

Examples of definitions of human rights violations*

Extrajudicial execution or other killing

Under the ICCPR everyone has the right to life and the right not to be arbitrarily deprived of his/her life. This right may not be suspended in times of emergency.

Some of the most common forms of **arbitrary killings** are:

- if **law enforcement officials** deliberately kill a person when it is not strictly necessary to protect life (for example killing of peaceful protesters);
- killings committed by non-State actors, such as **paramilitary forces or militias**, who operate at the behest or with the acquiescence of State agents, and without the killings being strictly necessary to protect life;
- **death sentences executed in violation of international law and standards;**
- **deaths in custody** which result either from the **use of force** by public officials or from failure to protect the right to life of the detained person.

The deliberate use of force by **law enforcement officials** is limited to exceptional circumstances (i.e. when necessary to protect life) and subject to strict conditions. If these conditions are not observed, killings by law enforcement officials may amount to **extrajudicial executions**, a form of arbitrary killing.

States must prevent and investigate arbitrary killings, punish perpetrators and provide effective remedies to relatives.

Relatives of victims of arbitrary killings are entitled to reparation, including adequate compensation, and the State must take measures to prevent further arbitrary killings.

States also have an obligation to exercise **due diligence** to protect persons from threats to their lives by non-State actors, among other things by legislating to criminalize murder and through consistent enforcement of legislation. Public authorities must also take adequate measures of protection where they know, or ought to know, that lives are at risk.

ICCPR art. 6(1), CRC art. 6, CRPD art. 10, ICRMW art. 9, Convention on the Prevention and Punishment of the Crime of Genocide art. 1.

UDHR art. 3; Basic principles on the use of force and firearms by law enforcement officials; Code of conduct for law enforcement officials; Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions.

Rape

Rape is a serious form of sexual violence or assault which consists of sexual penetration without consent, often by force or coercion. It may violate the right to security of the person, and the right to be protected from torture and other ill-treatment, among other human rights.

* Extracted from OHCHR's *Glossary of International Human Rights and Humanitarian Law Violations*
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Rape consists of penetration of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any part of the body. It is often, but not exclusively, perpetrated by force or the threat of force, or other forms of coercion. Consent is absent in coercive environments in which a person may not consent freely, in the case of children below the age of sexual consent, or if a person is unable to give consent (e.g. due to being drugged).

It is a violation of international human rights law if:

- rape is committed by a public official, or at the instigation or with the consent or acquiescence of a public official (in which case it would also amount to torture); or
- the State fails to ensure that cases of rape by State actors are effectively investigated and that, where there is sufficient evidence for prosecution, perpetrators are prosecuted and punished in accordance with the gravity of the offence;
- the State fails to exercise due diligence to adequately protect persons from rape by non-State actors, among other things by criminalizing all forms of rape, by establishing effective mechanisms for investigation and prosecution, and by implementing comprehensive awareness-raising programs.

Rape is perpetrated in different contexts, for example during interrogation or detention, in connection with domestic violence, against persons who have been subjected to trafficking or in armed conflicts. It affects women and girls disproportionately and as such may be a form of violence against women or gender-based violence.

ICERD art. 5(b); ICCPR art. 7; ICESCR art. 12; ICRMW arts. 10, 16(1) and 16(2); CAT arts. 1 and 16; CRC arts. 19 and 37(a).

UDHR arts. 3, 5; Declaration on the elimination of violence against women; General Assembly resolution 65/228, Updated model strategies and practical measures on the elimination of violence against women in the field of crime prevention and criminal justice.

Failure to address domestic violence

Domestic violence is violence committed in the home or private sphere, generally between persons belonging to the same family or household, and often between intimate partners.

It is a violation of international human rights law if the **State fails to:**

- **take effective measures to prevent domestic violence**, among other things by:
 - establishing and enforcing specific legislation criminalizing domestic violence and providing for the protection of persons from harassment, intimidation, threats and violence; and
 - effectively investigating incidents of domestic violence and punishing the perpetrators in accordance with the severity of the offence; and
 - establishing comprehensive awareness-raising programs to prevent domestic violence; or
- **establish effective systems to protect persons** from real and immediate risks to life or integrity, where public officials know, or ought to know, that acts of violence are

about to be committed (protective measures may include issuing exclusion orders or detaining potential perpetrators if other means are ineffective to protect the life or integrity of persons).

Domestic violence is based on unequal power relations between perpetrators and victims; such as between men and women, between adults and children, or between employers and domestic workers. Domestic violence may keep a person in a permanent state of fear in order to reduce him/her to submission and can share many characteristics of torture. Domestic violence disproportionately affects women and girls and is rooted in and exacerbated by discrimination in law and practice. Preventing and effectively responding to domestic violence requires a gender-inclusive approach which takes account of discrimination, gender roles and power relations.

ICCPR art. 7; CAT arts. 1 and 16; CEDAW art. 2; CRC arts. 19 and 37(a); ICRMW arts. 10 and 16(2).

UDHR art. 5; Declaration on the elimination of violence against women; General Assembly resolution 65/228, Updated model strategies and practical measures on the elimination of violence against women in the field of crime prevention and criminal justice.

Arbitrary detention

The right to liberty and security of the person includes freedom from arbitrary or unlawful detention.

Detention is the involuntarily confinement of a person to a limited physical space and may take a variety of forms. A person may be confined to a police or prison cell, to his/her own house (house arrest) or, for instance, to a closed hospital ward or immigration facility. Detention may take place in the context of a criminal justice process or for other reasons, such as immigration control, when necessary for the prevention or spread of infectious diseases, or for the protection of intoxicated persons. The right not to be subjected to arbitrary or unlawful detention applies to all forms of detention by the State or attributable to the State.

It is a violation of international human rights law if a detention is:

- **not in accordance with national laws** (unlawful), because it is
 - not properly based on **grounds** established in a pre-existing law; or
 - not in accordance with the **procedures** established by law; or
- otherwise **arbitrary** in the sense of being **inappropriate, unjust, unreasonable, or unnecessary in the circumstances**.

Whether a detention is unlawful and/or arbitrary must be assessed on an individual basis in light of all the circumstances of a case. If a person is detained as a punishment for, or to deny, the exercise of human rights (such as expressing political opinions or peacefully demonstrating), the detention is arbitrary, as are detentions on discriminatory grounds (i.e., if a person is detained on account of a disability, or because s/he belongs to a particular ethnic group).

The right to liberty may be subject to **derogation** during a state of emergency but States must not undermine the protection of non-derogable rights, nor contravene other international obligations, such as the prohibition of unlawful confinement during armed conflicts. Among other things, detained persons must at all times retain the right to challenge the legality of their detention, and the grounds and procedures for a detention must be established by law.

A person who has been arbitrarily or unlawfully detained has an explicitly recognized right to **compensation**.

ICCPR art 9; CRC art. 37(b); ICRMW art. 16(1),(4); CRPD art. 14; CPED art. 17; CAT art. 11; UDHR arts. 3 and 9; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Forced evictions

Forced evictions violate a range of international human rights norms, including the right to adequate housing. Forced eviction occurs where a person, group or community is **involuntarily removed** from their home and/or land they occupy (permanently or temporarily), without **appropriate legal and procedural protections**.

Not all evictions are prohibited under international law. Circumstances such as a tenant's persistent non-payment of rent, or compelling safety reasons may justify an eviction, provided it is carried out in compliance with domestic and international law.

Evictions amount to forced evictions and are thus prohibited, if:

- They are not based on a **justification set out in national law** which is **sufficient under international law**; or
- Where there has not been **compliance with legal processes**; or
- They are **not limited to exceptional circumstances**; or
- There has not been proper **consultation** with the affected individual/community; or
- Persons have not been afforded **due process**, including the ability to challenge the legality of the eviction; or
- They are otherwise carried out **in violation of international human rights law**, for example if they are carried out in a discriminatory manner, or if they render persons homeless or leave them vulnerable to other human rights violations.

The State must not itself engage in forced evictions. It must also put in place protections against forced evictions by third parties (through appropriate legislative and other measures). The State's obligation to refrain from and protect against forced eviction is immediate and does not depend on the availability of resources. Those affected by forced eviction are entitled to remedies, including legal redress, adequate compensation and alternative accommodation where appropriate.

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Module on What are Human Rights and Where Do They Come From?

ICESCR art. 11(1); ICCPR art. 17(1); CERD art. 5(e); CEDAW arts. 14(2); CRC arts. 16(1) and 27; CRPD arts. 22 and 28(1); ICRMW art. 43(1)(d).

UDHR art. 25(1); Guiding Principles on internal displacement; Basic principles and guidelines on development-based evictions and displacement.

Discriminatory exclusion from access to adequate food

States have an immediate obligation to ensure non-discrimination with regard to access to adequate food or the means and entitlements for its procurement.

Discrimination is a distinction, exclusion or restriction which has the intention or effect of nullifying or impairing access to food or the means for its procurement, based on prohibited grounds. Prohibited grounds of discrimination include all internationally recognized grounds such as race, sex, religion, age, disability, language, political opinion, national or ethnic origin, descent, social origin, property or “other status” (including nationality, marital/family status, sexual orientation, health status, place of residence or economic and social situation).

States cannot claim resource limitations to justify discrimination on prohibited grounds.

It is a violation of international human rights law if a State:

- **denies** individuals or groups **access** to food or productive resources, **based on prohibited grounds of discrimination**; for example if a State channels food aid to government supporters while excluding supporters of the political opposition; or
- fails to redress laws, policies or practices which have a **discriminatory impact**, even if they may appear neutral at face value and regardless of intent, for example if a State fails to address disproportionate levels of malnutrition among children in certain ethnic groups or in rural areas; or
- **fails to take measures to address discrimination by private actors**, for example if public authorities fail to take measures to change attitudes in the family whereby boys and men are given privileged access to scarce food resources at the expense of women and girls.

Special measures to redress historical discrimination against particular groups or to protect the most vulnerable do not constitute discrimination. Groups requiring particular attention include indigenous peoples, women, children, persons with disabilities, migrants, the elderly, people facing caste-based discrimination and the rural and urban poor.

ICESCR arts. 2(2), 11; ICERD art. 5(e); CEDAW arts. 12(2) and 14(2)(h); CRC arts. 24(2)(c) and (e), 27(1)-(3), 38(4); CRPD arts. 25(f), 28(1);

UDHR art. 25;

FAO, Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security.

Lack of access to medical services, facilities and treatment

States must take the steps necessary to create conditions assuring to everyone medical services and medical attention in the event of sickness. This implies an obligation to provide facilities, goods and services for physical and mental health care.

While the full realization of the right to health may be achieved progressively over time, States have immediate obligations, including to ensure non-discriminatory access and to satisfy minimum essential levels of the right to health.

It is a violation of international human rights law if States:

- Fail to ensure the **equitable distribution** of medical services and facilities, such as between rural and urban areas, or between wealthier and less wealthy communities; or
- **Fail to ensure non-discriminatory** access to health care, for example for people living with HIV/AIDS or for displaced populations; or
- **Directly impede access** to medical services, facilities or treatment, for example by limiting access to health services as a punitive measure, e.g. during armed conflicts; or
- Do **not take adequate measures to protect** persons against actions of third parties which threaten access to health care, for example by failing to take adequate measures to address cultural attitudes preventing women from accessing pre- and postnatal health care; or
- Fail to take whatever steps are necessary, using the maximum of available resources, to **achieve progressively the full realization** of the right of access to medical services, facilities or treatment for all, with special attention to under-served areas and populations, and an emphasis on the development of primary health care; or
- Adopt **deliberate retrogressive measures** without compelling justification.

Whether the steps taken towards progressive realization are adequate will be judged by a standard of “reasonableness”.

ICESCR art. 12(2)(d), ICERD art. 5(e)(iv); CRC arts. 6, 23 and 24; CEDAW arts. 11(1)(f), 12 and 14(2)(b); ICRMW art. 43(1)(e) and 45(1)(c); CRPD art. 25.

UDHR art 25(1).

Child marriage

Child marriage (also called early marriage) is the marriage of a person below the age of 18 years. It is a discriminatory practice affecting mostly girls which is prohibited under international law. Child marriage impedes the full realization of girls' human rights, in particular where a young girl is married to a much older man, and violates their right to freely choose a spouse and to enter into marriage by free and full consent.

It is a violation of international human rights law if:

- A State **fails to establish by law a minimum age of marriage**; or

- Public authorities **fail to enforce the minimum age of marriage**, among other things by ensuring that all marriages are officially registered and that child marriages are rendered void; or
- A State fails to provide for, and to enforce, the **same minimum age of marriage for boys and girls**;
- Public authorities otherwise **fail to act with due diligence** to prevent child marriages, among other things through awareness raising about its negative effects; or
- **Public officials are directly or indirectly involved** in child marriage.

Child marriage is considered a harmful practice and a form of ill-treatment and its prohibition may not be subject to derogation. It may expose children to violence and undermine other human rights, such as the rights to health, education and to survival and development.

ICCPR art. 23(3) and (4); ICESCR art. 10(1); CEDAW art. 16(1) and (2); Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages arts. 1(1), 2. UDHR art. 16(1) and (2); 25(2).

Recruitment of children into armed forces or armed groups

Under international law, children (persons below 18 years of age, unless majority is attained earlier under national law) are entitled to protection against being recruited into armed forces or armed groups. Recruitment of children is prohibited, except for the voluntary recruitment of children aged 15 to 17 into the armed forces, which is subject to a number of conditions. This prohibition is non-derogable.

It is a violation of international human rights law if:

- children under the age of 18 are subjected to **forced or compulsory recruitment**, whether into the armed forces or into armed groups; or
- States do **not observe all conditions** provided for under international law for the **voluntary recruitment of children aged 15 to 17 into their armed forces**, e.g. by failing to ensure that:
 - recruitment is genuinely voluntary, or
 - parents or guardians have provided informed consent, or
 - children have been provided with full information about the duties involved, or
 - reliable proof is provided of the exact age of an under-age recruit prior to acceptance; or
- States **fail to take all feasible measures to protect children under the age of 18 against recruitment by armed groups**, whether forced or voluntary.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict states that armed groups should not recruit children below the age of 18 under any circumstances.

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Several United Nations human rights bodies have encouraged States to adopt the same protective standards for recruitment by armed forces and by armed groups, and to raise the minimum age for both to 18 years. Under the Optional Protocol States must make binding commitments as to the age they apply for voluntary recruitment, with many States moving towards an 18 years threshold.

ICCPR art. 24(1); CRC art. 38; Optional Protocol to the CRC on the involvement of children in armed conflict; ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182).