13(2)
- xxx. Geneva Convention Protocol I, *supra* note xxv, at art. 57(2)(a).
- xxxi. *Id.* at arts. 51(5)(b) and 57. See also Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II to the 1980 Convention on Certain Conventional Weapons), art. 3(3), as amended May 3, 1996, 1342 U.N.T.S. 137.
- xxxii. See, e.g., Report of the CERD, UN Doc. A/64/18, ¶ 36(17) (2009); Report of the Human Rights Committee, UN Doc. A/62/40 (Vol. I), ¶88(9) (2007); Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, UN Doc. A/HRC/23/47/Add.1 (2013); Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, UN Doc. A/HRC/11/2/Add.4 ¶ 71(b) (2009).
- xxxiii. See, e.g., Report of the Committee on the Rights of the Child (CRC Committee), UN Doc. CRC/C/43/3, ¶ 153 (2007).
- xxxiv. See, e.g., Report of the Human Rights Committee, UN Doc. A/59/40 (Vol. I), ¶ 63(15) (2004).
- xxxv. See, e.g., Report of the Human Rights Committee, UN Doc. A/62/40 (Vol. I), ¶ 88(9) (2007); Report of the Human Rights Committee, UN Doc. A/59/40 (Vol. I), ¶ 70(12) (2004).
- xxxvi. See, e.g., Report of the CRC Committee, UN Doc. CRC/C/42/3, ¶ 100(i) (2006).
- xxxvii. See, e.g., Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, UN Doc. A/HRC/11/2/Add.4, ¶ 71(b) (2009).
- xxxviii. See, e.g., Report of the Human Rights Committee, UN Doc. A/62/40 (Vol. I), ¶ 88(9) (2007).
- xxxix. See, e.g., *Id.*; Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), ¶ 14(e) (2010); Report of the CAT Committee, U.N. Doc. A/67/40 (Vol. I), ¶ 11(15) (2012); Report of the CAT Committee, UN Doc. A/68/44, ¶ 70(10) (2013); Report of the CERD, UN Doc. A/64/18, ¶ 36(17) (2009); Report of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, UN Doc. A/HRC/11/2/Add.5, ¶ 80 (2009).
- xl. See, e.g., Report of the Human Rights Committee, UN Doc. A/65/40 (Vol. I), ¶ 76(12) (2010). Report of the Human Rights Committee, UN Doc. A/61/40 (Vol. I). ¶ 80(15) (2006).



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