Syria
Access to Justice
International Legal Instruments
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International Legal Instruments

A publication by Syria Legal Network-NL

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Preface

This collection of legal materials has been put together by Youssef Matrad for the Syria Legal Network-NL. It aims to provide students, researchers, lawyers and activists with the sources needed to understand the international legal framework that is relevant to the armed conflict in Syria. The reader includes the basic documents of international public law, international criminal law and humanitarian law. It contains the most important decisions and resolutions of the United Nations in relation to the armed conflict in Syria. The collection offers legal guidance to anyone interested in formulating an international justice response to violations of international law in Syria. The Reader is available in both English and Arabic. We invite you to share the Reader with your network.

We wish to thank all those who participated in the composition and editing of this reader for their contributions.

Syria Legal Network-NL
Amsterdam, January 2018
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Part 1  Basic Documents
1.1 CHARTER OF THE UNITED NATIONS (1945)

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED,
To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom,
AND FOR THESE ENDS,
to practice tolerance and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security, and to ensure by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples,
HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS
Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I - PURPOSES AND PRINCIPLES

Article 1
The Purposes of the United Nations are:
1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

Article 2
1. The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.
2. The Organization is based on the principle of the sovereign equality of all its Members.
3. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

4. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

5. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

6. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action. 6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II – MEMBERSHIP

Article 3
The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4
1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5
A member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6
A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.
CHAPTER III - ORGANS

Article 7
1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8
The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV - THE GENERAL ASSEMBLY

Composition

Article 9
1. The General Assembly shall consist of all the Members of the United Nations.
2. Each member shall have not more than five representatives in the General Assembly.

Functions and Powers

Article 10
The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11
1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.
3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.
4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.
Article 12
1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.
2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13
1. The General Assembly shall initiate studies and make recommendations for the purpose of:
   a) promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;
   b) promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.
2. The further responsibilities, functions and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

Article 14
Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15
1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16
The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17
1. The General Assembly shall consider and approve the budget of the Organization.
2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.
3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.
Voting

Article 18
1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, Composition including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19
A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Procedure

Article 20
The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21
The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22
The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V - THE SECURITY COUNCIL

Article 23
1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the
first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

**Functions and Powers**

**Article 24**
1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

**Article 25**
The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

**Article 26**
In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

**Voting**

**Article 27**
1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.
Procedure

Article 28
1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29
The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30
The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31
Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32
Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI - PACIFIC SETTLEMENT OF DISPUTES

Article 33
1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34
The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.
Article 35
1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.
2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.
3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36
1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.
2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.
3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37
1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.
2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38
Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII - ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39
The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40
In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.
Article 41
The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42
Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43
1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44
When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member’s armed forces.

Article 45
In order to enable the United Nations to take urgent military measures Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46
Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.
Article 47
1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council’s military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.
2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee’s responsibilities requires the participation of that Member in its work.
3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48
1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.
2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49
The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50
If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51
Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.
CHAPTER VIII - REGIONAL ARRANGEMENTS

Article 52
1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council. This Article in no way impairs the application of Articles 34 and 35.

Article 53
1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.
2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54
The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX - INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55
With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
   a) higher standards of living, full employment, and conditions of economic and social progress and development;
   b) solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and
   c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.
Article 56
All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57
1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58
The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59
The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60
Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X - THE ECONOMIC AND SOCIAL COUNCIL

Composition

Article 61
1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.
Functions and Powers

Article 62
1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63
1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64
1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.
2. It may communicate its observations on these reports to the General Assembly.

Article 65
The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66
1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.
2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.
3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.
Article 67
1. Each member of the Economic and Social Council shall have one vote.
2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

Article 68
The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69
The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70
The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71
The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72
1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI - DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73
Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a) to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
a) to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
b) to further international peace and security;
c) to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
d) to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapter XII and XIII apply.

Article 74
Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII - INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75
The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76
The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:
a) to further international peace and security;
b) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
d) to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals and also equal treatment for the latter in the administration of justice without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.
Article 77
1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:
   a) territories now held under mandate;
   b) territories which may be detached from enemy states as a result of the Second World War, and
   c) territories voluntarily placed under the system by states responsible for their administration.
2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78
The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79
The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80
1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.
2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81
The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82
There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83
1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.
2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

**Article 84**

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

**Article 85**

The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

**CHAPTER XIII - THE TRUSTEESHIP COUNCIL**

**Composition**

**Article 86**

1. The Trusteeship Council shall consist of the following Members of the United Nations:
   a) those Members administering trust territories;
   b) such of those Members mentioned by name in Article 23 as are not administering trust territories; and
   c) as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

**Functions and Powers**

**Article 87**

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

   a) consider reports submitted by the administering authority;
   b) accept petitions and examine them in consultation with the administering authority;
c) provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d) take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88
The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

Article 89
1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90
The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91
The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV - THE INTERNATIONAL COURT OF JUSTICE

Article 92
The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93
1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.
Article 94
1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95
Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96
1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV - THE SECRETARIAT

Article 97
The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98
The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99
The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100
1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization.
2. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
3. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.
Article 101
1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.
2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.
3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI - MISCELLANEOUS PROVISIONS

Article 102
1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.
2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph I of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103
In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104
The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Article 105
1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII - TRANSITIONAL SECURITY ARRANGEMENTS

Article 106
Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow October 30, 1943, and
France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

**Article 107**
Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

**CHAPTER XVIII - AMENDMENTS**

**Article 108**
Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

**Article 109**
1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council.
2. Each Member of the United Nations shall have one vote in the conference.
Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.
3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

**CHAPTER XIX - RATIFICATION AND SIGNATURE**

**Article 110**
1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory
states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

**Article 111**
The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter
DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.
1.2 Statute of the International Court of Justice (1945)

Article 1
The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I - ORGANIZATION OF THE COURT

Article 2
The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3
1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.
2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4
1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.
2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of the Hague of 1907 for the pacific settlement of international disputes.
3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5
1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.
2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.
Article 6
Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7
1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.
2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8
The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9
At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10
1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.
2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.
3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11
If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12
1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.
2. If the joint conference is unanimously agreed upon any person who fulfills the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.
3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the
Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Article 13
1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.
2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.
3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.
4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14
Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: The Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15
A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor’s term.

Article 16
1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

Article 17
1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.

Article 18
1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfill the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.
Article 19
The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20
Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

Article 21
1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22
1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.
2. The President and the Registrar shall reside at the seat of the Court.

Article 23
1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.
2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.
3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24
1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.
2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.
3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25
1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.
2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.
3. A quorum of nine judges shall suffice to constitute the Court.
Article 26
1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.
2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.
3. Cases shall be heard and determined by the chambers provided for in this article if the parties so request.

Article 27
A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28
The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29
With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30
1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31
1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.
4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.
5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.
6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfill the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

**Article 32**

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which he acts as President.
4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.
5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.
6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.
7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.
8. The above salaries, allowances, and compensation shall be free of all taxation.

**Article 33**

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

**CHAPTER II - COMPETENCE OF THE COURT**

**Article 34**

1. Only states may be parties in cases before the Court.
2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.
3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

**Article 35**

1. The Court shall be open to the states parties to the present Statute.
2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.
3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.
Article 36
1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.
2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
   a) the interpretation of a treaty;
   b) any question of international law;
   c) the existence of any fact which, if established, would constitute a breach of an international obligation;
   d) the nature or extent of the reparation to be made for the breach of an international obligation.
3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.
4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.
6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37
Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38
1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
   e) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
   f) international custom, as evidence of a general practice accepted as law;
   g) the general principles of law recognized by civilized nations;
   h) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
2. This provision shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto.
CHAPTER III – PROCEDURE

Article 39
1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.
2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.
3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40
1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.
2. The Registrar shall forthwith communicate the application to all concerned.
3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

Article 41
1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.
2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42
1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43
1. The procedure shall consist of two parts: written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.
Article 44
1. For the service of all notices upon persons other than the agents, counsel, and advocates, the
Court shall apply direct to the government of the state upon whose territory the notice has to be
served.
2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45
The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-
President; if neither is able to preside, the senior judge present shall preside.

Article 46
The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties
demand that the public be not admitted.

Article 47
1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

Article 48
The Court shall make orders for the conduct of the case, shall decide the form and time in which
each party must conclude its arguments, and make all arrangements connected with the taking of
evidence.

Article 49
The Court may, even before the hearing begins, call upon the agents to produce any document or
to supply any explanations. Formal note shall be taken of any refusal.

Article 50
The Court may, at any time, entrust any individual, body, bureau, commission, or other
organization that it may select, with the task of carrying out an enquiry or giving an expert
opinion.

Article 51
During the hearing any relevant questions are to be put to the witnesses and experts under the
conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52
After the Court has received the proofs and evidence within the time specified for the purpose, it
may refuse to accept any further oral or written evidence that one party may desire to present
unless the other side consents.

Article 53
1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the
other party may call upon the Court to decide in favour of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance
with Articles 36 and 37, but also that the claim is well founded in fact and law.
Article 54
1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

Article 55
1. All questions shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

Article 56
1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

Article 57
If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58
The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59
The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60
The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61
1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.
2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.
3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.
4. The application for revision must be made at latest within six months of the discovery of the new fact.
5. No application for revision may be made after the lapse of ten years from the date of the judgment.
Article 62
1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.
2. It shall be for the Court to decide upon this request.

Article 63
1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.
2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64
Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV - ADVISORY OPINIONS

Article 65
1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.
2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66
1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.
2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.
3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.
4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time-limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

Article 67
The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.
Article 68
In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V – AMENDMENT

Article 69
Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70
The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.
1.3 Universal Declaration of Human Rights (1948)

Preamble
Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
Whereas it is essential to promote the development of friendly relations between nations,
Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,
Now, therefore,
The General Assembly,
Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote and respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction

Article 1
All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2
Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3
Everyone has the right to life, liberty and security of person.
Article 4
No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5
No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6
Everyone has the right to recognition everywhere as a person before the law.

Article 7
All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8
Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9
No one shall be subjected to arbitrary arrest, detention or exile.

Article 10
Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11
1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13
Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14
1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.
**Article 15**
1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16**
1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17**
1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

**Article 18**
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19**
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**
1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

**Article 21**
1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**
Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
Article 23
1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24
Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25
1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26
1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27
1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28
Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29
1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

2. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30
Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

**PART I - INTRODUCTION**

**Article 1 - Scope of the present Convention**
The present Convention applies to treaties between States.

**Article 2 - Use of terms**
1. For the purposes of the present Convention:
   a) 'treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;
   b) 'ratification', 'acceptance', 'approval' and 'accession' mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;
   c) 'full powers' means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;
   d) 'reservation' means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;
   e) 'negotiating State' means a State which took part in the drawing up and adoption of the text of the treaty;
   f) 'contracting State' means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;
   g) 'party' means a State which has consented to be bound by the treaty and for which the treaty is in force;
   h) 'third State' means a State not a party to the treaty;
   i) 'international organization' means an intergovernmental organization.
2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

**Article 3 - International agreements not within the scope of the present Convention**
The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:
   a) the legal force of such agreements;
   b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;
   c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.
Article 4 - Non-retroactivity of the present Convention
Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5 - Treaties constituting international organizations and treaties adopted within an international organization
The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II - CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1. CONCLUSION OF TREATIES

Article 6 - Capacity of States to conclude treaties
Every State possesses capacity to conclude treaties.

Article 7 - Full powers
1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:
   a) he produces appropriate full powers; or
   b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.
2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:
   a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;
   b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;
   c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

Article 8 - Subsequent confirmation of an act performed without authorization
An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9 - Adoption of the text
1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph
2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

**Article 10 - Authentication of the text**
The text of a treaty is established as authentic and definitive:

a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or

b) failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

**Article 11 - Means of expressing consent to be bound by a treaty**
The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

**Article 12 - Consent to be bound by a treaty expressed by signature**
1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:
   a) the treaty provides that signature shall have that effect;
   b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or
   c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1:
   a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
   b) the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

**Article 13 - Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty**
The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

a) the instruments provide that their exchange shall have that effect;
   or

b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

**Article 14 - Consent to be bound by a treaty expressed by ratification, acceptance or approval**
1. The consent of a State to be bound by a treaty is expressed by ratification when:
   a) the treaty provides for such consent to be expressed by means of ratification;
   b) it is otherwise established that the negotiating States were agreed that ratification should be required;
   c) the representative of the State has signed the treaty subject to ratification; or
d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

**Article 15 - Consent to be bound by a treaty expressed by accession**

The consent of a State to be bound by a treaty is expressed by accession when:

- a) the treaty provides that such consent may be expressed by that State by means of accession;
- b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
- c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

**Article 16 - Exchange or deposit of instruments of ratification, acceptance, approval or accession**

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- a) their exchange between the contracting States;
- b) their deposit with the depositary; or
- c) their notification to the contracting States or to the depositary, if so agreed.

**Article 17 - Consent to be bound by part of a treaty and choice of differing provisions**

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

**Article 18 - Obligation not to defeat the object and purpose of a treaty prior to its entry into force**

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

- a) It has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
- b) It has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

**SECTION 2. RESERVATIONS**

**Article 19 - Formulation of reservations**

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- a) the reservation is prohibited by the treaty;
- b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20 - Acceptance of and objection to reservations
1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.
2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.
3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.
4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:
   a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
   b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;
   c) an act expressing a State’s consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.
5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21 - Legal effects of reservations and of objections to reservations
1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:
   a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
   b) modifies those provisions to the same extent for that other party in its relations with the reserving State.
2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.
3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article 22 - Withdrawal of reservations and of objections to reservations
1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
3. Unless the treaty otherwise provides, or it is otherwise agreed:
a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;
b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23 - Procedure regarding reservations
1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.
2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.
4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24 - Entry into force
1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25 - Provisional application
1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:
   a) the treaty itself so provides; or
   b) the negotiating States have in some other manner so agreed.
2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.
PART III - OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1. OBSERVANCE OF TREATIES

Article 26 - Pacta Sunt Servanda
Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27 - Internal law and observance of treaties
A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28 - Non-retroactivity of treaties
Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29 - Territorial scope of treaties
Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30 - Application of successive treaties relating to the same subject-matter
1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.
2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.
3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.
4. When the parties to the later treaty do not include all the parties to the earlier one:
   a) as between States parties to both treaties the same rule applies as in paragraph 3;
   b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.
5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31 - General rule of interpretation
1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
   a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
   b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
   a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
   b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
   c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

**Article 32 - Supplementary means of interpretation**
Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:
   a) leaves the meaning ambiguous or obscure; or
   b) leads to a result which is manifestly absurd or unreasonable.

**Article 33 - Interpretation of treaties authenticated in two or more languages**
1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.
2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.
3. The terms of the treaty are presumed to have the same meaning in each authentic text.
4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

**SECTION 4. TREATIES AND THIRD STATES**

**Article 34 - General rule regarding third States**
A treaty does not create either obligations or rights for a third State without its consent.

**Article 35 - Treaties providing for obligations for third States**
An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.
Article 36 - Treaties providing for rights for third States
1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.
2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37 - Revocation or modification of obligations or rights of third States
1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.
2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38 - Rules in a treaty becoming binding on third States through international custom
Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

PART IV - AMENDMENT AND MODIFICATION OF TREATIES

Article 39 - General rule regarding the amendment of treaties
A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

Article 40 - Amendment of multilateral treaties
1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.
2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:
   a) the decision as to the action to be taken in regard to such proposal;
   b) the negotiation and conclusion of any agreement for the amendment of the treaty.
3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.
4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4(b), applies in relation to such State.
5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:
   a) be considered as a party to the treaty as amended; and
   b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.
Article 41
Agreements to modify multilateral treaties between certain of the parties only

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:
   a) the possibility of such a modification is provided for by the treaty;
   or
   b) the modification in question is not prohibited by the treaty and:
      i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
      ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V - INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1. GENERAL PROVISIONS

Article 42 - Validity and continuance in force of treaties

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.

2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43 - Obligations imposed by international law independently of a treaty

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44 - Separability of treaty provisions

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:
   a) the said clauses are separable from the remainder of the treaty with regard to their application;
b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and

c) continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45 - Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2. INVALIDITY OF TREATIES

Article 46 - Provisions of internal law regarding competence to conclude treaties

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47 - Specific restrictions on authority to express the consent of a State

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48 - Error

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.
Article 49 - Fraud
If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50 - Corruption of a representative of a State
If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51 - Coercion of a representative of a State
The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Article 52 - Coercion of a State by the threat or use of force
A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53 - Treaties conflicting with a peremptory norm of general international law (jus cogens)
A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54 - Termination of or withdrawal from a treaty under its provisions or by consent of the parties
The termination of a treaty or the withdrawal of a party may take place:
   a) in conformity with the provisions of the treaty; or
   b) at any time by consent of all the parties after consultation with the other contracting States.

Article 55 - Reduction of the parties to a multilateral treaty below the number necessary for its entry into force
Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56 - Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal
1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:
   a) it is established that the parties intended to admit the possibility of denunciation or withdrawal;
   or
b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months’ notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57 - Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:
in conformity with the provisions of the treaty; or at any time by consent of all the parties after consultation with the other contracting States.

Article 58 - Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:
   a) the possibility of such a suspension is provided for by the treaty;
   or
   b) the suspension in question is not prohibited by the treaty and:
      (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
      (ii) is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59 - Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:
   a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty;
   or
   b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60 - Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part:

2. A material breach of a multilateral treaty by one of the parties entitles:
   a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
      (i) in the relations between themselves and the defaulting State, or
      (ii) as between all the parties;
b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:
   a) a repudiation of the treaty not sanctioned by the present Convention;
   or
   b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61 - Supervening impossibility of performance

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62 - Fundamental change of circumstances

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:
   a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
   b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:
   a) if the treaty establishes a boundary;
   or
   b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.
3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

**Article 63 - Severance of diplomatic or consular relations**
The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

**Article 64 - Emergence of a new peremptory norm of general international law (jus cogens)**
If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

**SECTION 4. PROCEDURE**

**Article 65 - Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty**
1. A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.
2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.
3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in article 33 of the Charter of the United Nations.
4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.
5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

**Article 66 - Procedures for judicial settlement, arbitration and conciliation**
If, under paragraph 3 of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:
- a) any one of the parties to a dispute concerning the application or the interpretation of articles 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;
- b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annexe to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.
Article 67 - Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty
1. The notification provided for under article 65 paragraph 1 must be made in writing.
2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68 - Revocation of notifications and instruments provided for in articles 65 and 67
A notification or instrument provided for in articles 65 or 67 may be revoked at any time before it takes effect.

SECTION 5. CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69 - Consequences of the invalidity of a treaty
1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.
2. If acts have nevertheless been performed in reliance on such a treaty:
   a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;
   b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.
3. In cases falling under articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.
4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70 - Consequences of the termination of a treaty
1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:
   a) releases the parties from any obligation further to perform the treaty;
   b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.
2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71 - Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law
1. In the case of a treaty which is void under article 53 the parties shall:
   a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and
   b) bring their mutual relations into conformity with the peremptory norm of general international law.
2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:
   a) releases the parties from any obligation further to perform the treaty;
   b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

**Article 72 - Consequences of the suspension of the operation of a treaty**

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:
   a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;
   b) does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

**PART VI - MISCELLANEOUS PROVISIONS**

**Article 73 - Cases of State succession, State responsibility and outbreak of hostilities**
The provisions of the present Convention shall not prejudge any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

**Article 74 - Diplomatic and consular relations and the conclusion of treaties**
The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

**Article 75 - Case of an aggressor State**
The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

**PART VII - DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION**

**Article 76 - Depositaries of treaties**
1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.
2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter’s functions shall not affect that obligation.
Article 77 - Functions of depositaries
1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:
   a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
   b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;
   c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
   d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;
   e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
   f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;
   g) registering the treaty with the Secretariat of the United Nations;
   h) performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter’s functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

Article 78 - Notifications and communications
Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:
   a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;
   b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;
   c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph 1.

Article 79 - Correction of errors in texts or in certified copies of treaties
1. Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:
   a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives;
   b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or
c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.

2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:
   a) objection has been raised, the depositary shall make and initial the correction in the text and shall execute a proces-verbal of the rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;
   b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.

3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text ab initio, unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a proces-verbal specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

**Article 80 - Registration and publication of treaties**

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

**PART VIII - FINAL PROVISIONS**

**Article 81 - Signature**

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

**Article 82 - Ratification**

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

**Article 83 - Accession**

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.
Article 84 - Entry into force
1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85 - Authentic texts
The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.
DONE at Vienna, this twenty-third day of May, one thousand nine hundred and sixty-nine.

ANNEX TO THE VIENNA CONVENTION ON THE LAW OF TREATIES

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.
2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:
The State or States constituting one of the parties to the dispute shall appoint:
   a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and
   b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.
The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.
The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.
If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.
Any vacancy shall be filled in the manner prescribed for the initial appointment.
3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in
writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.
5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.
6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.
7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.
1.5 Arab Charter on Human Rights (1994)

The Governments of the member States of the League of Arab States Preamble Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirmed its right to a life of dignity based on freedom, justice and peace.

Pursuant to the eternal principles of brotherhood and equality among all human beings which were firmly established by the Islamic Shari’a and the other divinely-revealed religions,

Being proud of the humanitarian values and principles which it firmly established in the course of its long history and which played a major role in disseminating centres of learning between the East and the West, thereby making it an international focal point for seekers of knowledge, culture and wisdom, Conscious of the fact that the entire Arab World has always worked together to preserve its faith, believing in its unity, struggling to protect its freedom, defending the right of nations to self-determination and to safeguard their resources, believing in the rule of law and that every individual’s enjoyment of freedom, justice and equality of opportunity is the yardstick by which the merits of any society are gauged,

Rejecting racism and Zionism, which constitute a violation of human rights and pose a threat to world peace,

Acknowledging the close interrelationship between human rights and world peace, Reaffirming the principles of the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam

In confirmation of all the above, have agreed as follows:

Part I
Article 1
a) All peoples have the right of self- determination and control over their natural wealth and resources and, accordingly, have the right to freely determine the form of their political structure and to freely pursue their economic, social and cultural development.

b) Racism, Zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.

Part II

Article 2
Each State Party to the present Charter undertakes to ensure to all individuals within its territory and subject to its Jurisdiction the right to enjoy all the rights and freedoms recognized herein, without any distinction on grounds of race, colour, sex, language, religion, political opinion,
national or social origin, property, birth or other status and without any discrimination between men and women.

**Article 3**

a) No restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Charter in virtue of law, conventions or custom shall be admitted on the pretext that the present Charter does not recognize such rights or that it recognizes them to a lesser extent.

b) No State Party to the present Charter shall derogate from the fundamental freedoms recognized herein and which are enjoyed by the nationals of another State that shows less respect for those freedom.

**Article 4**

a) No restrictions shall be placed on the rights and freedoms recognized in the present Charter except where such is provided by law and deemed necessary to protect the national security and economy, public order, health or morals or the rights and freedoms of others.

b) In time of public emergency which threatens the life of the nation, the States Parties may take measures derogating from their obligations under the present Charter to the extent strictly required by the exigencies of the situation.

c) Such measures or derogations shall under no circumstances affect or apply to the rights and special guarantees concerning the prohibition of torture and degrading treatment, return to one's country, political asylum, trial, the inadmissibility of re-trial for the same act, and the legal status of crime and punishment.

**Article 5**

Every individual has the right to life, liberty and security of person. These rights shall be protected by law.

**Article 6**

There shall be no crime or punishment except as provided by law and there shall be no punishment in respect of an act preceding the promulgation of that provision. The accused shall benefit from subsequent legislation if it is in his favour.

**Article 7**

The accused shall be presumed innocent until proved guilty at a lawful trial in which he has enjoyed the guarantees necessary for his defence.

**Article 8**

Everyone has the right to liberty and security of person and no one shall be arrested, held in custody or detained without a legal warrant and without being brought promptly before a judge.

**Article 9**

All persons are equal before the law and everyone within the territory of the State has a guaranteed right to legal remedy.
Article 10
The death penalty may be imposed only for the most serious crimes and anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

Article 11
The death penalty shall under no circumstances be imposed for a political offence.

Article 12
The death penalty shall not be inflicted on a person under 18 years of age, on a pregnant woman prior to her delivery or on a nursing mother within two years from the date on which she gave birth.

Article 13
a) The States parties shall protect every person in their territory from being subjected to physical or mental torture or cruel, inhuman or degrading treatment. They shall take effective measures to prevent such acts and shall regard the practice thereof, or participation therein, as a punishable offence.
b) No medical or scientific experimentation shall be carried out on any person without his free consent.

Article 14
No one shall be imprisoned on the ground of his proven inability to meet a debt or fulfil any civil obligation.

Article 15
Persons sentenced to a penalty of deprivation of liberty shall be treated with humanity.

Article 16
a) No one shall be tried twice for the same offence.
b) Anyone against whom such proceedings are brought shall have the right to challenge their legality and to demand his release.
c) Anyone who is the victim of unlawful arrest or detention shall be entitled to compensation.

Article 17
a) Privacy shall be inviolable and any infringement thereof shall constitute an offence.
b) This privacy includes private family affairs, the inviolability of the home and the confidentiality of correspondence and other private means of communication.

Article 18
Everyone shall have the inherent right to recognition as a person before the law.

Article 19
The people are the source of authority and every citizen of full legal age shall have the right of political participation, which he shall exercise in accordance with the law.
Article 20
Every individual residing within the territory of a State shall have the right to liberty of movement and freedom to choose his place of residence in any part of the said territory, within the limits of the law.

Article 21
No citizen shall be arbitrarily or unlawfully prevented from leaving any Arab country, including his own, nor prohibited from re-siding, or compelled to reside, in any part of his country.

Article 22
No citizen shall be expelled from his country or prevented from returning thereto.

Article 23
Every citizen shall have the right to seek political asylum in other countries in order to escape persecution. This right shall not be enjoyed by persons facing prosecution for an offence under the ordinary law. Political refugees shall not be extraditable.

Article 24
No citizen shall be arbitrarily deprived of his original nationality, nor shall his right to acquire another nationality be denied without a legally valid reason.

Article 25
Every citizen has a guaranteed right to own private property. No citizen shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner.

Article 26
Everyone has a guaranteed right to freedom of belief, thought and opinion.

Article 27
Adherents of every religion have the right to practise their religious observances and to manifest their views through expression, practice or teaching, without prejudice to the rights of others. No restrictions shall be imposed on the exercise of freedom of belief, thought and opinion except as provided by law.

Article 28
All citizens have the right to freedom of peaceful assembly and association. No restrictions shall be placed on the exercise of this right unless so required by the exigencies of national security, public safety or the need to protect the rights and freedoms of others.

Article 29
The State guarantees the right to form trade unions and the right to strike within the limits laid down by law.
Article 30
The State guarantees every citizen’s right to work in order to secure for himself a standard of living that meets the basic requirements of life. The State also guarantees every citizen’s right to comprehensive social security.

Article 31
Free choice of work is guaranteed and forced labour is prohibited. Compelling a person to perform work under the terms of a court judgement shall not be deemed to constitute forced labour.

Article 32
The State shall ensure that its citizens enjoy equality of opportunity in regard to work, as well as a fair wage and equal remuneration for work of equal value.

Article 33
Every citizen shall have the right of access to public office in his country.

Article 34
The eradication of illiteracy is a binding obligation and every citizen has a right to education. Primary education, at the very least, shall be compulsory and free and both secondary and university education shall be made easily accessible to all.

Article 35
Citizens have a right to live in an intellectual and cultural environment in which Arab nationalism is a source of pride, in which human rights are sanctified and in which racial, religious and other forms of discrimination are rejected and international cooperation and the cause of world peace are supported.

Article 36
Everyone has the right to participate in cultural life, as well as the right to enjoy literary and artistic works and to be given opportunities to develop his artistic, intellectual and creative talents.

Article 37
Minorities shall not be deprived of their right to enjoy their culture or to follow the teachings of their religions.

Article 38
The family is the basic unit of society; whose protection it shall enjoy.

The State undertakes to provide outstanding care and special protection for the family, mothers, children and the aged.

Article 39
Young persons have the right to be afforded the most ample opportunities for physical and mental development.
Part III

Article 40
a) The States members of the League’s Council which are parties to the Charter shall elect a Committee of Experts on Human Rights by secret ballot.
b) The Committee shall consist of seven members nominated by the member States Parties to the Charter. The initial elections to the Committee shall be held six months after the Charter’s entry into force. The Committee shall not include more than one person from the same State.
c) The Secretary-General shall request the member States to submit their candidates two months before the scheduled date of the elections.
d) The candidates, who must be highly experienced and competent in the Committee’s field of work, shall serve in their personal capacity with full impartiality and integrity.
e) The Committee’s members shall be elected for a three-year term which, in the case of three of them, shall be renewable for one further term, their names being selected by lot. The principle of rotation shall be observed as far as possible.
f) The Committee shall elect its chairman and shall draw up its rules of procedure specifying its method of operation.
g) Meetings of the Committee shall be convened by the Secretary-General at the Headquarters of the League’s Secretariat. With the Secretary-General’s approval, the Committee may also meet in another Arab country if the exigencies of its work so require.

Article 41
1. The States Parties shall submit reports to the Committee of Experts on Human Rights in the following manner:
   a) An initial report one year after the date of the Charter’s entry into force.
   b) Periodic reports every three years.
   c) Reports containing the replies of States to the Committee’s questions.
   d) The Committee shall consider the reports submitted by the member States Parties to the Charter in accordance with the provisions of paragraph 1 of this article.
2. The Committee shall submit a report, together with the views and comments of the States, to the Standing Committee on Human Rights at the Arab League.

Part IV

Article 42
a) The Secretary-General of the League of Arab States shall submit the present Charter, after its approval by the Council of the League, to the member States for signature and ratification or accession.
b) The present Charter shall enter into effect two months after the date of deposit of the seventh instrument of ratification or accession with the Secretariat of the League of Arab States.
Article 43
Following its entry into force, the present Charter shall become binding on each State two months after the date of the deposit of Its instrument of ratification or accession with the Secretariat. The Secretary-General shall notify the member States of the deposit of each instrument of ratification or accession.

Part 2  International Treaties and Conventions
2.1 Convention on the Prevention and Punishment of the Crime of Genocide (1951)


**Article 1**
The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

**Article 2**
In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious 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;
   e) Forcibly transferring children of the group to another group.

**Article 3**
The following acts shall be punishable:
   a) Genocide;
   b) Conspiracy to commit genocide;
   c) Direct and public incitement to commit genocide;
   d) Attempt to commit genocide;
   e) Complicity in genocide.

**Article 4**
Persons committing genocide or any of the other acts enumerated in Article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

**Article 5**
The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article 3.

**Article 6**
Persons charged with genocide or any of the other acts enumerated in Article 3 shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.
Article 7
Genocide and the other acts enumerated in Article 3 shall not be considered as political crimes for the purpose of extradition.
The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article 8
Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article 3.

Article 9
Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in Article 3, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article 10
The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article 11
The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 12
Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article 13
On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a proces-verbal and transmit a copy of it to each Member of the United Nations and to each of the non-member States contemplated in Article 11. The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.
Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

**Article 14**
The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.
It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.
Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

**Article 15**
If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

**Article 16**
A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.
The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

**Article 17**
The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article 11 of the following:
   a) Signatures, ratifications and accessions received in accordance with Article 11;
   b) Notifications received in accordance with Article 12;
   c) The date upon which the present Convention comes into force in accordance with Article 13;
   d) Denunciations received in accordance with Article 14;
   e) The abrogation of the Convention in accordance with Article 15;
   f) Notifications received in accordance with Article 16.

**Article 18**
The original of the present Convention shall be deposited in the archives of the United Nations.
A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States contemplated in Article 11.

**Article 19**
The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.
2.2 **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)**

Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987, in accordance with article 27 (1)

The States Parties to this Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that those rights derive from the inherent dignity of the human person, Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms, Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975, Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

**PART I**

**Article 1**

1. For the purposes of this Convention, the term “torture” means 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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. 2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

**Article 2**

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.  
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.  
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.
Article 3
1. No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4
1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5
1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
   a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
   b) When the alleged offender is a national of that State;
   c) When the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6
1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.
Article 7
1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8
1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9
1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph I of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10
1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11
Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.
Article 12
Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13
Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14
1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15
Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16
1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17
1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
   a) Six members shall constitute a quorum;
   b) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.
Article 19
1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20
1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the cooperation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the cooperation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21
1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee...
under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;

a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

d) The Committee shall hold closed meetings when examining communications under this article;

e) Subject to the provisions of subparagraph (e), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further
communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

**Article 22**

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned. 5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

   a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

   b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

**Article 23**

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.
Article 24
The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25
1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26
This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.

Article 27
1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28
1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph I of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29
1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph I of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.
Article 30
1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by paragraph I of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31
1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32
The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:
   a) Signatures, ratifications and accessions under articles 25 and 26;
   b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
   c) Denunciations under article 31.

Article 33
1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.
2.3 International Covenant on Civil and Political Rights (1966)

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.
PART II

Article 2
1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
   a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
   b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
   c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3
The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4
1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5
1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6
1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 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.

Article 8
1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
   a) No one shall be required to perform forced or compulsory labour;
   b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
   c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
      (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
      (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
(iv) Any work or service which forms part of normal civil obligations.

Article 9
1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10
1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. 
   a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
   b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11
No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12
1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.
Article 13
An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14
1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
   a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
   b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
   c) To be tried without undue delay;
   d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
   e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
   f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
   g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated.
according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15
1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16
Everyone shall have the right to recognition everywhere as a person before the law.

Article 17
1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18
1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19
1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
   a) For respect of the rights or reputations of others;
   b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20
1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21
The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22
1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23
1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24
1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

**Article 25**

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

c) To have access, on general terms of equality, to public service in his country.

**Article 26**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**Article 27**

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

**PART IV**

**Article 28**

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

**Article 29**

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.
**Article 30**
1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

**Article 31**
1. The Committee may not include more than one national of the same State. 2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

**Article 32**
1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4. 2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

**Article 33**
1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

**Article 34**
1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.
2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35
The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee’s responsibilities.

Article 36
The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37
1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

Article 38
Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39
1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
   a) Twelve members shall constitute a quorum;
   b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40
1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
   a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
   b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

d) The Committee shall hold closed meetings when examining communications under this article;

e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant

f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
Article 41

1. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

j) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph I of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.
6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

   a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

   b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

   c) A solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

   d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

**Article 43**

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

**Article 44**

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

**Article 45**

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.
PART V

Article 46
Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47
Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48
1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49
1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50
The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51
1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the
purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52
1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:
   a) Signatures, ratifications and accessions under article 48;
   b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53
1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.
2.4 Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

Part I. General Provisions

Article 1
The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2
In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3
In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1) 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 any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
   a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
   b) taking of hostages;
   c) outrages upon personal dignity, in particular humiliating and degrading treatment;
   d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
(2) The wounded and sick shall be collected and cared for.
An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.
The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4
Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.
Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a cobelligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are. The provisions of Part II are, however, wider in application, as defined in Article 13.
Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, shall not be considered as protected persons within the meaning of the present Convention.

Article 5
Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.
Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.
In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 6
The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.
In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

**Article 7**

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, not restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

**Article 8**

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

**Article 9.**

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention.

They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

**Article 10**

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.
Article 11
The High Contracting Parties may at any time agree to entrust to an international organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation.

Article 12
In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.
Part II. General Protection of Populations Against Certain Consequences of War

Article 13
The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Article 14.
In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven. Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary. The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Article 15
Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:
   a) wounded and sick combatants or non-combatants;
   b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.
When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Article 16
The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect. As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Article 17
The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.
Article 18
Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict. States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19. Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, but only if so authorized by the State. The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action. In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Article 19
The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants and not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Article 20
Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected. In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949. Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed. The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Article 21
Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the
same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Article 22
Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Unless agreed otherwise, flights over enemy or enemy occupied territory are prohibited. Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Article 23
Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- a) that the consignments may be diverted from their destination,
- b) that the control may not be effective, or
- c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers. Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24
The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.
The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph. They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

**Article 25**

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

**Article 26**

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

**Part III. Status and Treatment of Protected Persons**

**Section I. Provisions common to the territories of the parties to the conflict and to occupied Territories**

**Article 27**

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.
Article 28
The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 29
The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 30
Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them. These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations. Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate, as much as possible, visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Article 31
No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32
The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Article 33
No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.

Article 34
The taking of hostages is prohibited.
Section II. Aliens in the territory of a party to the conflict

Article 35
All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use. If any such person is refused permission to leave the territory, he shall be entitled to have refusal reconsidered, as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 36
Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned. The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Article 37
Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated. As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Article 38
With the exception of special measures authorized by the present Convention, in particularly by Article 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:
(1) they shall be enabled to receive the individual or collective relief that may be sent to them.
(2) they shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
(3) they shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
(4) if they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.

(5) children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Article 39
Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.
Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.
Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

Article 40
Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.
If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.
In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.

Article 41
Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43.
In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

Article 42
The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary. If any person, acting through the
representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

**Article 43**

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

**Article 44**

In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

**Article 45**

Protected persons shall not be transferred to a Power which is not a party to the Convention. This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs. The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

**Article 46**

In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.

Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.
Section III. Occupied territories

Article 47
Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 48
Protected persons who are not nationals of the Power whose territory is occupied, may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Article 49
Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.
Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement.
Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.
The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.
The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.
The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.
The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Article 50
The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.
The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.
Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality,
language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

**Article 51**

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

**Article 52**

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

**Article 53**

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.
**Article 54**
The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.
This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

**Article 55**
To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account.
Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.
The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

**Article 56**
To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

**Article 57**
The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.
The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

**Article 58**
The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.
The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

**Article 59**
If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.
Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.
All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.
A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

**Article 60**
Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

**Article 61**
The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.
Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.
All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

**Article 62**
Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.
Article 63
Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;

b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.

Article 64
The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.

Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Article 65
The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Article 66
In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64 the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

Article 67
The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. They shall take into consideration the fact the accused is not a national of the Occupying Power.
Article 68
Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty against a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence.

Article 69
In all cases the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment of awarded.

Article 70
Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Article 71
No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings.
Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

   a) description of the accused;
   b) place of residence or detention;
   c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
   d) designation of the court which will hear the case;
   e) place and date of the first hearing.

**Article 72**

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

**Article 73**

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

**Article 74**

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held in camera in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgement involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71 and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of
judgements other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment of two years or more, shall not run until notification of judgement has been received by the Protecting Power.

**Article 75**
In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

**Article 76**
Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health. They shall also have the right to receive any spiritual assistance which they may require. Women shall be confined in separate quarters and shall be under the direct supervision of women. Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article 143. Such persons shall have the right to receive at least one relief parcel monthly.

**Article 77**
Protected persons who have been accused of offences or convicted by the courts in occupied territory, shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

**Article 78**
If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.
Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.
CHAPTER II Wounded and Sick

Article 12
Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances. They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created. Only urgent medical reasons will authorize priority in the order of treatment to be administered. Women shall be treated with all consideration due to their sex. The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care.

Article 13
The Present Convention shall apply to the wounded and sick belonging to the following categories:
1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.
2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:
   a) that of being commanded by a person responsible for his subordinates;
   b) that of having a fixed distinctive sign recognizable at a distance;
   c) that of carrying arms openly;
   d) that of conducting their operations in accordance with the laws and customs of war.
3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power. Protection and care Protected persons
4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.
5) Members of crews including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions in international law.
6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Article 14
Subject to the provisions of Article 12, the wounded and sick of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them.

Article 15
At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled. Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield. Likewise, local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

Article 16
Parties to the conflict shall record as soon as possible, in respect of each wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification. These records should if possible include:
- designation of the Power on which he depends;
- army, regimental, personal or serial number;
- surname;
- first name or names; Search for casualties. Evacuation Status Recording and forwarding of information
- date of birth;
- any other particulars shown on his identity card or disc;
- date and place of capture or death;
- particulars concerning wounds or illness, or cause of death. As soon as possible the above mentioned information shall be forwarded to the Information Bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency. Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of a double identity disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel.
Article 17
Parties to the conflict shall ensure that burial or cremation of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. One half of the double identity disc, or the identity disc itself if it is a single disc, should remain on the body. Bodies shall not be cremated except for imperative reasons of hygiene or for motives based on the religion of the deceased. In case of cremation, the circumstances and reasons for cremation shall be stated in detail in the death certificate or on the authenticated list of the dead. They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they may always be found. For this purpose, they shall organize at the commencement of hostilities an Official Graves Registration Service, to allow subsequent exhumations and to ensure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country. These provisions shall likewise apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country. Prescriptions regarding the dead. Graves Registration Service. As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the second paragraph of Article 16, lists showing the exact location and markings of the graves together with particulars of the dead interred therein.

Article 18 The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, it shall likewise grant these persons the same protection and the same facilities. The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence. No one may ever be molested or convicted for having nursed the wounded or sick. The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

CHAPTER III Medical Units and Establishments

Article 19
Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units. The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

Article 20
Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12,
1949, shall not be attacked from the land. Role of the population Protection Protection of hospital ships. The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after a due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded.

Article 22
The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article 19:
1. That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.
2. That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.
3. That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit or establishment.
4. That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.
5. That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

Article 23
In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties to the conflict, may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled. Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary. The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities. Conditions not depriving medical units and establishments of protection Hospital zones and localities Discontinuance of protection of medical establishments and units.

CHAPTER IV Personnel

Article 24
Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.
Article 25
Members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick shall likewise be respected and protected if they are carrying out these duties at the time when they come into contact with the enemy or fall into his hands.

Article 26
The staff of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 24, are placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations. Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces.

Article 27
A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own Government and the authorization of the Party to the conflict concerned. That personnel and those units shall be placed under the control of that Party to the conflict. The neutral Government shall notify this consent to the adversary of the State which accepts such assistance. The Party to the conflict who accepts such assistance is bound to notify the adverse Party thereof before making any use of it. In no circumstances shall this assistance be considered as interference in the conflict. Protection of permanent personnel Protection of auxiliary personnel Personnel of aid societies Societies of neutral countries. The members of the personnel named in the first paragraph shall be duly furnished with the identity cards provided for in Article 40 before leaving the neutral country to which they belong.

Article 28
Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require. Personnel thus retained shall not be deemed prisoners of war. Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:
- They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.
- In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer, and the
chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions. c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties. During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief. None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war. Retained personnel.

Article 29
Members of the personnel designated in Article 25 who have fallen into the hands of the enemy, shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises.

Article 30
Personnel whose retention is not indispensable by virtue of the provisions of Article 28 shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit. Pending their return, they shall not be deemed prisoners of war. Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong. On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

Article 31
The selection of personnel for return under Article 30 shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health. As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

Article 32
Persons designated in Article 27 who have fallen into the hands of the adverse Party may not be detained. Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit. Pending their release, they shall continue their work under the direction of the adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were. On their departure, they shall take with them their effects, personal articles and valuables and the instruments, arms and if possible the means of transport belonging to them. Selection of personnel for return Return of medical and religious personnel Return of personnel belonging to neutral countries Status of auxiliary personnel. The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health.
CHAPTER I GENERAL PROVISIONS REGARDING PROTECTION

Article 1 – Definition of Cultural Property

For the purposes of the present Convention, the term “cultural property” shall cover, irrespective of origin or ownership:
(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
(c) centres containing a large amount of cultural property as defined in subparagraphs (a) and (b), to be known as “centres containing monuments”.

Article 2 – Protection of Cultural Property

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

Article 3 – Safeguarding of Cultural Property

The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate.

Article 4 – Respect for Cultural Property

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility, directed against such property.
2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.
3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.
4. They shall refrain from any act directed by way of reprisals against cultural property.
5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.

**Article 5 - Occupation**
1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property. 2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.
3. Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Convention dealing with respect for cultural property.

**Article 6 – Distinctive Marking of Cultural Property**
In accordance with the provisions of Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition.

**Article 7 – Military Measures**
1. The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of the present Convention, and to foster in the members of their armed forces a spirit of respect for the culture and cultural property of all peoples.
2. The High Contracting Parties undertake to plan or establish in peace-time, within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it.

**CHAPTER II SPECIAL PROTECTION**

**Article 8 – Granting of Special Protection**
1. There may be placed under special protection a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of centres containing monuments and other immovable cultural property of very great importance, provided that they:
   (a) are situated at an adequate distance from any large industrial centre or from any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defense, a port or railway station of relative importance or a main line of communication;
   (b) are not used for military purposes.
2. A refuge for movable cultural property may also be placed under special protection, whatever its location, if it is so constructed that, in all probability, it will not be damaged by bombs.
3. A centre containing monuments shall be deemed to be used for military purposes whenever it is used for the movement of military personnel or material, even in transit. The same shall apply whenever activities directly connected with military operations, the stationing of military personnel, or the production of war material are carried on within the centre.
4. The guarding of cultural property mentioned in paragraph 1 above by armed custodians specially empowered to do so, or the presence, in the vicinity of such cultural property, of police forces normally responsible for the maintenance of public order shall not be deemed to be used for military purposes.

5. If any cultural property mentioned in paragraph 1 of the present Article is situated near an important military objective as defined in the said paragraph, it may nevertheless be placed under special protection if the High Contracting Party asking for that protection undertakes, in the event of armed conflict, to make no use of the objective and particularly, in the case of a port, railway station or aerodrome, to divert all traffic therefrom. In that event, such diversion shall be prepared in time of peace.

6. Special protection is granted to cultural property by its entry in the "International Register of Cultural Property under Special Protection". This entry shall only Conflict be made, in accordance with the provisions of the present Convention and under the conditions provided for in the Regulations for the execution of the Convention.

**Article 9 – Immunity of Cultural Property under Special Protection**

The High Contracting Parties undertake to ensure the immunity of cultural property under special protection by refraining, from the time of entry in the International Register, from any act of hostility directed against such property and, except for the cases provided for in paragraph 5 of Article 8, from any use of such property or its surroundings for military purposes.

**Article 10 – Identification and Control**

During an armed conflict, cultural property under special protection shall be marked with the distinctive emblem described in Article 16, and shall be open to international control as provided for in the Regulations for the execution of the Convention.

**Article 11 – Withdrawal of Immunity**

1. If one of the High Contracting Parties commits, in respect of any item of cultural property under special protection, a violation of the obligations under Article 9, the opposing Party shall, so long as this violation persists, be released from the obligation to ensure the immunity of the property concerned. Nevertheless, whenever possible, the latter Party shall first request the cessation of such violation within a reasonable time.

2. Apart from the case provided for in paragraph 1 of the present Article, immunity shall be withdrawn from cultural property under special protection only in exceptional cases of unavoidable military necessity, and only for such time as that necessity continues. Such necessity can be established only by the officer commanding a force the equivalent of a division in size or larger. Whenever circumstances permit, the opposing Party shall be notified, a reasonable time in advance, of the decision to withdraw immunity.

3. The Party withdrawing immunity shall, as soon as possible, so inform the Commissioner-General for cultural property provided for in the Regulations for the execution of the Convention, in writing, stating the reasons.
SECOND PROTOCOL TO THE HAGUE CONVENTION OF 1954 FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT The Hague, 26 March 1999

The Parties, Conscious of the need to improve the protection of cultural property in the event of armed conflict and to establish an enhanced system of protection for specifically designated cultural property; Reaffirming the importance of the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at the Hague on 14 May 1954, and emphasizing the necessity to supplement these provisions through measures to reinforce their implementation; Desiring to provide the High Contracting Parties to the Convention with a means of being more closely involved in the protection of cultural property in the event of armed conflict by establishing appropriate procedures therefor; Considering that the rules governing the protection of cultural property in the event of armed conflict should reflect developments in international law; Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of this Protocol; Have agreed as follows:

Chapter 1 Introduction

Article 1 – Definitions
For the purposes of this Protocol:
(a) "Party" means a State Party to this Protocol;
(b) "cultural property" means cultural property as defined in Article 1 of the Convention;
(c) "Convention" means the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 14 May 1954;
(d) "High Contracting Party" means a State Party to the Convention;
(e) "enhanced protection" means the system of enhanced protection established by Articles 10 and 11;
(f) "military objective" means an object which by its nature, location, purpose, or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage;
(g) "illicit" means under compulsion or otherwise in violation of the applicable rules of the domestic law of the occupied territory or of international law;
(h) "List" means the International List of Cultural Property under Enhanced Protection established in accordance with Article 27, sub-paragraph 1(b);
(i) "Director-General" means the Director-General of UNESCO;
(j) "UNESCO" means the United Nations Educational, Scientific and Cultural Organization;

Article 2 – Relation to the Convention
This Protocol supplements the Convention in relations between the Parties.
Article 3 – Scope of application
1. In addition to the provisions which shall apply in time of peace, this Protocol shall apply in situations referred to in Article 18 paragraphs 1 and 2 of the Convention and in Article 22 paragraph 1.
2. When one of the parties to an armed conflict is not bound by this Protocol, the Parties to this Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to a State party to the conflict which is not bound by it, if the latter accepts the provisions of this Protocol and so long as it applies them.

Article 4 – Relationship between Chapter 3 and other provisions of the Convention and this Protocol
The application of the provisions of Chapter 3 of this Protocol is without prejudice to: (a) the application of the provisions of Chapter I of the Convention and of Chapter 2 of this Protocol; (b) the application of the provisions of Chapter II of the Convention save that, as between Parties to this Protocol or as between a Party and a State which accepts and applies this Protocol in accordance with Article 3 paragraph 2, where cultural property has been granted both special protection and enhanced protection, only the provisions of enhanced protection shall apply.

Chapter 2 General provisions regarding protection

Article 5 – Safeguarding of cultural property
Preparatory measures taken in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to Article 3 of the Convention shall include, as appropriate, the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate in situ protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property.

Article 6 – Respect for cultural property
With the goal of ensuring respect for cultural property in accordance with Article 4 of the Convention:
(a) a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:
   (i) that cultural property has, by its function, been made into a military objective; and
   (ii) there is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective;
(b) a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage;
(c) the decision to invoke imperative military necessity shall only be taken by an officer commanding a force the equivalent of a battalion in size or larger, or a force smaller in size where circumstances do not permit otherwise;
(d) in case of an attack based on a decision taken in accordance with subparagraph (a), an effective advance warning shall be given whenever circumstances permit.

**Article 7 – Precautions in attack**

Without prejudice to other precautions required by international humanitarian law in the conduct of military operations, each Party to the conflict shall:

(a) do everything feasible to verify that the objectives to be attacked are not cultural property protected under Article 4 of the Convention;
(b) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental damage to cultural property protected under Article 4 of the Convention;
(c) refrain from deciding to launch any attack which may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated; and
(d) cancel or suspend an attack if it becomes apparent:
   (i) that the objective is cultural property protected under Article 4 of the Convention;
   (ii) that the attack may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated.

**Article 8 – Precautions against the effects of hostilities**

The Parties to the conflict shall, to the maximum extent feasible:

(a) remove movable cultural property from the vicinity of military objectives or provide for adequate in situ protection;
(b) avoid locating military objectives near cultural property.

**Article 9 – Protection of cultural property in occupied territory**

1. Without prejudice to the provisions of Articles 4 and 5 of the Convention, a Party in occupation of the whole or part of the territory of another Party shall prohibit and prevent in relation to the occupied territory:

   (a) any illicit export, other removal or transfer of ownership of cultural property;
   (b) any archaeological excavation, save where this is strictly required to safeguard, record or preserve cultural property;
   (c) any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.

2. Any archaeological excavation of, alteration to, or change of use of, cultural property in occupied territory shall, unless circumstances do not permit, be carried out in close co-operation with the competent national authorities of the occupied territory.

**Chapter 3 Enhanced Protection**

**Article 10 – Enhanced protection**

Cultural property may be placed under enhanced protection provided that it meets the following three conditions:

(a) it is cultural heritage of the greatest importance for humanity;
(b) it is protected by adequate domestic legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection;
(c) it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming that it will not be so used.

Article 11 – The granting of enhanced protection

1. Each Party should submit to the Committee a list of cultural property for which it intends to request the granting of enhanced protection.

2. The Party which has jurisdiction or control over the cultural property may request that it be included in the List to be established in accordance with Article 27 subparagraph 1(b). This request shall include all necessary information related to the criteria mentioned in Article 10. The Committee may invite a Party to request that cultural property be included in the List.

3. Other Parties, the International Committee of the Blue Shield and other nongovernmental organisations with relevant expertise may recommend specific cultural property to the Committee. In such cases, the Committee may decide to invite a Party to request inclusion of that cultural property in the List.

4. Neither the request for inclusion of cultural property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State, nor its inclusion, shall in any way prejudice the rights of the parties to the dispute.

5. Upon receipt of a request for inclusion in the List, the Committee shall inform all Parties of the request. Parties may submit representations regarding such a request to the Committee within sixty days. These representations shall be made only on the basis of the criteria mentioned in Article 10. They shall be specific and related to facts. The Committee shall consider the representations, providing the Party requesting inclusion with a reasonable opportunity to respond before taking the decision. When such representations are before the Committee, decisions for inclusion in the List shall be taken, notwithstanding Article 26, by a majority of four-fifths of its members present and voting.

6. In deciding upon a request, the Committee should ask the advice of governmental and nongovernmental organisations, as well as of individual experts.

7. A decision to grant or deny enhanced protection may only be made on the basis of the criteria mentioned in Article 10.

8. In exceptional cases, when the Committee has concluded that the Party requesting inclusion of cultural property in the List cannot fulfil the criteria of Article 10 sub-paragraph (b), the Committee may decide to grant enhanced protection, provided that the requesting Party submits a request for international assistance under Article 32.

9. Upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee. The Committee shall transmit this request immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible and, notwithstanding Article 26, by a majority of four-fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10 sub-paragraphs (a) and (c) are met. Enhanced protection shall be granted to cultural property by the Committee from the moment of its entry in the List.

10. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties notification of any decision of the Committee to include cultural property on the List.
**Article 12 – Immunity of cultural property under enhanced protection**

The Parties to a conflict shall ensure the immunity of cultural property under enhanced protection by refraining from making such property the object of attack or from any use of the property or its immediate surroundings in support of military action.

**Article 13 – Loss of enhanced protection**

1. Cultural property under enhanced protection shall only lose such protection:
   (a) if such protection is suspended or cancelled in accordance with Article 14; or
   (b) if, and for as long as, the property has, by its use, become a military objective.

2. In the circumstances of sub-paragraph 1(b), such property may only be the object of attack if: (a) the attack is the only feasible means of terminating the use of the property referred to in sub-paragraph 1(b); (b) all feasible precautions are taken in the choice of means and methods of attack, with a view to terminating such use and avoiding, or in any event minimising, damage to the cultural property; (c) unless circumstances do not permit, due to requirements of immediate self defence: (i) the attack is ordered at the highest operational level of command; (ii) effective advance warning is issued to the opposing forces requiring the termination of the use referred to in sub-paragraph 1(b); and (iii) reasonable time is given to the opposing forces to redress the situation.

**Article 14 – Suspension and cancellation of enhanced protection**

1. Where cultural property no longer meets any one of the criteria in Article 10 of this Protocol, the Committee may suspend its enhanced protection status or cancel that status by removing that cultural property from the List.

2. In the case of a serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action, the Committee may suspend its enhanced protection status. Where such violations are continuous, the Committee may exceptionally cancel the enhanced protection status by removing the cultural property from the List.

3. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties to this Protocol notification of any decision of the Committee to suspend or cancel the enhanced protection of cultural property.

4. Before taking such a decision, the Committee shall afford an opportunity to the Parties to make their views known.

**Chapter 4 Criminal responsibility and jurisdiction**

**Article 15 – Serious violations of this Protocol**

1. Any person commits an offence within the meaning of this Protocol if that person intentionally and in violation of the Convention or this Protocol commits any of the following acts: (a) making cultural property under enhanced protection the object of attack; (b) using cultural property under enhanced protection or its immediate surroundings in support of military action; (c) extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
(d) making cultural property protected under the Convention and this Protocol the object of attack;
(e) theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.

2. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law the offences set forth in this Article and to make such offences punishable by appropriate penalties. When doing so, Parties shall comply with general principles of law and international law, including the rules extending individual criminal responsibility to persons other than those who directly commit the act.

Article 16 – Jurisdiction
1. Without prejudice to paragraph 2, each Party shall take the necessary legislative measures to establish its jurisdiction over offences set forth in Article 15 in the following cases:
   (a) when such an offence is committed in the territory of that State;
   (b) when the alleged offender is a national of that State;
   (c) in the case of offences set forth in Article 15 sub-paragraphs (a) to (c), when the alleged offender is present in its territory.

2. With respect to the exercise of jurisdiction and without prejudice to Article 28 of the Convention:
   (a) this Protocol does not preclude the incurring of individual criminal responsibility or the exercise of jurisdiction under national and international law that may be applicable, or affect the exercise of jurisdiction under customary international law;
   (b) except in so far as a State which is not Party to this Protocol may accept and apply its provisions in accordance with Article 3 paragraph 2, members of the armed forces and nationals of a State which is not Party to this Protocol, except for those nationals serving in the armed forces of a State which is a Party to this Protocol, do not incur individual criminal responsibility by virtue of this Protocol, nor does this Protocol impose an obligation to establish jurisdiction over such persons or to extradite them.

Article 17 – Prosecution
1. The Party in whose territory the alleged offender of an offence set forth in Article 15 sub-paragraphs 1 (a) to (c) is found to be present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with its domestic law or with, if applicable, the relevant rules of international law.

2. Without prejudice to, if applicable, the relevant rules of international law, any person regarding whom proceedings are being carried out in connection with the Convention or this Protocol shall be guaranteed fair treatment and a fair trial in accordance with domestic law and international law at all stages of the proceedings, and in no cases shall be provided guarantees less favourable to such person than those provided by international law.

Article 18 – Extradition
1. The offences set forth in Article 15 sub-paragraphs 1 (a) to (c) shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Protocol. Parties undertake to include such offences in every extradition treaty to be subsequently concluded between them.
2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, at its option, consider the present Protocol as the legal basis for extradition in respect of offences as set forth in Article 15 sub-paragraphs 1 (a) to (c).

3. Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in Article 15 sub-paragraphs 1 (a) to (c) as extraditable offences between them, subject to the conditions provided by the law of the requested Party.

4. If necessary, offences set forth in Article 15 sub-paragraphs 1 (a) to (c) shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 16 paragraph 1.

Article 19 – Mutual legal assistance
1. Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 15, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, Parties shall afford one another assistance in accordance with their domestic law.

Article 20 – Grounds for refusal
1. For the purpose of extradition, offences set forth in Article 15 subparagraphs 1 (a) to (c), and for the purpose of mutual legal assistance, offences set forth in Article 15 shall not be regarded as political offences nor as offences connected with political offences nor as offences inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such offences may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Protocol shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested Party has substantial grounds for believing that the request for extradition for offences set forth in Article 15 sub-paragraphs 1 (a) to (c) or for mutual legal assistance with respect to offences set forth in Article 15 has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 21 – Measures regarding other violations
Without prejudice to Article 28 of the Convention, each Party shall adopt such legislative, administrative or disciplinary measures as may be necessary to suppress the following acts when committed intentionally:
(a) any use of cultural property in violation of the Convention or this Protocol;
(b) any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the Convention or this Protocol.
Chapter 5 The protection of cultural property in armed conflicts not of an international character

Article 22 – Armed conflicts not of an international character
1. This Protocol shall apply in the event of an armed conflict not of an international character, occurring within the territory of one of the Parties.
2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature.
3. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
4. Nothing in this Protocol shall prejudice the primary jurisdiction of a Party in whose territory an armed conflict not of an international character occurs over the violations set forth in Article 15.
5. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the Party in the territory of which that conflict occurs.
6. The application of this Protocol to the situation referred to in paragraph 1 shall not affect the legal status of the parties to the conflict.
7. UNESCO may offer its services to the parties to the conflict.
PREAMBLE

The High Contracting Parties,

Proclaiming their earnest wish to see peace prevail among peoples,
Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Believing it necessary nevertheless to reaffirm and develop the provisions protecting the victims of armed conflicts and to supplement measures intended to reinforce their application,

Expressing their conviction that nothing in this Protocol or in the Geneva Conventions of 12 August 1949 can be construed as legitimizing or authorizing any act of aggression or any other use of force inconsistent with the Charter of the United Nations,

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict,

Have agreed on the following:

PART I

GENERAL PROVISIONS

Article 1 – General principles and scope of application
1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.
2. In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience.

3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.
4. The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the
exercise of their right of self-determination, as enshrined in the Charter of the United Nations and
the Declaration on Principles of International Law concerning Friendly Relations and Co-operation
among States in accordance with the Charter of the United Nations.

Article 2 — Definitions
For the purposes of this Protocol:

a) "First Convention", "Second Convention", "Third Convention" and "Fourth Convention" mean, respectively, the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949; the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949; "the Conventions" means the four Geneva Conventions of 12 August 1949 for the protection of war victims;

b) "rules of international law applicable in armed conflict" means the rules applicable in armed conflict set forth in international agreements to which the Parties to the conflict are Parties and the generally recognized principles and rules of international law which are applicable to armed conflict;

c) "Protecting Power" means a neutral or other State not a Party to the conflict which has been designated by a Party to the conflict and accepted by the adverse Party and has agreed to carry out the functions assigned to a Protecting Power under the Conventions and this Protocol;

d) "substitute" means an organization acting in place of a Protecting Power in accordance with Article 5.

Article 3 — Beginning and end of application
Without prejudice to the provisions which are applicable at all times:

a) the Conventions and this Protocol shall apply from the beginning of any situation referred to in Article 1 of this Protocol;

b) the application of the Conventions and of this Protocol shall cease, in the territory of Parties to the conflict, on the general close of military operations and, in the case of occupied territories, on the termination of the occupation, except, in either circumstance, for those persons whose final release, repatriation or re-establishment takes place thereafter. These persons shall continue to benefit from the relevant provisions of the Conventions and of this Protocol until their final release, repatriation or re-establishment.

Article 4 — Legal status of the Parties to the conflict
The application of the Conventions and of this Protocol, as well as the conclusion of the agreements provided for therein, shall not affect the legal status of the Parties to the conflict. Neither the occupation of a territory nor the application of the Conventions and this Protocol shall affect the legal status of the territory in question.

Article 5 — Appointment of Protecting Powers and of their substitute
1. It is the duty of the Parties to a conflict from the beginning of that conflict to secure the supervision and implementation of the Conventions and of this Protocol by the application of the system of Protecting Powers, including inter alia the designation and acceptance of those Powers,
in accordance with the following paragraphs. Protecting Powers shall have the duty of safeguarding the interests of the Parties to the conflict.

2. From the beginning of a situation referred to in Article 1, each Party to the conflict shall without delay designate a Protecting Power for the purpose of applying the Conventions and this Protocol and shall, likewise without delay and for the same purpose, permit the activities of a Protecting Power which has been accepted by it as such after designation by the adverse Party.

3. If a Protecting Power has not been designated or accepted from the beginning of a situation referred to in Article 1, the International Committee of the Red Cross, without prejudice to the right of any other impartial humanitarian organization to do likewise, shall offer its good offices to the Parties to the conflict with a view to the designation without delay of a Protecting Power to which the Parties to the conflict consent. For that purpose it may, inter alia, ask each Party to provide it with a list of at least five States which that Party considers acceptable to act as Protecting Power on its behalf in relation to an adverse Party, and ask each adverse Party to provide a list of at least five States which it would accept as the Protecting Power of the first Party; these lists shall be communicated to the Committee within two weeks after the receipt of the request; it shall compare them and seek the agreement of any proposed State named on both lists.

4. If, despite the foregoing, there is no Protecting Power, the Parties to the conflict shall accept without delay an offer which may be made by the International Committee of the Red Cross or by any other organization which offers all guarantees of impartiality and efficacy, after due consultations with the said Parties and taking into account the result of these consultations, to act as a substitute. The functioning of such a substitute is subject to the consent of the Parties to the conflict; every effort shall be made by the Parties to the conflict to facilitate the operations of the substitute in the performance of its tasks under the Conventions and this Protocol.

5. In accordance with Article 4, the designation and acceptance of Protecting Powers for the purpose of applying the Conventions and this Protocol shall not affect the legal status of the Parties to the conflict or of any territory, including occupied territory.

6. The maintenance of diplomatic relations between Parties to the conflict or the entrusting of the protection of a Party's interests and those of its nationals to a third State in accordance with the rules of international law relating to diplomatic relations is no obstacle to the designation of Protecting Powers for the purpose of applying the Conventions and this Protocol.

7. Any subsequent mention in this Protocol of a Protecting Power includes also a substitute.

**Article 6 — Qualified persons**

1. The High Contracting Parties shall, also in peacetime, endeavour, with the assistance of the national Red Cross (Red Crescent, Red Lion and Sun) Societies, to train qualified personnel to facilitate the application of the Conventions and of this Protocol, and in particular the activities of the Protecting Powers.

2. The recruitment and training of such personnel are within domestic jurisdiction.

3. The International Committee of the Red Cross shall hold at the disposal of the High Contracting Parties the lists of persons so trained which the High Contracting Parties may have established and may have transmitted to it for that purpose.

4. The conditions governing the employment of such personnel outside the national territory shall, in each case, be the subject of special agreements between the Parties concerned.
Article 7 – Meetings
The depositary of this Protocol shall convene a meeting of the High Contracting Parties, at the
request of one or more of the said Parties and upon the approval of the majority of the said
Parties, to consider general problems concerning the application of the Conventions and of the
Protocol.

PART II

WOUNDED, SICK AND SHIPWRECKED

SECTION I - GENERAL PROTECTION

Article 8 – Terminology
For the purposes of this Protocol:

a) “wounded” and “sick” mean persons, whether military or civilian, who, because of trauma,
disease or other physical or mental disorder or disability, are in need of medical assistance
or care and who refrain from any act of hostility. These terms also cover maternity cases,
new-born babies and other persons who may be in need of immediate medical assistance
or care, such as the infirm or expectant mothers, and who refrain from any act of hostility;

b) “shipwrecked” means persons, whether military or civilian, who are in peril at sea or in
other waters as a result of misfortune affecting them or the vessel or aircraft carrying
them and who refrain from any act of hostility. These persons, provided that they continue
to refrain from any act of hostility, shall continue to be considered shipwrecked during
their rescue until they acquire another status under the Conventions or this Protocol;

c) “medical personnel” means those persons assigned, by a Party to the conflict, exclusively
to the medical purposes enumerated under sub-paragraph e) or to the administration of
medical units or to the operation or administration of medical transports. Such
assignments may be either permanent or temporary. The term includes:

I. medical personnel of a Party to the conflict, whether military or civilian, including
   those described in the First and Second Conventions, and those assigned to civil
defence organizations;

II. medical personnel of national Red Cross (Red Crescent, Red Lion and Sun)
   Societies and other national voluntary aid societies duly recognized and authorized
   by a Party to the conflict;

III. medical personnel of medical units or medical transports described in Article 9,
    paragraph 2;

d) “religious personnel” means military or civilian persons, such as chaplains, who are
   exclusively engaged in the work of their ministry and attached:

I. to the armed forces of a Party to the conflict;

II. to medical units or medical transports of a Party to the conflict;

III. to medical units or medical transports described in Article 9, paragraph 2; orto civil
defence organizations of a Party to the conflict.

The attachment of religious personnel may be either permanent ortemporary, and the relevant
provisions mentioned under sub-paragraph k) apply to them;

e) “medical units” means establishments and other units, whether military or civilian,
organized for medical purposes, namely the search for, collection, transportation, diagnosis
or treatment — including first-aid treatment — of the wounded, sick and shipwrecked, or for the prevention of disease. The term includes, for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such units. Medical units may be fixed or mobile, permanent or temporary;

f) "medical transportation" means the conveyance by land, water or air of the wounded, sick, shipwrecked, medical personnel, religious personnel, medical equipment or medical supplies protected by the Conventions and by this Protocol;

g) "medical transports" means any means of transportation, whether military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a competent authority of a Party to the conflict;

h) "medical vehicles" means any medical transports by land;

i) "medical ships and craft" means any medical transports by water;

j) "medical aircraft" means any medical transports by air;

k) "permanent medical personnel", "permanent medical units" and "permanent medical transports" mean those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical personnel," "temporary medical units" and "temporary medical transports" mean those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical personnel", "medical units" and "medical transports" cover both permanent and temporary categories;

l) "distinctive emblem" means the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies;

m) "distinctive signal" means any signal or message specified for the identification exclusively of medical units or transports in Chapter III of Annex I to this Protocol.

**Article 9 — Field of application**

1. This Part, the provisions of which are intended to ameliorate the condition of the wounded, sick and shipwrecked, shall apply to all those affected by a situation referred to in Article 1, without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria.

2. The relevant provisions of Articles 27 and 32 of the First Convention shall apply to permanent medical units and transports (other than hospital ships, to which Article 25 of the Second Convention applies) and their personnel made available to a Party to the conflict for humanitarian purposes:
   a) by a neutral or other State which is not a Party to that conflict;
   b) by a recognized and authorized aid society of such a State;
   c) by an impartial international humanitarian organization.

**Article 10 — Protection and care**

1. All the wounded, sick and shipwrecked, to whichever Party they belong, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.
Article 11 — Protection of persons
1. The physical or mental health and integrity of persons who are in the power of the adverse Party or who are interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1 shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the Party conducting the procedure and who are in no way deprived of liberty.
2. It is, in particular, prohibited to carry out on such persons, even with their consent:
   a) physical mutilations;
   b) medical or scientific experiments;
   c) removal of tissue or organs for transplantation, except where these acts are justified in conformity with the conditions provided for in paragraph 1.
3. Exceptions to the prohibition in paragraph 2 c) may be made only in the case of donations of blood for transfusion or of skin for grafting, provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.
4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who is in the power of a Party other than the one on which he depends and which either violates any of the prohibitions in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of this Protocol.
5. The persons described in paragraph 1 have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.
6. Each Party to the conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1, if that donation is made under the responsibility of that Party. In addition, each Party to the conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1. These records shall be available at all times for inspection by the Protecting Power.

Article 12 — Protection of medical units
1. Medical units shall be respected and protected at all times and shall not be the object of attack.
2. Paragraph 1 shall apply to civilian medical units, provided that they:
   a) belong to one of the Parties to the conflict;
   b) are recognized and authorized by the competent authority of one of the Parties to the conflict; or
   c) are authorized in conformity with Article 9, paragraph 2, of this Protocol or Article 27 of the First Convention.
3. The Parties to the conflict are invited to notify each other of the location of their medical units. The absence of such notification shall not exempt any of the Parties from the obligation to comply with the provisions of paragraph 1.
4. Under no circumstances shall medical units be used in an attempt to shield military objectives from attack. Whenever possible, the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.

Article 13 — Discontinuance of protection of civilian medical units
1. The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.
2. The following shall not be considered as acts harmful to the enemy:
   a) that the personnel of the unit are equipped with light individual weapons for their own defence or for that of the wounded and sick in their charge;
   b) that the unit is guarded by a picket or by sentries or by an escort;
   c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the units;
   d) that members of the armed forces or other combatants are in the unit for medical reasons.

Article 14 — Limitations on requisition of civilian medical units
1. The Occupying Power has the duty to ensure that the medical needs of the civilian population in occupied territory continue to be satisfied.
2. The Occupying Power shall not, therefore, requisition civilian medical units, their equipment, their matériel or the services of their personnel, so long as these resources are necessary for the provision of adequate medical services for the civilian population and for the continuing medical care of any wounded and sick already under treatment.
3. Provided that the general rule in paragraph 2 continues to be observed, the Occupying Power may requisition the said resources, subject to the following particular conditions:
   a) that the resources are necessary for the adequate and immediate medical treatment of the wounded and sick members of the armed forces of the Occupying Power or of prisoners of war;
   b) that the requisition continues only while such necessity exists; and
   c) that immediate arrangements are made to ensure that the medical needs of the civilian population, as well as those of any wounded and sick under treatment who are affected by the requisition, continue to be satisfied.

Article 15 — Protection of civilian medical and religious personnel
1. Civilian medical personnel shall be respected and protected.
2. If needed, all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.
3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.
4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.
5. Civilian religious personnel shall be respected and protected. The provisions of the Conventions and of this Protocol concerning the protection and identification of medical personnel shall apply equally to such persons.

**Article 16 — General protection of medical duties**
1. Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.
2. Persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to the rules of medical ethics or to other medical rules designed for the benefit of the wounded and sick or to the provisions of the Conventions or of this Protocol, or to refrain from performing acts or from carrying out work required by those rules and provisions.
3. No person engaged in medical activities shall be compelled to give to anyone belonging either to an adverse Party, or to his own Party except as required by the law of the latter Party, any information concerning the wounded and sick who are, or who have been, under his care, if such information would, in his opinion, prove harmful to the patients concerned or to their families.

Regulations for the compulsory notification of communicable diseases shall, however, be respected.

**Article 17 — Role of the civilian population and of aid societies**
1. The civilian population shall respect the wounded, sick and shipwrecked, even if they belong to the adverse Party, and shall commit no act of violence against them. The civilian population and aid societies, such as national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to collect and care for the wounded, sick and shipwrecked, even in invaded or occupied areas. No one shall be harmed, prosecuted, convicted or punished for such humanitarian acts.
2. The Parties to the conflict may appeal to the civilian population and the aid societies referred to in paragraph 1 to collect and care for the wounded, sick and shipwrecked, and to search for the dead and report their location; they shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse Party gains or regains control of the area, that Party also shall afford the same protection and facilities for so long as they are needed.

**Article 18 — Identification**
1. Each Party to the conflict shall endeavour to ensure that medical and religious personnel and medical units and transports are identifiable.
2. Each Party to the conflict shall also endeavour to adopt and to implement methods and procedures which will make it possible to recognize medical units and transports which use the distinctive emblem and distinctive signals.
3. In occupied territory and in areas where fighting is taking place or is likely to take place, civilian medical personnel and civilian religious personnel should be recognizable by the distinctive emblem and an identity card certifying their status.
4. With the consent of the competent authority, medical units and transports shall be marked by the distinctive emblem. The ships and craft referred to in Article 22 of this Protocol shall be marked in accordance with the provisions of the Second Convention.
5. In addition to the distinctive emblem, a Party to the conflict may, as provided in Chapter III of Annex 1 to this Protocol, authorize the use of distinctive signals to identify medical units and
transports. Exceptionally, in the special cases covered in that Chapter, medical transports may use distinctive signals without displaying the distinctive emblem.

6. The application of the provisions of paragraphs 1 to 5 of this Article is governed by Chapters I to III of Annex I to this Protocol. Signals designated in Chapter III of the Annex for the exclusive use of medical units and transports shall not, except as provided therein, be used for any purpose other than to identify the medical units and transports specified in that Chapter.

7. This Article does not authorize any wider use of the distinctive emblem in peacetime than is prescribed in Article 44 of the First Convention.

8. The provisions of the Conventions and of this Protocol relating to supervision of the use of the distinctive emblem and to the prevention and repression of any misuse thereof shall be applicable to distinctive signals.

Article 19 — Neutral and other States not Parties to the conflict
Neutral and other States not Parties to the conflict shall apply the relevant provisions of this Protocol to persons protected by this Part who may be received or interned within their territory, and to any dead of the Parties to that conflict whom they may find.

Article 20 — Prohibition of reprisals
Reprisals against the persons and objects protected by this Part are prohibited.

SECTION II - MEDICAL TRANSPORTATION

Article 21 — Medical vehicles
Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and this Protocol.

Article 22 — Hospital ships and coastal rescue craft
1. The provisions of the Conventions relating to:
   a) vessels described in Articles 22, 24, 25 and 27 of the Second Convention,
   b) their lifeboats and small craft,
   c) their personnel and crews, and
   d) the wounded, sick and shipwrecked on board,
shall also apply where these vessels carry civilian wounded, sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the Second Convention. Such civilians shall not, however, be subject to surrender to any Party which is not their own, or to capture at sea. If they find themselves in the power of a Party to the conflict other than their own, they shall be covered by the Fourth Convention and by this Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the Second Convention shall extend to hospital ships made available for humanitarian purposes to a Party to the conflict:
   a) by a neutral or other State which is not a Party to that conflict; or
   b) by an impartial international humanitarian organization, provided that, in either case, the requirements set out in that Article are complied with.

3. Small craft described in Article 27 of the Second Convention shall be protected even if the notification envisaged by that Article has not been made. The Parties to the conflict are,
nevertheless, invited to inform each other of any details of such craft which will facilitate their identification and recognition.

**Article 23 — Other medical ships and craft**
1. Medical ships and craft other than those referred to in Article 22 of this Protocol and Article 38 of the Second Convention shall, whether at sea or in other waters, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. Since this protection can only be effective if they can be identified and recognized as medical ships or craft, such vessels should be marked with the distinctive emblem and as far as possible comply with the second paragraph of Article 43 of the Second Convention.

2. The ships and craft referred to in paragraph 1 shall remain subject to the laws of war. Any warship on the surface able immediately to enforce its command may order them to stop, order them off, or make them take a certain course, and they shall obey every such command. Such ships and craft may not in any other way be diverted from their medical mission so long as they are needed for the wounded, sick and shipwrecked on board.

3. The protection provided in paragraph 1 shall cease only under the conditions set out in Articles 34 and 35 of the Second Convention. A clear refusal to obey a command given in accordance with paragraph 2 shall be an act harmful to the enemy under Article 34 of the Second Convention.

4. A Party to the conflict may notify any adverse Party as far in advance of sailing as possible of the name, description, expected time of sailing, course and estimated speed of the medical ship or craft, particularly in the case of ships of over 2,000 gross tons, and may provide any other information which would facilitate identification and recognition. The adverse Party shall acknowledge receipt of such information.

5. The provisions of Article 37 of the Second Convention shall apply to medical and religious personnel in such ships and craft.

6. The provisions of the Second Convention shall apply to the wounded, sick and shipwrecked belonging to the categories referred to in Article 13 of the Second Convention and in Article 44 of this Protocol who may be on board such medical ships and craft. Wounded, sick and shipwrecked civilians who do not belong to any of the categories mentioned in Article 13 of the Second Convention shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft; if they find themselves in the power of a Party to the conflict other than their own, they shall be covered by the Fourth Convention and by this Protocol.

**Article 24 — Protection of medical aircraft**
Medical aircraft shall be respected and protected, subject to the provisions of this Article.

**Article 25 — Medical aircraft in areas not controlled by an adverse Party**
Medical aircraft in areas not controlled by an adverse Party in and over land areas physically controlled by friendly forces, or in and over sea areas not physically controlled by an adverse Party, the respect and protection of medical aircraft of a Party to the conflict is not dependent on any agreement with an adverse Party. For greater safety, however, a Party to the conflict operating its medical aircraft in these areas may notify the adverse Party, as provided in Article 29, in particular when such aircraft are making flights bringing them within range of surface-to-air weapons systems of the adverse Party.
**Article 26 — Medical aircraft in contact or similar zones**

1. In and over those parts of the contact zone which are physically controlled by friendly forces and in and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the competent military authorities of the Parties to the conflict, as provided for in Article 29. Although, in the absence of such an agreement, medical aircraft operate at their own risk, they shall nevertheless be respected after they have been recognized as such.

2. “Contact zone” means any area on land where the forward elements of opposing forces are in contact with each other, especially where they are exposed to direct fire from the ground.

**Article 27 — Medical aircraft in areas controlled by an adverse Party**

1. The medical aircraft of a Party to the conflict shall continue to be protected while flying over land or sea areas physically controlled by an adverse Party, provided that prior agreement to such flights has been obtained from the competent authority of that adverse Party.

2. A medical aircraft which flies over an area physically controlled by an adverse Party without, or in deviation from the terms of, an agreement provided for in paragraph 1, either through navigational error or because of an emergency affecting the safety of the flight, shall make every effort to identify itself and to inform the adverse Party of the circumstances. As soon as such medical aircraft has been recognized by the adverse Party, that Party shall make all reasonable efforts to give the order to land or to alight on water, referred to in Article 30, paragraph 1, or to take other measures to safeguard its own interests, and, in either case, to allow the aircraft time for compliance, before resorting to an attack against the aircraft.

**Article 28 — Restrictions on operations of medical aircraft**

1. The Parties to the conflict are prohibited from using their medical aircraft to attempt to acquire any military advantage over an adverse Party. The presence of medical aircraft shall not be used in an attempt to render military objectives immune from attack.

2. Medical aircraft shall not be used to collect or transmit intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not included within the definition in Article 8, sub-paragraph f). The carrying on board of the personal effects of the occupants or of equipment intended solely to facilitate navigation, communication, or identification shall not be considered as prohibited.

3. Medical aircraft shall not carry any armament except small arms and ammunition taken from the wounded, sick and shipwrecked on board and not yet handed to the proper service, and such light individual weapons as may be necessary to enable the medical personnel on board to defend themselves and the wounded, sick and shipwrecked in their charge.

4. While carrying out the flights referred to in Articles 26 and 27, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded, sick and shipwrecked.

**Article 29 — Notifications and agreements concerning medical aircraft**

1. Notifications under Article 25, or requests for prior agreement under Articles 26, 27, 28 (paragraph 4), or 31 shall state the proposed number of medical aircraft, their flight plans and means of identification, and shall be understood to mean that every flight will be carried out in compliance with Article 28.
2. A Party which receives a notification given under Article 25 shall at once acknowledge receipt of such notification.

3. A Party which receives a request for prior agreement under Articles 26, 27, 28 (paragraph 4), or 31 shall, as rapidly as possible, notify the requesting Party:
   a) that the request is agreed to;
   b) that the request is denied; or
   c) of reasonable alternative proposals to the request. It may also propose a prohibition or restriction of other flights in the area during the time involved. If the Party which submitted the request accepts the alternative proposals, it shall notify the other Party of such acceptance.

4. The Parties shall take the necessary measures to ensure that notifications and agreements can be made rapidly.

5. The Parties shall also take the necessary measures to disseminate rapidly the substance of any such notifications and agreements to the military units concerned and shall instruct those units regarding the means of identification that will be used by the medical aircraft in question.

Article 30 — Landing and inspection of medical aircraft
1. Medical aircraft flying over areas which are physically controlled by an adverse Party, or over areas the physical control of which is not clearly established, may be ordered to land or to alight on water, as appropriate, to permit inspection in accordance with the following paragraphs. Medical aircraft shall obey any such order.

2. If such an aircraft lands or alights on water, whether ordered to do so or for other reasons, it may be subjected to inspection solely to determine the matters referred to in paragraphs 3 and 4. Any such inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting Party shall not require the wounded and sick to be removed from the aircraft unless their removal is essential for the inspection. That Party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or by the removal.

3. If the inspection discloses that the aircraft:
   a) is a medical aircraft within the meaning of Article 8, sub-paragraph j),
   b) is not in violation of the conditions prescribed in Article 28, and
   c) has not flown without or in breach of a prior agreement where such agreement is required, the aircraft and those of its occupants who belong to the adverse Party or to neutral or other State not a Party to the conflict shall be authorized to continue the flight without delay.

4. If the inspection discloses that the aircraft:
   a) is not a medical aircraft within the meaning of Article 8, sub-paragraph j),
   b) is in violation of the conditions prescribed in Article 28, or
   c) has flown without or in breach of a prior agreement where such agreement is required, the aircraft may be seized. Its occupants shall be treated in conformity with the relevant provisions of the Conventions and of this Protocol. Any aircraft seized which had been assigned as a permanent medical aircraft may be used thereafter only as a medical aircraft.

Article 31 — Neutral or other States not Parties to the conflict
1. Except by prior agreement, medical aircraft shall not fly over or land in the territory of a neutral or other State not a Party to the conflict. However, with such an agreement, they shall be
respected throughout their flight and also for the duration of any calls in the territory. Nevertheless, they shall obey any summons to land or to alight on water, as appropriate.

2. Should a medical aircraft, in the absence of an agreement or in deviation from the terms of an agreement, fly over the territory of a neutral or other State not a Party to the conflict, either through navigational error or because of an emergency affecting the safety of the flight, it shall make every effort to give notice of the flight and to identify itself. As soon as such medical aircraft is recognized, that State shall make all reasonable efforts to give the order to land or to alight on water referred to in Article 30, paragraph 1, or to take other measures to safeguard its own interests, and, in either case, to allow the aircraft time for compliance, before resorting to an attack against the aircraft.

3. If a medical aircraft, either by agreement or in the circumstances mentioned in paragraph 2, lands or alights on water in the territory of a neutral or other State not Party to the conflict, whether ordered to do so or for other reasons, the aircraft shall be subject to inspection for the purposes of determining whether it is in fact a medical aircraft. The inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting Party shall not require the wounded and sick of the Party operating the aircraft to be removed from it unless their removal is essential for the inspection. The inspecting Party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or the removal. If the inspection discloses that the aircraft is in fact a medical aircraft, the aircraft with its occupants, other than those who must be detained in accordance with the rules of international law applicable in armed conflict, shall be allowed to resume its flight, and reasonable facilities shall be given for the continuation of the flight. If the inspection discloses that the aircraft is not a medical aircraft, it shall be seized and the occupants treated in accordance with paragraph 4.

4. The wounded, sick and shipwrecked disembarked, otherwise than temporarily, from a medical aircraft with the consent of the local authorities in the territory of a neutral or other State not a Party to the conflict shall, unless agreed otherwise between that State and the Parties to the conflict, be detained by that State where so required by the rules of international law applicable in armed conflict, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the State to which those persons belong.

5. Neutral or other States not Parties to the conflict shall apply any conditions and restrictions on the passage of medical aircraft over, or on the landing of medical aircraft in, their territory equally to all Parties to the conflict.

SECTION III - MISSING AND DEAD PERSONS

Article 32 — General principle
In the implementation of this Section, the activities of the High Contracting Parties, of the Parties to the conflict and of the international humanitarian organizations mentioned in the Conventions and in this Protocol shall be prompted mainly by the right of families to know the fate of their relatives.

Article 33 — Missing persons
1. As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by an adverse Party. Such adverse Party shall transmit all relevant information concerning such persons in order to facilitate such
searches.
2. In order to facilitate the gathering of information pursuant to the preceding paragraph, each Party to the conflict shall, with respect to persons who would not receive more favourable consideration under the Conventions and this Protocol:
   a) record the information specified in Article 138 of the Fourth Convention in respect of such persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who have died during any period of detention;
   b) to the fullest extent possible, facilitate and, if need be, carry out the search for and the recording of information concerning such persons if they have died in other circumstances as a result of hostilities or occupation.
3. Information concerning persons reported missing pursuant to paragraph 1 and requests for such information shall be transmitted either directly or through the Protecting Power or the Central Tracing Agency of the International Committee of the Red Cross or national Red Cross (Red Crescent, Red Lion and Sun) Societies. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each Party to the conflict shall ensure that such information is also supplied to the Central Tracing Agency.
4. The Parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify and recover the dead from battlefield areas, including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse Party while carrying out these missions in areas controlled by the adverse Party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.

**Article 34 — Remains of deceased**
1. The remains of persons who have died for reasons related to occupation or in detention resulting from occupation or hostilities and those of persons not nationals of the country in which they have died as a result of hostilities shall be respected, and the gravesites of all such persons shall be respected, maintained and marked as provided for in Article 130 of the Fourth Convention, where their remains or gravesites would not receive more favourable consideration under the Conventions and this Protocol.
2. As soon as circumstances and the relations between the adverse Parties permit, the High Contracting Parties in whose territories graves and, as the case may be, other locations of the remains of persons who have died as a result of hostilities or during occupation or in detention are situated, shall conclude agreements in order:
   a) to facilitate access to the gravesites by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access;
   b) to protect and maintain such gravesites permanently;
   c) to facilitate the return of the remains of the deceased and of personal effects to the home country upon its request or, unless that country objects, upon the request of the next of kin.
3. In the absence of the agreements provided for in paragraph 2 b) or c) and if the home country of such deceased is not willing to arrange at its expense for the maintenance of such gravesites, the High Contracting Party in whose territory the gravesites are situated may offer to facilitate the return of the remains of the deceased to the home country. Where such an offer has not been accepted the High Contracting Party may, after the expiry of five years from the date of the offer...
and upon due notice to the home country, adopt the arrangements laid down in its own laws relating to cemeteries and graves.

4. A High Contracting Party in whose territory the gravesites referred to in this Article are situated shall be permitted to exhume the remains only:
   a) in accordance with paragraphs 2 c) and 3, or
   b) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume the remains together with details of the intended place of reinterment.

PART III - METHODS AND MEANS OF WARFARE COMBATANT AND PRISONER-OF-WAR STATUS

SECTION I - METHODS AND MEANS OF WARFARE

Article 35 — Basic rules
1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.
2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

Article 36 — New weapons
In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party.

Article 37 — Prohibition of perfidy
1. It is prohibited to kill, injure or capture an adversary by resort to perfidy. Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy. The following acts are examples of perfidy:
   a) the feigning of an intent to negotiate under a flag of truce or of a surrender;
   b) the feigning of an incapacitation by wounds or sickness;
   c) the feigning of civilian, non-combatant status; and
   d) the feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict.

2. Ruses of war are not prohibited. Such ruses are acts which are intended to mislead an adversary or to induce him to act recklessly but which infringe no rule of international law applicable in armed conflict and which are not perfidious because they do not invite the confidence of an adversary with respect to protection under that law. The following are examples of such ruses: the use of camouflage, decoys, mock operations and misinformation.
Article 38 — Recognized emblems
1. It is prohibited to make improper use of the distinctive emblem of the red cross, red crescent or red lion and sun or of other emblems, signs or signals provided for by the Conventions or by this Protocol. It is also prohibited to misuse deliberately in an armed conflict other internationally recognized protective emblems, signs or signals, including the flag of truce, and the protective emblem of cultural property.
2. It is prohibited to make use of the distinctive emblem of the United Nations, except as authorized by that Organization.

Article 39 — Emblems of nationality
1. It is prohibited to make use in an armed conflict of the flags or military emblems, insignia or uniforms of neutral or other States not Parties to the conflict.
2. It is prohibited to make use of the flags or military emblems, insignia or uniforms of adverse Parties while engaging in attacks or in order to shield, favour, protect or impede military operations.
3. Nothing in this Article or in Article 37, paragraph 1 d), shall affect the existing generally recognized rules of international law applicable to espionage or to the use of flags in the conduct of armed conflict at sea.

Article 40 — Quarter
It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on this basis.

Article 41 — Safeguard of an enemy hors de combat
1. A person who is recognized or who, in the circumstances, should be recognized to be hors de combat shall not be made the object of attack.
2. A person is hors de combat if:
   a) he is in the power of an adverse Party;
   b) he clearly expresses an intention to surrender; or
   c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself; provided that in any of these cases he abstains from any hostile act and does not attempt to escape.
3. When persons entitled to protection as prisoners of war have fallen into the power of an adverse Party under unusual conditions of combat which prevent their evacuation as provided for in Part III, Section I, of the Third Convention, they shall be released and all feasible precautions shall be taken to ensure their safety.

Article 42 — Occupants of aircraft
1. No person parachuting from an aircraft in distress shall be made the object of attack during his descent.
2. Upon reaching the ground in territory controlled by an adverse Party, a person who has parachuted from an aircraft in distress shall be given an opportunity to surrender before being made the object of attack, unless it is apparent that he is engaging in a hostile act.
3. Airborne troops are not protected by this Article.
SECTION II - COMBATANT AND PRISONER-OF-WAR STATUS

Article 43 — Armed forces
1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.
2. Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities.
3. Whenever a Party to a conflict incorporates a paramilitary or armed law enforcement agency into its armed forces it shall so notify the other Parties to the conflict.

Article 44 — Combatants and prisoners of war
1. Any combatant, as defined in Article 43, who falls into the power of an adverse Party shall be a prisoner of war.
2. While all combatants are obliged to comply with the rules of international law applicable in armed conflict, violations of these rules shall not deprive a combatant of his right to be a combatant or, if he falls into the power of an adverse Party, of his right to be a prisoner of war, except as provided in paragraphs 3 and 4.
3. In order to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. Recognizing, however, that there are situations in armed conflicts where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly:
   a) during each military engagement, and
   b) during such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate.
Acts which comply with the requirements of this paragraph shall not be considered as perfidious within the meaning of Article 37, paragraph 1 c).
4. A combatant who falls into the power of an adverse Party while failing to meet the requirements set forth in the second sentence of paragraph 3 shall forfeit his right to be a prisoner of war, but he shall, nevertheless, be given protections equivalent in all respects to those accorded to prisoners of war by the Third Convention and by this Protocol. This protection includes protections equivalent to those accorded to prisoners of war by the Third Convention in the case where such a person is tried and punished for any offences he has committed.
5. Any combatant who falls into the power of an adverse Party while not engaged in an attack or in a military operation preparatory to an attack shall not forfeit his rights to be a combatant and a prisoner of war by virtue of his prior activities.
6. This Article is without prejudice to the right of any person to be a prisoner of war pursuant to Article 4 of the Third Convention.
7. This Article is not intended to change the generally accepted practice of States with respect to the wearing of the uniform by combatants assigned to the regular, uniformed armed units of a Party to the conflict.

8. In addition to the categories of persons mentioned in Article 13 of the First and Second Conventions, all members of the armed forces of a Party to the conflict, as defined in Article 43 of this Protocol, shall be entitled to protection under those Conventions if they are wounded or sick or, in the case of the Second Convention, shipwrecked at sea or in other waters.

**Article 45 — Protection of persons who have taken part in hostilities**

1. A person who takes part in hostilities and falls into the power of an adverse Party shall be presumed to be a prisoner of war, and therefore shall be protected by the Third Convention, if he claims the status of prisoner of war, or if he appears to be entitled to such status, or if the Party on which he depends claims such status on his behalf by notification to the detaining Power or to the Protecting Power. Should any doubt arise as to whether any such person is entitled to the status of prisoner of war, he shall continue to have such status and, therefore, to be protected by the Third Convention and this Protocol until such time as his status has been determined by a competent tribunal.

2. If a person who has fallen into the power of an adverse Party is not held as a prisoner of war and is to be tried by that Party for an offence arising out of the hostilities, he shall have the right to assert his entitlement to prisoner-of-war status before a judicial tribunal and to have that question adjudicated. Whenever possible under the applicable procedure, this adjudication shall occur before the trial for the offence. The representatives of the Protecting Power shall be entitled to attend the proceedings in which that question is adjudicated, unless, exceptionally, the proceedings are held in camera in the interest of State security. In such a case the detaining Power shall advise the Protecting Power accordingly.

3. Any person who has taken part in hostilities, who is not entitled to prisoner-of-war status and who does not benefit from more favourable treatment in accordance with the Fourth Convention shall have the right at all times to the protection of Article 75 of this Protocol. In occupied territory, any such person, unless he is held as a spy, shall also be entitled, notwithstanding Article 5 of the Fourth Convention, to his rights of communication under that Convention.

**Article 46 — Spies**

1. Notwithstanding any other provision of the Conventions or of this Protocol, any member of the armed forces of a Party to the conflict who falls into the power of an adverse Party while engaging in espionage shall not have the right to the status of prisoner of war and may be treated as a spy.

2. A member of the armed forces of a Party to the conflict who, on behalf of that Party and in territory controlled by an adverse Party, gathers or attempts to gather information shall not be considered as engaging in espionage if, while so acting, he is in the uniform of his armed forces.

3. A member of the armed forces of a Party to the conflict who is a resident of territory occupied by an adverse Party and who, on behalf of the Party on which he depends, gathers or attempts to gather information of military value within territory shall not be considered as engaging in espionage unless he does so through an act of false pretences or deliberately in a clandestine manner. Moreover, such a resident shall not lose his right to the status of prisoner of war and may not be treated as a spy unless he is captured while engaging in espionage.
4. A member of the armed forces of a Party to the conflict who is not a resident of territory occupied by an adverse Party and who has engaged in espionage in that territory shall not lose his right to the status of prisoner of war and may not be treated as a spy unless he is captured before he has rejoined the armed forces to which he belongs.

**Article 47 — Mercenaries**
1. A mercenary shall not have the right to be a combatant or a prisoner of war.
2. A mercenary is any person who:
   a) is specially recruited locally or abroad in order to fight in an armed conflict;
   b) does, in fact, take a direct part in the hostilities;
   c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
   d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
   e) is not a member of the armed forces of a Party to the conflict; and
   f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

**PART IV - CIVILIAN POPULATION**

**SECTION I - GENERAL PROTECTION AGAINST EFFECTS OF HOSTILITIES**

**CHAPTER I - BASIC RULE AND FIELD OF APPLICATION**

**Article 48 — Basic rule**
In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

**Article 49 — Definition of attacks and scope of application**
1. "Attacks" means acts of violence against the adversary, whether in offence or in defence.
2. The provisions of this Protocol with respect to attacks apply to all attacks in whatever territory conducted, including the national territory belonging to a Party to the conflict but under the control of an adverse Party.
3. The provisions of this Section apply to any land, air or sea warfare which may affect the civilian population, individual civilians or civilian objects on land. They further apply to all attacks from the sea or from the air against objectives on land but do not otherwise affect the rules of international law applicable in armed conflict at sea or in the air.
4. The provisions of this Section are additional to the rules concerning humanitarian protection contained in the Fourth Convention, particularly in Part II thereof, and in other international agreements binding upon the High Contracting Parties, as well as to other rules of international law relating to the protection of civilians and civilian objects on land, at sea or in the air against the effects of hostilities.
CHAPTER II - CIVILIANS AND CIVILIAN POPULATION

Article 50 — Definition of civilians and civilian population
1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A 1), 2), 3) and 6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.
2. The civilian population comprises all persons who are civilians.
3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

Article 51 — Protection of the civilian population
1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.
2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.
4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:
   a) those which are not directed at a specific military objective;
   b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
   c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.
5. Among others, the following types of attacks are to be considered as indiscriminate:
   a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
   b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.
6. Attacks against the civilian population or civilians by way of reprisals are prohibited.
7. The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.
8. Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in Article 57.
CHAPTER III - CIVILIAN OBJECTS

Article 52 — General protection of civilian objects
1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives as defined in paragraph 2.
2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.
3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.

Article 53 — Protection of cultural objects and of places of worship
Without prejudice to the provisions of The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited:
   a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
   b) to use such objects in support of the military effort;
   c) to make such objects the object of reprisals.

Article 54 — Protection of objects indispensable to the survival of the civilian population
1. Starvation of civilians as a method of warfare is prohibited.
2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.
3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:
   a) as sustenance solely for the members of its armed forces; or
   b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.
4. These objects shall not be made the object of reprisals.
5. In recognition of the vital requirements of any Party to the conflict in the defence of its national territory against invasion, derogation from the prohibitions contained in paragraph 2 may be made by a Party to the conflict within such territory under its own control where required by imperative military necessity.

Article 55 — Protection of the natural environment
1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of
warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.

2. Attacks against the natural environment by way of reprisals are prohibited.

**Article 56 — Protection of works and installations containing dangerous forces**

1. Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.

Other military objectives located at or in the vicinity of these works or installations shall not be made the object of attack if such attack may cause the release of dangerous forces from the works or installations and consequent severe losses among the civilian population.

2. The special protection against attack provided by paragraph 1 shall cease:
   a) for a dam or a dyke only if it is used for other than its normal function and in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
   b) for a nuclear electrical generating station only if it provides electric power in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
   c) for other military objectives located at or in the vicinity of these works or installations only if they are used in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support.

3. In all cases, the civilian population and individual civilians shall remain entitled to all the protection accorded them by international law, including the protection of the precautionary measures provided for in Article 57. If the protection ceases and any of the works, installations or military objectives mentioned in paragraph 1 is attacked, all practical precautions shall be taken to avoid the release of the dangerous forces.

4. It is prohibited to make any of the works, installations or military objectives mentioned in paragraph 1 the object of reprisals.

5. The Parties to the conflict shall endeavour to avoid locating any military objectives in the vicinity of the works or installations mentioned in paragraph 1.

Nevertheless, installations erected for the sole purpose of defending the protected works or installations from attack are permissible and shall not themselves be made the object of attack, provided that they are not used in hostilities except for defensive actions necessary to respond to attacks against the protected works or installations and that their armament is limited to weapons capable only of repelling hostile action against the protected works or installations.

6. The High Contracting Parties and the Parties to the conflict are urged to conclude further agreements among themselves to provide additional protection for objects containing dangerous forces.

7. In order to facilitate the identification of the objects protected by this Article, the Parties to the conflict may mark them with a special sign consisting of a group of three bright orange circles placed on the same axis, as specified in Article 16 of Annex 1 to this Protocol. The absence of such marking in no way relieves any Party to the conflict of its obligations under this Article.
CHAPTER IV - PRECAUTIONARY MEASURES

Article 57 — Precautions in attack
1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.
2. With respect to attacks, the following precautions shall be taken:
   a) those who plan or decide upon an attack shall:
      i. do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;
      ii. take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;
      iii. refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
   b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
   c) effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.
3. When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.
4. In the conduct of military operations at sea or in the air, each Party to the conflict shall, in conformity with its rights and duties under the rules of international law applicable in armed conflict, take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects.
5. No provision of this Article may be construed as authorizing any attacks against the civilian population, civilians or civilian objects.

Article 58 — Precautions against the effects of attacks
The Parties to the conflict shall, to the maximum extent feasible:
   a) without prejudice to Article 49 of the Fourth Convention, endeavour to remove the civilian population, individual civilians and civilian objects under their control from the vicinity of military objectives;
   b) avoid locating military objectives within or near densely populated areas;
   c) take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations.
CHAPTER V - LOCALITIES AND ZONES UNDER SPECIAL PROTECTION

Article 59 — Non-defended localities.
1. It is prohibited for the Parties to the conflict to attack, by any means whatsoever, non-defended localities.
2. The appropriate authorities of a Party to the conflict may declare as a nondefended locality any inhabited place near or in a zone where armed forces are in contact which is open for occupation by an adverse Party. Such a locality shall fulfil the following conditions:
   a) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;
   b) no hostile use shall be made of fixed military installations or establishments;
   c) no acts of hostility shall be committed by the authorities or by the population; and
   d) no activities in support of military operations shall be undertaken.
3. The presence, in this locality, of persons specially protected under the Conventions and this Protocol, and of police forces retained for the sole purpose of maintaining law and order, is not contrary to the conditions laid down in paragraph 2.
4. The declaration made under paragraph 2 shall be addressed to the adverse Party and shall define and describe, as precisely as possible, the limits of the non-defended locality. The Party to the conflict to which the declaration is addressed shall acknowledge its receipt and shall treat the locality as a non-defended locality unless the conditions laid down in paragraph 2 are not in fact fulfilled, in which event it shall immediately so inform the Party making the declaration. Even if the conditions laid down in paragraph 2 are not fulfilled, the locality shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.
5. The Parties to the conflict may agree on the establishment of non-defended localities even if such localities do not fulfil the conditions laid down in paragraph 2. The agreement should define and describe, as precisely as possible, the limits of the non-defended locality; if necessary, it may lay down the methods of supervision.
6. The Party which is in control of a locality governed by such an agreement shall mark it, so far as possible, by such signs as may be agreed upon with the other Party, which shall be displayed where they are clearly visible, especially on its perimeter and limits and on highways.
7. A locality loses its status as a non-defended locality when it ceases to fulfil the conditions laid down in paragraph 2 or in the agreement referred to in paragraph 5. In such an eventuality, the locality shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.

Article 60 — Demilitarized zones
1. It is prohibited for the Parties to the conflict to extend their military operations to zones on which they have conferred by agreement the status of demilitarized zone, if such extension is contrary to the terms of this agreement.
2. The agreement shall be an express agreement, may be concluded verbally or in writing, either directly or through a Protecting Power or any impartial humanitarian organization, and may consist of reciprocal and concordant declarations.
   The agreement may be concluded in peacetime, as well as after the outbreak of hostilities, and should define and describe, as precisely as possible, the limits of the demilitarized zone and, if necessary, lay down the methods of supervision.
3. The subject of such an agreement shall normally be any zone which fulfils the following conditions:
   a) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;
   b) no hostile use shall be made of fixed military installations or establishments;
   c) no acts of hostility shall be committed by the authorities or by the population; and
   d) any activity linked to the military effort must have ceased.

The Parties to the conflict shall agree upon the interpretation to be given to the condition laid down in sub-paragraph d) and upon persons to be admitted to the demilitarized zone other than those mentioned in paragraph 4.

4. The presence, in this zone, of persons specially protected under the Conventions and this Protocol, and of police forces retained for the sole purpose of maintaining law and order, is not contrary to the conditions laid down in paragraph 3.

5. The Party which is in control of such a zone shall mark it, so far as possible, by such signs as may be agreed upon with the other Party, which shall be displayed where they are clearly visible, especially on its perimeter and limits and on highways.

6. If the fighting draws near to a demilitarized zone, and if the Parties to the conflict have so agreed, none of them may use the zone for purposes related to the conduct of military operations or unilaterally revoke its status.

7. If one of the Parties to the conflict commits a material breach of the provisions of paragraphs 3 or 6, the other Party shall be released from its obligations under the agreement conferring upon the zone the status of demilitarized zone. In such an eventuality, the zone loses its status but shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.

CHAPTER VI - CIVIL DEFENCE

Article 61 — Definitions and scope

For the purposes of this Protocol:

   a) "civil defence" means the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:

    I. warning;
    II. evacuation;
    III. management of shelters;
    IV. management of blackout measures;
    V. rescue;
    VI. medical services, including first aid, and religious assistance;
    VII. fire-fighting;
    VIII. detection and marking of danger areas;
    IX. decontamination and similar protective measures;
    X. provision of emergency accommodation and supplies;
    XI. emergency assistance in the restoration and maintenance of order in distressed areas;
XII. emergency repair of indispensable public utilities;
XIII. emergency disposal of the dead;
XIV. assistance in the preservation of objects essential for survival;
XV. complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organization;

b) “civil defence organizations” means those establishments and other units which are organized or authorized by the competent authorities of a Party to the conflict to perform any of the tasks mentioned under sub-paragraph a), and which are assigned and devoted exclusively to such tasks;

c) “personnel” of civil defence organizations means those persons assigned by a Party to the conflict exclusively to the performance of the tasks mentioned under sub-paragraph a), including personnel assigned by the competent authority of that Party exclusively to the administration of these organizations;

d) “matériel” of civil defence organizations means equipment, supplies and transports used by these organizations for the performance of the tasks mentioned under sub-paragraph a).

**Article 62 — General protection**

1. Civilian civil defence organizations and their personnel shall be respected and protected, subject to the provisions of this Protocol, particularly the provisions of this Section. They shall be entitled to perform their civil defence tasks except in case of imperative military necessity.

2. The provisions of paragraph 1 shall also apply to civilians who, although not members of civilian civil defence organizations, respond to an appeal from the competent authorities and perform civil defence tasks under their control.

3. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are covered by Article 52. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except by the Party to which they belong.

**Article 63 — Civil defence in occupied territories**

1. In occupied territories, civilian civil defence organizations shall receive from the authorities the facilities necessary for the performance of their tasks. In no circumstances shall their personnel be compelled to perform activities which would interfere with the proper performance of these tasks. The Occupying Power shall not change the structure or personnel of such organizations in any way which might jeopardize the efficient performance of their mission. These organizations shall not be required to give priority to the nationals or interests of that Power.

2. The Occupying Power shall not compel, coerce or induce civilian civil defence organizations to perform their tasks in any manner prejudicial to the interests of the civilian population.

3. The Occupying Power may disarm civil defence personnel for reasons of security.

4. The Occupying Power shall neither divert from their proper use nor requisition buildings or matériel belonging to or used by civil defence organizations if such diversion or requisition would be harmful to the civilian population.

5. Provided that the general rule in paragraph 4 continues to be observed, the Occupying Power may requisition or divert these resources, subject to the following particular conditions:
   a) that the buildings or matériel are necessary for other needs of the civilian population; and
   b) that the requisition or diversion continues only while such necessity exists.

6. The Occupying Power shall neither divert nor requisition shelters provided for the use of the civilian population or needed by such population.
Article 64 — Civilian civil defence organizations of neutral or other States not Parties to the conflict and international co-ordinating organizations

1. Articles 62, 63, 65 and 66 shall also apply to the personnel and matériel of civilian civil defence organizations of neutral or other States not Parties to the conflict which perform civil defence tasks mentioned in Article 61 in the territory of a Party to the conflict, with the consent and under the control of that Party. Notification of such assistance shall be given as soon as possible to any adverse Party concerned. In no circumstances shall this activity be deemed to be an interference in the conflict. This activity should, however, be performed with due regard to the security interests of the Parties to the conflict concerned.

2. The Parties to the conflict receiving the assistance referred to in paragraph 1 and the High Contracting Parties granting it should facilitate international coordination of such civil defence actions when appropriate. In such cases the relevant international organizations are covered by the provisions of this Chapter.

3. In occupied territories, the Occupying Power may only exclude or restrict the activities of civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations if it can ensure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.

Article 65 — Cessation of protection

1. The protection to which civilian civil defence organizations, their personnel, buildings, shelters and matériel are entitled shall not cease unless they commit or are used to commit, outside their proper tasks, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:
   a) that civil defence tasks are carried out under the direction or control of military authorities;
   b) that civilian civil defence personnel co-operate with military personnel in the performance of civil defence tasks, or that some military personnel are attached to civilian civil defence organizations;
   c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat.

3. It shall also not be considered as an act harmful to the enemy that civilian civil defence personnel bear light individual weapons for the purpose of maintaining order or for self-defence. However, in areas where land fighting is taking place or is likely to take place, the Parties to the conflict shall undertake the appropriate measures to limit these weapons to handguns, such as pistols or revolvers, in order to assist in distinguishing between civil defence personnel and combatants. Although civil defence personnel bear other light individual weapons in such areas, they shall nevertheless be respected and protected as soon as they have been recognized as such.

4. The formation of civilian civil defence organizations along military lines, and compulsory service in them, shall also not deprive them of the protection conferred by this Chapter.

Article 66 — Identification

1. Each Party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and matériel, are identifiable while they are exclusively devoted to the performance of civil defence tasks. Shelters provided for the civilian population should be similarly identifiable.
2. Each Party to the conflict shall also endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian shelters as well as civil defence personnel, buildings and matériel on which the international distinctive sign of civil defence is displayed.

3. In occupied territories and in areas where fighting is taking place or is likely to take place, civilian civil defence personnel should be recognizable by the international distinctive sign of civil defence and by an identity card certifying their status.

4. The international distinctive sign of civil defence is an equilateral blue triangle on an orange ground when used for the protection of civil defence organizations, their personnel, buildings and matériel and for civilian shelters.

5. In addition to the distinctive sign, Parties to the conflict may agree upon the use of distinctive signals for civil defence identification purposes.

6. The application of the provisions of paragraphs 1 to 4 is governed by Chapter V of Annex 1 to this Protocol.

7. In time of peace, the sign described in paragraph 4 may, with the consent of the competent national authorities, be used for civil defence identification purposes.

8. The High Contracting Parties and the Parties to the conflict shall take the measures necessary to supervise the display of the international distinctive sign of civil defence and to prevent and repress any misuse thereof.

9. The identification of civil defence medical and religious personnel, medical units and medical transports is also governed by Article 18.

**Article 67** – Members of the armed forces and military units assigned to civil defence organizations

1. Members of the armed forces and military units assigned to civil defence organizations shall be respected and protected, provided that:
   a) such personnel and such units are permanently assigned and exclusively devoted to the performance of any of the tasks mentioned in Article 61;
   b) if so assigned, such personnel do not perform any other military duties during the conflict;
   c) such personnel are clearly distinguishable from the other members of the armed forces by prominently displaying the international distinctive sign of civil defence, which shall be as large as appropriate, and such personnel are provided with the identity card referred to in Chapter V of Annex 1 to this Protocol certifying their status;
   d) such personnel and such units are equipped only with light individual weapons for the purpose of maintaining order or for self-defence. The provisions of Article 65, paragraph 3 shall also apply in this case;
   e) such personnel do not participate directly in hostilities, and do not commit, or are not used to commit, outside their civil defence tasks, acts harmful to the adverse Party;
   f) such personnel and such units perform their civil defence tasks only within the national territory of their Party. The non-observance of the conditions stated in e) above by any member of the armed forces who is bound by the conditions prescribed in a) and b) above is prohibited.

2. Military personnel serving within civil defence organizations shall, if they fall into the power of an adverse Party, be prisoners of war. In occupied territory they may, but only in the interest of the civilian population of that territory, be employed on civil defence tasks in so far as the need arises, provided however that, if such work is dangerous, they volunteer for such tasks.
3. The buildings and major items of equipment and transports of military units assigned to civil defence organizations shall be clearly marked with the international distinctive sign of civil defence. This distinctive sign shall be as large as appropriate.

4. The matériel and buildings of military units permanently assigned to civil defence organizations and exclusively devoted to the performance of civil defence tasks shall, if they fall into the hands of an adverse Party, remain subject to the laws of war. They may not be diverted from their civil defence purpose so long as they are required for the performance of civil defence tasks, except in case of imperative military necessity, unless previous arrangements have been made for adequate provision for the needs of the civilian population.

SECTION II - RELIEF IN FAVOUR OF THE CIVILIAN POPULATION

Article 68 — Field of application
The provisions of this Section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59, 60, 61 and 62 and other relevant provisions of the Fourth Convention.

Article 69 — Basic needs in occupied territories
1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

2. Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay.

Article 70 — Relief actions
1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party which allow the passage of relief consignments, equipment and personnel in accordance with paragraph 2:
   a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;
   b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;
c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

**Article 71 — Personnel participating in relief actions**

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.

2. Such personnel shall be respected and protected.

3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.

4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular, they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated.

**SECTION III - TREATMENT OF PERSONS IN THE POWER OF A PARTY TO THE CONFLICT**

**CHAPTER I - FIELD OF APPLICATION AND PROTECTION OF PERSONS AND OBJECTS**

**Article 72 — Field of application**

The provisions of this Section are additional to the rules concerning humanitarian protection of civilians and civilian objects in the power of a Party to the conflict contained in the Fourth Convention, particularly Parts I and III thereof, as well as to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict.

**Article 73 — Refugees and stateless persons**

Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction.

**Article 74 — Reunion of dispersed families**

The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations.
Article 75 — Fundamental guarantees

1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons.

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

   a) violence to the life, health, or physical or mental well-being of persons, in particular:
      I. murder;
      II. torture of all kinds, whether physical or mental;
      III. corporal punishment; and
      IV. mutilation;

   b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;

   c) the taking of hostages;

   d) collective punishments; and

   e) threats to commit any of the foregoing acts.

3. Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.

4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

   a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

   b) no one shall be convicted of an offence except on the basis of individual penal responsibility;

   c) no one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

   d) anyone charged with an offence is presumed innocent until proved guilty according to law;

   e) anyone charged with an offence shall have the right to be tried in his presence;

   f) no one shall be compelled to testify against himself or to confess guilt;

   g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure;

i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and

j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men’s quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.

6. Persons who are arrested, detained or interned for reasons related to the armed conflict shall enjoy the protection provided by this Article until final release, repatriation or re-establishment, even after the end of the armed conflict.

7. In order to avoid any doubt concerning the prosecution and trial of persons accused of war crimes or crimes against humanity, the following principles shall apply:

   a) persons who are accused of such crimes should be submitted for the purpose of prosecution and trial in accordance with the applicable rules of international law; and

   b) any such persons who do not benefit from more favourable treatment under the Conventions or this Protocol shall be accorded the treatment provided by this Article, whether or not the crimes of which they are accused constitute grave breaches of the Conventions or of this Protocol.

8. No provision of this Article may be construed as limiting or infringing any other more favourable provision granting greater protection, under any applicable rules of international law, to persons covered by paragraph 1.

CHAPTER II - MEASURES IN FAVOUR OF WOMEN AND CHILDREN

Article 76 — Protection of women

1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.

2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority.

3. To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women.

Article 77 — Protection of children

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have
attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to
the conflict shall endeavour to give priority to those who are oldest.
3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained
the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party,
they shall continue to benefit from the special protection accorded by this Article, whether or not
they are prisoners of war.
4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held
in quarters separate from the quarters of adults, except where families are accommodated as
family units as provided in Article 75, paragraph 5.
5. The death penalty for an offence related to the armed conflict shall not be executed on persons
who had not attained the age of eighteen years at the time the offence was committed.

Article 78 — Evacuation of children
1. No Party to the conflict shall arrange for the evacuation of children, other than its own
nationals, to a foreign country except for a temporary evacuation where compelling reasons of the
health or medical treatment of the children or, except in occupied territory, their safety, so require.
Where the parents or legal guardians can be found, their written consent to such evacuation is
required. If these persons cannot be found, the written consent to such evacuation of the persons
who by law or custom are primarily responsible for the care of the children is required. Any such
evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned,
namely, the Party arranging for the evacuation, the Party receiving the children and any Parties
whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible
precautions to avoid endangering the evacuation.
2. Whenever an evacuation occurs pursuant to paragraph 1, each child’s education, including his
religious and moral education as his parents desire, shall be provided while he is away with the
greatest possible continuity.
3. With a view to facilitating the return to their families and country of children evacuated
pursuant to this Article, the authorities of the Party arranging for the evacuation and, as
appropriate, the authorities of the receiving country shall establish for each child a card with
photographs, which they shall send to the Central Tracing Agency of the International Committee
of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of
harm to the child, the following information:
   a) surname(s) of the child;
   b) the child’s first name(s);
   c) the child’s sex;
   d) the place and date of birth (or, if that date is not known, the approximate age);
   e) the father’s full name;
   f) the mother’s full name and her maiden name;
   g) the child’s next of kin;
   h) the child’s nationality;
   i) the child’s native language, and any other languages he speaks;
   j) the address of the child’s family;
   k) any identification number for the child;
   l) the child’s state of health;
   m) the child’s blood group;
n) any distinguishing features;
o) the date on which and the place where the child was found;
p) the date on which and the place from which the child left the country;
q) the child’s religion, if any;
r) the child’s present address in the receiving country;
s) should the child die before his return, the date, place and circumstances of death and place of interment.

CHAPTER III - JOURNALISTS

Article 79 — Measures of protection for journalists
1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.
2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 A 4) of the Third Convention.
3. They may obtain an identity card similar to the model in Annex II of this Protocol. This card, which shall be issued by the government of the State of which the journalist is a national or in whose territory he resides or in which the news medium employing him is located, shall attest to his status as a journalist.

PART V - EXECUTION OF THE CONVENTIONS AND OF THIS PROTOCOL

SECTION I - GENERAL PROVISIONS

Article 80 — Measures for execution
1. The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.
2. The High Contracting Parties and the Parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution.

Article 81 — Activities of the Red Cross and other humanitarian organizations
1. The Parties to the conflict shall grant to the International Committee of the Red Cross all facilities within their power so as to enable it to carry out the humanitarian functions assigned to it by the Conventions and this Protocol in order to ensure protection and assistance to the victims of conflicts; the International Committee of the Red Cross may also carry out any other humanitarian activities in favour of these victims, subject to the consent of the Parties to the conflict concerned.
2. The Parties to the conflict shall grant to their respective Red Cross (Red Crescent, Red Lion and Sun) organizations the facilities necessary for carrying out their humanitarian activities in favour of the victims of the conflict, in accordance with the provisions of the Conventions and this Protocol and the Fundamental Principles of the Red Cross as formulated by the International Conferences of the Red Cross.
3. The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the assistance which Red Cross (Red Crescent, Red Lion and Sun) organizations and the League of Red Cross Societies extend to the victims. On 10 February 1992 the Swiss Federal Council, government of the State depositary of the 1949 Geneva Conventions, notified all States party to the Conventions that on 28 November 1991 the League of Red Cross and Red Crescent Societies had changed its name to “International Federation of Red Cross and Red Crescent Societies”. of conflicts in accordance with the provisions of the Conventions and this Protocol and with the Fundamental Principles of the Red Cross as formulated by the International Conferences of the Red Cross.

4. The High Contracting Parties and the Parties to the conflict shall, as far as possible, make facilities similar to those mentioned in paragraphs 2 and 3 available to the other humanitarian organizations referred to in the Conventions and this Protocol which are duly authorized by the respective Parties to the conflict and which perform their humanitarian activities in accordance with the provisions of the Conventions and this Protocol.

**Article 82 — Legal advisers in armed forces**

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.

**Article 83 — Dissemination**

1. The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.

2. Any military or civilian authorities who, in time of armed conflict, assume responsibilities in respect of the application of the Conventions and this Protocol shall be fully acquainted with the text thereof.

**Article 84 — Rules of application**

The High Contracting Parties shall communicate to one another, as soon as possible, through the depositary and, as appropriate, through the Protecting Powers, their official translations of this Protocol, as well as the laws and regulations which they may adopt to ensure its application.

**SECTION II - REPRESSION OF BREACHES OF THE CONVENTIONS AND OF THIS PROTOCOL**

**Article 85 — Repression of breaches of this Protocol**

1. The provisions of the Conventions relating to the repression of breaches and grave breaches, supplemented by this Section, shall apply to the repression of breaches and grave breaches of this Protocol.

2. Acts described as grave breaches in the Conventions are grave breaches of this Protocol if committed against persons in the power of an adverse Party protected by Articles 44, 45 and 73 of this Protocol, or against the wounded, sick and shipwrecked of the adverse Party who are protected by this Protocol, or against those medical or religious personnel, medical units or
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medical transports which are under the control of the adverse Party and are protected by this Protocol.

3. In addition to the grave breaches defined in Article 11, the following acts shall be regarded as grave breaches of this Protocol, when committed wilfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:
   a) making the civilian population or individual civilians the object of attack;
   b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 a) iii);
   c) launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 a) iii);
   d) making non-defended localities and demilitarized zones the object of attack;
   e) making a person the object of attack in the knowledge that he is hors de combat;
   f) the perfidious use, in violation of Article 37, of the distinctive emblem of the red cross, red crescent or red lion and sun or of other protective signs recognized by the Conventions or this Protocol.

4. In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol:
   a) the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article 49 of the Fourth Convention;
   b) unjustifiable delay in the repatriation of prisoners of war or civilians;
   c) practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;
   d) making the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, subparagraph b), and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives;
   e) depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial.

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes.

**Article 86 — Failure to act**

1. The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so.

2. The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at
the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

**Article 87 — Duty of commanders**
1. The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and report to competent authorities' breaches of the Conventions and of this Protocol.
2. In order to prevent and suppress breaches, High Contracting Parties and Parties to the conflict shall require that, commensurate with their level of responsibility, commanders ensure that members of the armed forces under their command are aware of their obligations under the Conventions and this Protocol.
3. The High Contracting Parties and Parties to the conflict shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or of this Protocol, to initiate such steps as are necessary to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof.

**Article 88 — Mutual assistance in criminal matters**
1. The High Contracting Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.
2. Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1, of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.
3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.

**Article 89 — Co-operation**
In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter.

**Article 90 — International Fact-Finding Commission**
1. a) An International Fact-Finding Commission (hereinafter referred to as "the Commission") consisting of fifteen members of high moral standing and acknowledged impartiality shall be established.
   b) When not less than twenty High Contracting Parties have agreed to accept the competence of the Commission pursuant to paragraph 2, the depositary shall then, and at intervals of five years thereafter, convene a meeting of representatives of those High Contracting Parties for the purpose of electing the members of the Commission. At the meeting, the
representatives shall elect the members of the Commission by secret ballot from a list of persons to which each of those High Contracting Parties may nominate one person.

c) The members of the Commission shall serve in their personal capacity and shall hold office until the election of new members at the ensuing meeting.

d) At the election, the High Contracting Parties shall ensure that the persons to be elected to the Commission individually possess the qualifications required and that, in the Commission as a whole, equitable geographical representation is assured.

e) In the case of a casual vacancy, the Commission itself shall fill the vacancy, having due regard to the provisions of the preceding sub-paragraphs.

f) The depositary shall make available to the Commission the necessary administrative facilities for the performance of its functions.

2.

a) The High Contracting Parties may at the time of signing, ratifying or acceding to the Protocol, or at any other subsequent time, declare that they recognize ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the Commission to enquire into allegations by such other Party, as authorized by this Article.

b) The declarations referred to above shall be deposited with the depositary, which shall transmit copies thereof to the High Contracting Parties.

c) The Commission shall be competent to:

I. enquire into any facts alleged to be a grave breach as defined in the Conventions and this Protocol or other serious violation of the Conventions or of this Protocol;

II. ii) facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol.

d) In other situations, the Commission shall institute an enquiry at the request of a Party to the conflict only with the consent of the other Party or Parties concerned.

e) Subject to the foregoing provisions of this paragraph, the provisions of Article 52 of the First Convention, Article 53 of the Second Convention, Article 132 of the Third Convention and Article 149 of the Fourth Convention shall continue to apply to any alleged violation of the Conventions and shall extend to any alleged violation of this Protocol.

3.

a) Unless otherwise agreed by the Parties concerned, all enquiries shall be undertaken by a Chamber consisting of seven members appointed as follows:

i. five members of the Commission, not nationals of any Party to the conflict, appointed by the President of the Commission on the basis of equitable representation of the geographical areas, after consultation with the Parties to the conflict;

ii. two ad hoc members, not nationals of any Party to the conflict, one to be appointed by each side.

II. Upon receipt of the request for an enquiry, the President of the Commission shall specify an appropriate time-limit for setting up a Chamber. If any ad hoc member has not been appointed within the time-limit, the President shall immediately appoint such additional member or members of the Commission as may be necessary to complete the membership of the Chamber.
4. 
   a) The Chamber set up under paragraph 3 to undertake an enquiry shall invite the Parties to 
      the conflict to assist it and to present evidence. The Chamber may also seek such other 
      evidence as it deems appropriate and may carry out an investigation of the situation in 
      loco.
   b) All evidence shall be fully disclosed to the Parties, which shall have the right to comment 
      on it to the Commission.
   c) Each Party shall have the right to challenge such evidence.

5. 
   a) The Commission shall submit to the Parties a report on the findings of fact of the Chamber, 
      with such recommendations as it may deem appropriate.
   b) If the Chamber is unable to secure sufficient evidence for factual and impartial findings, 
      the Commission shall state the reasons for that inability.
   c) The Commission shall not report its findings publicly, unless all the Parties to the conflict 
      have requested the Commission to do so.

6. The Commission shall establish its own rules, including rules for the presidency of the 
   Commission and the presidency of the Chamber. Those rules shall ensure that the functions of the 
   President of the Commission are exercised at all times and that, in the case of an enquiry, they are 
   exercised by a person who is not a national of a Party to the conflict.

7. The administrative expenses of the Commission shall be met by contributions from the High 
   Contracting Parties which made declarations under paragraph 2, and by voluntary contributions. 
   The Party or Parties to the conflict requesting an enquiry shall advance the necessary funds for 
   expenses incurred by a Chamber and shall be reimbursed by the Party or Parties against which the 
   allegations are made to the extent of fifty per cent of the costs of the Chamber. Where there are 
   counter-allegations before the Chamber each side shall advance fifty per cent of the necessary 
   funds.

**Article 91 — Responsibility**

A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if 
the case demands, be liable to pay compensation. It shall be responsible for all acts committed by 
persons forming part of its armed forces.
**2.8 ADDITIONAL PROTOCOL II. TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS, 8 JUNE 1977**

**PREAMBLE**

The High Contracting Parties,

Recalling that the humanitarian principles enshrined in Article 3 common to the Geneva Conventions of 12 August 1949, constitute the foundation of respect for the human person in cases of armed conflict not of an international character,

Recalling furthermore that international instruments relating to human rights offer a basic protection to the human person,

Emphasizing the need to ensure a better protection for the victims of those armed conflicts,

Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience,

Have agreed on the following:

**PART I - SCOPE OF THIS PROTOCOL**

**Article 1 – Material field of application**

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of applications, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

**Article 2 – Personal field of application**

1. This Protocol shall be applied without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria (hereinafter referred to as “adverse distinction”) to all persons affected by an armed conflict as defined in Article 1.
2. At the end of the armed conflict, all the persons who have been deprived of their liberty or whose liberty has been restricted for reasons related to such conflict, as well as those deprived of their liberty or whose liberty is restricted after the conflict for the same reasons, shall enjoy the protection of Articles 5 and 6 until the end of such deprivation or restriction of liberty.

**Article 3 — Non-intervention**
1. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
2. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the territory of which that conflict occurs.

**PART II - HUMANE TREATMENT**

**Article 4 — Fundamental guarantees**
1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.
2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:
   a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
   b) collective punishments;
   c) taking of hostages;
   d) acts of terrorism;
   e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
   f) slavery and the slave trade in all their forms;
   g) pillage;
   h) threats to commit any of the foregoing acts.
3. Children shall be provided with the care and aid they require, and in particular:
   a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;
   b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
   c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;
   d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph c) and are captured;
e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

Article 5 — Persons whose liberty has been restricted

1. In addition to the provisions of Article 4, the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained:
   a) the wounded and the sick shall be treated in accordance with Article 7;
   b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;
   c) they shall be allowed to receive individual or collective relief;
   d) they shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;
   e) they shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

2. Those who are responsible for the internment or detention of the persons referred to in paragraph 1 shall also, within the limits of their capabilities, respect the following provisions relating to such persons:
   a) except when men and women of a family are accommodated together, women shall be held in quarters separated from those of men and shall be under the immediate supervision of women;
   b) they shall be allowed to send and receive letters and cards, the number of which may be limited by competent authority if it deems necessary;
   c) places of internment and detention shall not be located close to the combat zone. The persons referred to in paragraph 1 shall be evacuated when the places where they are interned or detained become particularly exposed to danger arising out of the armed conflict, if their evacuation can be carried out under adequate conditions of safety;
   d) they shall have the benefit of medical examinations;
   e) their physical or mental health and integrity shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.

3. Persons who are not covered by paragraph 1 but whose liberty has been restricted in any way whatsoever for reasons related to the armed conflict shall be treated humanely in accordance with Article 4 and with paragraphs 1 a), c) and d), and 2 b) of this Article.

4. If it is decided to release persons deprived of their liberty, necessary measures to ensure their safety shall be taken by those so deciding.
**Article 6 — Penal prosecutions**

1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.
2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality. In particular:
   a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
   b) no one shall be convicted of an offence except on the basis of individual penal responsibility;
   c) no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
   d) anyone charged with an offence is presumed innocent until proved guilty according to law;
   e) anyone charged with an offence shall have the right to be tried in his presence;
   f) no one shall be compelled to testify against himself or to confess guilt.
3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.
4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.
5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

**PART III - WOUNDED, SICK AND SHIPWRECKED**

**Article 7 — Protection and care**

1. All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

**Article 8 — Search**

Whenever circumstances permit, and particularly after an engagement, all possible measures shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them.
Article 9 — Protection of medical and religious personnel
1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.
2. In the performance of their duties medical personnel may not be required to give priority to any person except on medical grounds.

Article 10 — General protection of medical duties
1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.
2. Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.
3. The professional obligations of persons engaged in medical activities regarding information which they may acquire concerning the wounded and sick under their care shall, subject to national law, be respected.
4. Subject to national law, no person engaged in medical activities may be penalized in any way for refusing or failing to give information concerning the wounded and sick who are, or who have been, under his care.

Article 11 — Protection of medical units and transports
1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.
2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

Article 12 — The distinctive emblem
Under the direction of the competent authority concerned, the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground shall be displayed by medical and religious personnel and medical units, and on medical transports. It shall be respected in all circumstances. It shall not be used improperly.

PART IV - CIVILIAN POPULATION

Article 13 — Protection of the civilian population
1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.
2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.
Article 14 — Protection of objects indispensable to the survival of the civilian Population
Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

Article 15 — Protection of works and installations containing dangerous forces
Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.

Article 16 — Protection of cultural objects and of places of worship
Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

Article 17 — Prohibition of forced movement of civilians
1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.
2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.

Article 18 — Relief societies and relief actions
1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.
2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.

PART V - FINAL PROVISIONS

Article 19 — Dissemination
This Protocol shall be disseminated as widely as possible.
Article 20 — Signature
This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

Article 21 — Ratification
This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

Article 22 — Accession
This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Article 23 — Entry into force
1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Article 24 — Amendment
1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.
2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol.

Article 25 - Denunciation
1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect six months after receipt of the instrument of denunciation. If, however, on the expiry of six months, the denouncing Party is engaged in the situation referred to in Article 1, the denunciation shall not take effect before the end of the armed conflict. Persons who have been deprived of liberty, or whose liberty has been restricted, for reasons related to the conflict shall nevertheless continue to benefit from the provisions of this Protocol until their final release.
2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

Article 26 — Notifications
The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:
   a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 21 and 22;
   b) the date of entry into force of this Protocol under Article 23; and
   c) communications and declarations received under Article 24.
Article 27 — Registration
1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications and accessions received by it with respect to this Protocol.

Article 28 — Authentic texts
The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.
2.9 **Rome Statute of the International Criminal Court (1998) – Selected Articles**

**Preamble**
The States Parties to this Statute,

*Conscious* that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

*Mindful* that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

*Recognizing* that such grave crimes threaten the peace, security and well-being of the world,

*Affirming* that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

*Determined* to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

*Recalling* that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

*Reaffirming* the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

*Emphasizing* in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,

*Determined* to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

*Emphasizing* that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

*Resolved* to guarantee lasting respect for and the enforcement of international justice,

*Have agreed as follows*

**PART 1. ESTABLISHMENT OF THE COURT**

**Article 1**
The Court

An International Criminal Court (“the Court”) is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.
Article 2
Relationship of the Court with the United Nations
The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf.

Article 3
Seat of the Court
1. The seat of the Court shall be established at The Hague in the Netherlands ("the host State").
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.
3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute.

Article 4
Legal status and powers of the Court
1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

PART 2. JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW

Crimes within the jurisdiction of the Court
1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:
   a) The crime of genocide;
   b) Crimes against humanity;
   c) War crimes;
   d) The crime of aggression.
2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.

Article 6
Genocide
For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
   i. Killing members of the group;
   ii. Causing serious bodily or mental harm to members of the group;
   iii. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
   iv. Imposing measures intended to prevent births within the group;
   v. Forcibly transferring children of the group to another group.
Article 7
Crimes against humanity

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
   i. Murder;
   ii. Extermination;
   iii. Enslavement;
   iv. Deportation or forcible transfer of population;
   v. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
   vi. Torture;
   vii. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
   viii. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
   ix. Enforced disappearance of persons;
   x. The crime of apartheid;
   xi. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:
   i. "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
   ii. "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
   iii. "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
   iv. "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
   v. "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
   vi. "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This
definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

vii. “Persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

viii. “The crime of apartheid” means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

ix. “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above.

Article 8
War crimes
1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, “war crimes” means:

   a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

      (i) Wilful killing;
      (ii) Torture or inhuman treatment, including biological experiments;
      (iii) Wilfully causing great suffering, or serious injury to body or health;
      (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
      (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
      (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
      (vii) Unlawful deportation or transfer or unlawful confinement;
      (viii) Taking of hostages.

   b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

      (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
      (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

(v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

(vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;

(vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

(viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(ix) 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;

(x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;

(xii) Declaring that no quarter will be given;

(xiii) Destroying or seizing the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of war;

(xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

(xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent’s service before the commencement of the war;

(xvi) Pillaging a town or place, even when taken by assault;

(xvii) Employing poison or poisoned weapons;

(xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
(xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;

(xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;

(xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

(xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

(xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

(xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against 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:

(i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(iii) Taking of hostages;

(iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
(ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv) 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;

(v) Pillaging a town or place, even when taken by assault;

(vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;

(vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;

(viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(ix) Killing or wounding treacherously a combatant adversary;

(x) Declaring that no quarter will be given;

(xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

Article 8 bis
Crime of aggression
1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.
2. For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

   a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
   b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
   c) The blockade of the ports or coasts of a State by the armed forces of another State;
   d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
   e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
   f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
   g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Article 9
Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7 and 8. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

2. Amendments to the Elements of Crimes may be proposed by:

   a) Any State Party;
   b) The judges acting by an absolute majority;
   c) The Prosecutor.

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute.

Article 10

Nothing in this Part shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute.

Article 11

Jurisdiction ratione temporis

1. The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute.

2. If a State becomes a Party to this Statute after its entry into force, the Court may exercise its
jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration under article 12, paragraph 3.

Article 12
Preconditions to the exercise of jurisdiction
1. A State which becomes a Party to this Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5.
2. In the case of article 13, paragraph (a) or (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3:
   a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;
   b) The State of which the person accused of the crime is a national.
3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9.

Article 13
Exercise of jurisdiction
The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:
   a) A situation in which one or more crimes within the jurisdiction of the Court appear to have been committed is referred to the Prosecutor by a State Party in accordance with article 14;
   b) A situation in which one or more crimes within the jurisdiction of the Court appear to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or
   c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

Article 14
Referral of a situation by a State Party
1. A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.
2. As far as possible, a referral shall specify the relevant circumstances and be accompanied by such supporting documentation as is available to the State referring the situation.

Article 15
Prosecutor
1. The Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court.
2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental
or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.

3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.

4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.

5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence regarding the same situation.

6. After the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

**Article 15 bis**

**Exercise of jurisdiction over the crime of aggression (State referral, proprio motu)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraphs (a) and (c), subject to the provisions of this article.

2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.

3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.

4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.

5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State’s nationals or on its territory.

6. Where the Prosecutor concludes that there is a reasonable basis to proceed with an investigation in respect of a crime of aggression, he or she shall first ascertain whether the Security Council has made a determination of an act of aggression committed by the State concerned. The Prosecutor shall notify the Secretary-General of the United Nations of the situation before the Court, including any relevant information and documents.

7. Where the Security Council has made such a determination, the Prosecutor may proceed with the investigation in respect of a crime of aggression.

8. Where no such determination is made within six months after the date of notification, the Prosecutor may proceed with the investigation in respect of a crime of aggression, provided that the Pre-Trial Division has authorized the commencement of the investigation in respect of a crime of
aggression in accordance with the procedure contained in article 15, and the Security Council has not decided otherwise in accordance with article 16.

9. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.

10. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

**Article 15 ter**

**Exercise of jurisdiction over the crime of aggression (Security Council referral)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraph (b), subject to the provisions of this article.

2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.

3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.

4. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.

5. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

**Article 16**

**Deferral of investigation or prosecution**

No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions.

**Article 17**

**Issues of admissibility**

1. Having regard to paragraph 10 of the Preamble and article 1, the Court shall determine that a case is inadmissible where:

   a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution;

   b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;

   c) The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3;

   d) The case is not of sufficient gravity to justify further action by the Court.

2. In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
b) There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.

3. In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

**Article 18**

**Preliminary rulings regarding admissibility**

1. When a situation has been referred to the Court pursuant to article 13 (a) and the Prosecutor has determined that there would be a reasonable basis to commence an investigation, or the Prosecutor initiates an investigation pursuant to articles 13 (c) and 15, the Prosecutor shall notify all States Parties and those States which, taking into account the information available, would normally exercise jurisdiction over the crimes concerned. The Prosecutor may notify such States on a confidential basis and, where the Prosecutor believes it necessary to protect persons, prevent destruction of evidence or prevent the absconding of persons, may limit the scope of the information provided to States.

2. Within one month of receipt of that notification, a State may inform the Court that it is investigating or has investigated its nationals or others within its jurisdiction with respect to criminal acts which may constitute crimes referred to in article 5 and which relate to the information provided in the notification to States. At the request of that State, the Prosecutor shall defer to the State's investigation of those persons unless the Pre-Trial Chamber, on the application of the Prosecutor, decides to authorize the investigation.

3. The Prosecutor's deferral to a State's investigation shall be open to review by the Prosecutor six months after the date of deferral or at any time when there has been a significant change of circumstances based on the State's unwillingness or inability genuinely to carry out the investigation.

4. State concerned or the Prosecutor may appeal to the Appeals Chamber against a ruling of the Pre-Trial Chamber, in accordance with article 82. The appeal may be heard on an expedited basis.

5. When the Prosecutor has deferred an investigation in accordance with paragraph 2, the Prosecutor may request that the State concerned periodically inform the Prosecutor of the progress of its investigations and any subsequent prosecutions. States Parties shall respond to such requests without undue delay.

6. Pending a ruling by the Pre-Trial Chamber, or at any time when the Prosecutor has deferred an investigation under this article, the Prosecutor may, on an exceptional basis, seek authority from the Pre-Trial Chamber to pursue necessary investigative steps for the purpose of preserving evidence where there is a unique opportunity to obtain important evidence or there is a significant risk that such evidence may not be subsequently available.
A State which has challenged a ruling of the Pre-Trial Chamber under this article may challenge the admissibility of a case under article 19 on the grounds of additional significant facts or significant change of circumstances.

**Article 19**

**Challenges to the jurisdiction of the Court or the admissibility of a case**

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. The Court may, on its own motion, determine the admissibility of a case in accordance with article 17.

2. Challenges to the admissibility of a case on the grounds referred to in article 17 or challenges to the jurisdiction of the Court may be made by:
   a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued under article 58;
   b) A State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted; or
   c) A State from which acceptance of jurisdiction is required under article 12.

3. The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility. In proceedings with respect to jurisdiction or admissibility, those who have referred the situation under article 13, as well as victims, may also submit observations to the Court.

4. The admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2. The challenge shall take place prior to or at the commencement of the trial. In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial. Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the Court, may be based only on article 17, paragraph 1 (c).

5. A State referred to in paragraph 2 (b) and (c) shall make a challenge at the earliest opportunity.

6. Prior to the confirmation of the charges, challenges to the admissibility of a case or challenges to the jurisdiction of the Court shall be referred to the Pre-Trial Chamber. After confirmation of the charges, they shall be referred to the Trial Chamber. Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with article 82.

7. A challenge is made by a State referred to in paragraph 2 (b) or (c), the Prosecutor shall suspend the investigation until such time as the Court makes a determination in accordance with article 17.

8. Pending a ruling by the Court, the Prosecutor may seek authority from the Court:
   a) To pursue necessary investigative steps of the kind referred to in article 18, paragraph 6;
   b) To take a statement or testimony from a witness or complete the collection and examination of evidence which had begun prior to the making of the challenge; and
   c) In cooperation with the relevant States, to prevent the absconding of persons in respect of whom the Prosecutor has already requested a warrant of arrest under article 58.

9. The making of a challenge shall not affect the validity of any act performed by the Prosecutor or any order or warrant issued by the Court prior to the making of the challenge.

10. If the Court has decided that a case is inadmissible under article 17, the Prosecutor may submit a request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 17.

11. If the Prosecutor, having regard to the matters referred to in article 17, defers an investigation, the Prosecutor may request that the relevant State make available to the Prosecutor information...
on the proceedings. That information shall, at the request of the State concerned, be confidential. If the Prosecutor thereafter decides to proceed with an investigation, he or she shall notify the State to which deferral of the proceedings has taken place.

**Article 20**

**Ne bis in idem**

1. Except as provided in this Statute, no person shall be tried before the Court with respect to conduct which formed the basis of crimes for which the person has been convicted or acquitted by the Court.
2. No person shall be tried by another court for a crime referred to in article 5 for which that person has already been convicted or acquitted by the Court.
3. No person who has been tried by another court for conduct also proscribed under article 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:
   a) Were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court; or
   b) Otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.

**Article 21**

**Applicable law**

1. The Court shall apply:
   a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;
   b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
   c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.

2. The Court may apply principles and rules of law as interpreted in its previous decisions.

3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

**PART 3. GENERAL PRINCIPLES OF CRIMINAL LAW**

**Article 22**

**Nullum crimen sine lege**

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.
2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In
case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

Article 23

Nulla poena sine lege
A person convicted by the Court may be punished only in accordance with this Statute.

Article 24

Non-retroactivity ratione persona
1. No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.
2. In the event of a change in the law applicable to a given case prior to a final judgement, the law more favourable to the person being investigated, prosecuted or convicted shall apply.

Article 25

Individual criminal responsibility
1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.
3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:
   a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
   b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
   c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
   d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
      I. Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or
      II. Be made in the knowledge of the intention of the group to commit the crime;
   e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;
   f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.
4. No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.

Article 26
Exclusion of jurisdiction over persons under eighteen
The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime.

Article 27
Irrelevance of official capacity
1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

Article 28
Responsibility of commanders and other superiors
In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
   I. That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
   II. That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
   I. The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
   II. The crimes concerned activities that were within the effective responsibility and control of the superior; and
   III. The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
Article 29
Non-applicability of statute of limitations
The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

Article 30
Mental element
1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.
2. For the purposes of this article, a person has intent where:
   a) In relation to conduct, that person means to engage in the conduct;
   b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly.

Article 31
Grounds for excluding criminal responsibility
1. In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person’s conduct:
   a) The person suffers from a mental disease or defect that destroys that person’s capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
   b) The person is in a state of intoxication that destroys that person’s capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court;
   c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph;
   d) The conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
      I. Made by other persons; or
      II. Constituted by other circumstances beyond that person’s control.
2. The Court shall determine the applicability of the grounds for excluding criminal responsibility provided for in this Statute to the case before it.
3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence.

**Article 32**

**Mistake of fact or mistake of law**

1. A mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime.

2. A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the Court shall not be a ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal responsibility if it negates the mental element required by such a crime, or as provided for in article 33.

**Article 33**

**Superior orders and prescription of law**

1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
   a) The person was under a legal obligation to obey orders of the Government or the superior in question;
   b) The person did not know that the order was unlawful; and
   c) The order was not manifestly unlawful.

2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

**PART 5. INVESTIGATION AND PROSECUTION**

**Article 53 Initiation of an investigation**

1. The Prosecutor shall, having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this Statute. In deciding whether to initiate an investigation, the Prosecutor shall consider whether:
   a) The information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
   b) The case is or would be admissible under article 17; and
   c) Taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. If the Prosecutor determines that there is no reasonable basis to proceed and his or her determination is based solely on subparagraph (c) above, he or she shall inform the Pre-Trial Chamber.

2. If, upon investigation, the Prosecutor concludes that there is not a sufficient basis for a prosecution because:
   a) There is not a sufficient legal or factual basis to seek a warrant or summons under article 58; and
   b) The case is inadmissible under article 17; or
c) A prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime; the Prosecutor shall inform the Pre-Trial Chamber and the State making a referral under article 14 or the Security Council in a case under article 13, paragraph b), of his or her conclusion and the reasons for the conclusion.

3. a) At the request of the State making a referral under article 14 or the Security Council under article 13, paragraph (b), the Pre-Trial Chamber may review a decision of the Prosecutor under paragraph 1 or 2 not to proceed and may request the Prosecutor to reconsider that decision.

b) In addition, the Pre-Trial Chamber may, on its own initiative, review a decision of the Prosecutor not to proceed if it is based solely on paragraph 1 (c) or 2 (c). In such a case, the decision of the Prosecutor shall be effective only if confirmed by the Pre-Trial Chamber.

4. The Prosecutor may, at any time, reconsider a decision whether to initiate an investigation or prosecution based on new facts or information.

**Article 54 Duties and powers of the Prosecutor with respect to investigations**

1. The Prosecutor shall:
   a) In order to establish the truth, extend the investigation to cover all facts and evidence relevant to an assessment of whether there is criminal responsibility under this Statute, and, in doing so, investigate incriminating and exonerating circumstances equally;
   b) Take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender as defined in article 7, paragraph 3, and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children; and
   c) Fully respect the rights of persons arising under this Statute.

2. The Prosecutor may conduct investigations on the territory of a State:
   a) In accordance with the provisions of Part 9; or (b) As authorized by the Pre-Trial Chamber under article 57, paragraph 3 (d).

3. The Prosecutor may:
   a) Collect and examine evidence;
   b) Request the presence of and question persons being investigated, victims and witnesses;
   c) Seek the cooperation of any State or intergovernmental organization or arrangement in accordance with its respective competence and/or mandate;
   d) Enter into such arrangements or agreements, not inconsistent with this Statute, as may be necessary to facilitate the cooperation of a State, intergovernmental organization or person;
   e) Agree not to disclose, at any stage of the proceedings, documents or information that the Prosecutor obtains on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents; and
   f) Take necessary measures, or request that necessary measures be taken, to ensure the confidentiality of information, the protection of any person or the preservation of evidence.
Article 55 Rights of persons during an investigation
1. In respect of an investigation under this Statute, a person:
   a) Shall not be compelled to incriminate himself or herself or to confess guilt;
   b) Shall not be subjected to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment;
   c) Shall, if questioned in a language other than a language the person fully understands and speaks, have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness; and
   d) Shall not be subjected to arbitrary arrest or detention, and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established in this Statute.

2. Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9, that person shall also have the following rights of which he or she shall be informed prior to being questioned:
   a) To be informed, prior to being questioned, that there are grounds to believe that he or she has committed a crime within the jurisdiction of the Court;
   b) To remain silent, without such silence being a consideration in the determination of guilt or innocence;
   c) To have legal assistance of the person’s choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it; and
   d) To be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel.

Article 56
Role of the Pre-Trial Chamber in relation to a unique investigative opportunity
1. a) Where the Prosecutor considers an investigation to present a unique opportunity to take testimony or a statement from a witness or to examine, collect or test evidence, which may not be available subsequently for the purposes of a trial, the Prosecutor shall so inform the Pre-Trial Chamber.
   b) In that case, the Pre-Trial Chamber may, upon request of the Prosecutor, take such measures as may be necessary to ensure the efficiency and integrity of the proceedings and, in particular, to protect the rights of the defence.
   c) Unless the Pre-Trial Chamber orders otherwise, the Prosecutor shall provide the relevant information to the person who has been arrested or appeared in response to a summons in connection with the investigation referred to in subparagraph (a), in order that he or she may be heard on the matter.

2. The measures referred to in paragraph 1 (b) may include:
   a) Making recommendations or orders regarding procedures to be followed;
   b) Directing that a record be made of the proceedings;
   c) Appointing an expert to assist;
   d) Authorizing counsel for a person who has been arrested, or appeared before the Court in response to a summons, to participate, or where there has not yet been such an arrest or
appearance or counsel has not been designated, appointing another counsel to attend and represent the interests of the defence;
e) Naming one of its members or, if necessary, another available judge of the Pre-Trial or Trial Division to observe and make recommendations or orders regarding the collection and preservation of evidence and the questioning of persons;
f) Taking such other action as may be necessary to collect or preserve evidence.

3. a) Where the Prosecutor has not sought measures pursuant to this article but the Pre-Trial Chamber considers that such measures are required to preserve evidence that it deems would be essential for the defence at trial, it shall consult with the Prosecutor as to whether there is good reason for the Prosecutor’s failure to request the measures. If upon consultation, the Pre-Trial Chamber concludes that the Prosecutor’s failure to request such measures is unjustified, the Pre-Trial Chamber may take such measures on its own initiative.

b) A decision of the Pre-Trial Chamber to act on its own initiative under this paragraph may be appealed by the Prosecutor. The appeal shall be heard on an expedited basis. 4. The admissibility of evidence preserved or collected for trial pursuant to this article, or the record thereof, shall be governed at trial by article 69, and given such weight as determined by the Trial Chamber.

Article 57
Functions and powers of the Pre-Trial Chamber
1. Unless otherwise provided in this Statute, the Pre-Trial Chamber shall exercise its functions in accordance with the provisions of this article.
2. a) Orders or rulings of the Pre-Trial Chamber issued under articles 15, 18, 19, 54, paragraph 2, 61, paragraph 7, and 72 must be concurred in by a majority of its judges.

b) In all other cases, a single judge of the Pre-Trial Chamber may exercise the functions provided for in this Statute, unless otherwise provided for in the Rules of Procedure and Evidence or by a majority of the Pre-Trial Chamber.

3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:
(a) At the request of the Prosecutor, issue such orders and warrants as may be required for the purposes of an investigation;
(b) Upon the request of a person who has been arrested or has appeared pursuant to a summons under article 58, issue such orders, including measures such as those described in article 56, or seek such cooperation pursuant to Part 9 as may be necessary to assist the person in the preparation of his or her defence;
(c) Where necessary, provide for the protection and privacy of victims and witnesses, the preservation of evidence, the protection of persons who have been arrested or appeared in response to a summons, and the protection of national security information;
(d) Authorize the Prosecutor to take specific investigative steps within the territory of a State Party without having secured the cooperation of that State under Part 9 if, whenever possible having regard to the views of the State concerned, the Pre-Trial Chamber has determined in that case that the State is clearly unable to execute a request for cooperation due to the unavailability of any authority or any component of its judicial system competent to execute the request for cooperation under Part 9;
(e) Where a warrant of arrest or a summons has been issued under article 58, and having due regard to the strength of the evidence and the rights of the parties concerned, as provided
for in this Statute and the Rules of Procedure and Evidence, seek the cooperation of States pursuant to article 93, paragraph 1 (k), to take protective measures for the purpose of forfeiture, in particular for the ultimate benefit of victims.

Article 58

Issuance by the Pre-Trial Chamber of a warrant of arrest or a summons to appear

1. At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor, it is satisfied that:
   (a) There are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and
   (b) The arrest of the person appears necessary:
      (i) To ensure the person’s appearance at trial;
      (ii) To ensure that the person does not obstruct or endanger the investigation or the court proceedings; or
      (iii) Where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.

2. The application of the Prosecutor shall contain:
   (a) The name of the person and any other relevant identifying information;
   (b) A specific reference to the crimes within the jurisdiction of the Court which the person is alleged to have committed;
   (c) A concise statement of the facts which are alleged to constitute those crimes;
   (d) A summary of the evidence and any other information which establish reasonable grounds to believe that the person committed those crimes; and
   (e) The reason why the Prosecutor believes that the arrest of the person is necessary.

3. The warrant of arrest shall contain:
   (a) The name of the person and any other relevant identifying information;
   (b) A specific reference to the crimes within the jurisdiction of the Court for which the person’s arrest is sought; and
   (c) A concise statement of the facts which are alleged to constitute those crimes.

4. The warrant of arrest shall remain in effect until otherwise ordered by the Court.

5. On the basis of the warrant of arrest, the Court may request the provisional arrest or the arrest and surrender of the person under Part 9.

6. The Prosecutor may request the Pre-Trial Chamber to amend the warrant of arrest by modifying or adding to the crimes specified therein. The Pre-Trial Chamber shall so amend the warrant if it is satisfied that there are reasonable grounds to believe that the person committed the modified or additional crimes.

7. As an alternative to seeking a warrant of arrest, the Prosecutor may submit an application requesting that the Pre-Trial Chamber issue a summons for the person to appear. If the Pre-Trial Chamber is satisfied that there are reasonable grounds to believe that the person committed the crime alleged and that a summons is sufficient to ensure the person’s appearance, it shall issue the summons, with or without conditions restricting liberty (other than detention) if provided for by national law, for the person to appear. The summons shall contain:
   (a) The name of the person and any other relevant identifying information;
(b) The specified date on which the person is to appear;
(c) A specific reference to the crimes within the jurisdiction of the Court which the person is
alleged to have committed; and
(d) A concise statement of the facts which are alleged to constitute the crime. The summons
shall be served on the person.

Article 59
Arrest proceedings in the custodial State
1. A State Party which has received a request for provisional arrest or for arrest and surrender shall
immediately take steps to arrest the person in question in accordance with its laws and the
provisions of Part 9.
2. A person arrested shall be brought promptly before the competent judicial authority in the
custodial State which shall determine, in accordance with the law of that State, that:
   (a) The warrant applies to that person;
   (b) The person has been arrested in accordance with the proper process; and
   (c) The person's rights have been respected.
3. The person arrested shall have the right to apply to the competent authority in the custodial State
for interim release pending surrender.
4. In reaching a decision on any such application, the competent authority in the custodial State
shall consider whether, given the gravity of the alleged crimes, there are urgent and exceptional
circumstances to justify interim release and whether necessary safeguards exist to ensure that the
custodial State can fulfil its duty to surrender the person to the Court. It shall not be open to the
competent authority of the custodial State to consider whether the warrant of arrest was properly
issued in accordance with article 58, paragraph 1 (a) and (b).
5. The Pre-Trial Chamber shall be notified of any request for interim release and shall make
recommendations to the competent authority in the custodial State. The competent authority in the
custodial State shall give full consideration to such recommendations, including any
recommendations on measures to prevent the escape of the person, before rendering its decision.
6. If the person is granted interim release, the Pre-Trial Chamber may request periodic reports on the
status of the interim release.
7. Once ordered to be surrendered by the custodial State, the person shall be delivered to the Court
as soon as possible.

Article 60
Initial proceedings before the Court
1. Upon the surrender of the person to the Court, or the person's appearance before the Court
voluntarily or pursuant to a summons, the Pre-Trial Chamber shall satisfy itself that the person has
been informed of the crimes which he or she is alleged to have committed, and of his or her rights
under this Statute, including the right to apply for interim release pending trial.
2. A person subject to a warrant of arrest may apply for interim release pending trial. If the Pre-Trial
Chamber is satisfied that the conditions set forth in article 58, paragraph 1, are met, the person shall
continue to be detained. If it is not so satisfied, the Pre-Trial Chamber shall release the person, with
or without conditions.
3. The Pre-Trial Chamber shall periodically review its ruling on the release or detention of the
person, and may do so at any time on the request of the Prosecutor or the person. Upon such review,
it may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require.

4. The Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor. If such delay occurs, the Court shall consider releasing the person, with or without conditions.

5. If necessary, the Pre-Trial Chamber may issue a warrant of arrest to secure the presence of a person who has been released.

Article 61
Confirmation of the charges before trial

1. Subject to the provisions of paragraph 2, within a reasonable time after the person’s surrender or voluntary appearance before the Court, the Pre-Trial Chamber shall hold a hearing to confirm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor and the person charged, as well as his or her counsel.

2. The Pre-Trial Chamber may, upon request of the Prosecutor or on its own motion, hold a hearing in the absence of the person charged to confirm the charges on which the Prosecutor intends to seek trial when the person has:
   a) Waived his or her right to be present; or
   b) Fled or cannot be found and all reasonable steps have been taken to secure his or her appearance before the Court and to inform the person of the charges and that a hearing to confirm those charges will be held. In that case, the person shall be represented by counsel where the Pre-Trial Chamber determines that it is in the interests of justice.

3. Within a reasonable time before the hearing, the person shall:
   a) Be provided with a copy of the document containing the charges on which the Prosecutor intends to bring the person to trial; and
   b) Be informed of the evidence on which the Prosecutor intends to rely at the hearing. The Pre-Trial Chamber may issue orders regarding the disclosure of information for the purposes of the hearing.

4. Before the hearing, the Prosecutor may continue the investigation and may amend or withdraw any charges. The person shall be given reasonable notice before the hearing of any amendment to or withdrawal of charges. In case of a withdrawal of charges, the Prosecutor shall notify the Pre-Trial Chamber of the reasons for the withdrawal.

5. At the hearing, the Prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The Prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial.

6. At the hearing, the person may:
   a) Object to the charges;
   b) Challenge the evidence presented by the Prosecutor; and
   c) Present evidence.

7. The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre-Trial Chamber shall:
   a) Confirm those charges in relation to which it has determined that there is sufficient evidence, and commit the person to a Trial Chamber for trial on the charges as confirmed;
   b) Decline to confirm those charges in relation to which it has determined that there is insufficient evidence;
c) Adjourn the hearing and request the Prosecutor to consider:
   (i) Providing further evidence or conducting further investigation with respect to a particular charge; or
   (ii) Amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the Court.

8. Where the Pre-Trial Chamber declines to confirm a charge, the Prosecutor shall not be precluded from subsequently requesting its confirmation if the request is supported by additional evidence.

9. After the charges are confirmed and before the trial has begun, the Prosecutor may, with the permission of the Pre-Trial Chamber and after notice to the accused, amend the charges. If the Prosecutor seeks to add additional charges or to substitute more serious charges, a hearing under this article to confirm those charges must be held. After commencement of the trial, the Prosecutor may, with the permission of the Trial Chamber, withdraw the charges.

10. Any warrant previously issued shall cease to have effect with respect to any charges which have not been confirmed by the Pre-Trial Chamber or which have been withdrawn by the Prosecutor.

11. Once the charges have been confirmed in accordance with this article, the Presidency shall constitute a Trial Chamber which, subject to paragraph 9 and to article 64, paragraph 4, shall be responsible for the conduct of subsequent proceedings and may exercise any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings.

PART 9. INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE

Article 86
General obligation to cooperate
States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court.

Article 87
Requests for cooperation: general provisions
1. a) The Court shall have the authority to make requests to States Parties for cooperation. The requests shall be transmitted through the diplomatic channel or any other appropriate channel as may be designated by each State Party upon ratification, acceptance, approval or accession. Subsequent changes to the designation shall be made by each State Party in accordance with the Rules of Procedure and Evidence.
   
   b) When appropriate, without prejudice to the provisions of subparagraph (a), requests may also be transmitted through the International Criminal Police Organization or any appropriate regional organization.

2. Requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into an official language of the requested State or one of the working languages of the Court, in accordance with the choice made by that State upon ratification, acceptance, approval or accession. Subsequent changes to this choice shall be made in accordance with the Rules of Procedure and Evidence.

3. The requested State shall keep confidential a request for cooperation and any documents supporting the request, except to the extent that the disclosure is necessary for execution of the request.

4. In relation to any request for assistance presented under this Part, the Court may take such measures, including measures related to the protection of information, as may be necessary to
ensure the safety or physical or psychological well-being of any victims, potential witnesses and their families. The Court may request that any information that is made available under this Part shall be provided and handled in a manner that protects the safety and physical or psychological well-being of any victims, potential witnesses and their families.

5. a) The Court may invite any State not party to this Statute to provide assistance under this Part on the basis of an ad hoc arrangement, an agreement with such State or any other appropriate basis.

b) Where a State not party to this Statute, which has entered into an ad hoc arrangement or an agreement with the Court, fails to cooperate with requests pursuant to any such arrangement or agreement, the Court may so inform the Assembly of States Parties or, where the Security Council referred the matter to the Court, the Security Council.

6. The Court may ask any intergovernmental organization to provide information or documents. The Court may also ask for other forms of cooperation and assistance which may be agreed upon with such an organization and which are in accordance with its competence or mandate. 7. Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council.

Article 88
Availability of procedures under national law
States Parties shall ensure that there are procedures available under their national law for all of the forms of cooperation which are specified under this Part.

Article 89
Surrender of persons to the Court
1. The Court may transmit a request for the arrest and surrender of a person, together with the material supporting the request outlined in article 91, to any State on the territory of which that person may be found and shall request the cooperation of that State in the arrest and surrender of such a person. States Parties shall, in accordance with the provisions of this Part and the procedure under their national law, comply with requests for arrest and surrender.

2. Where the person sought for surrender brings a challenge before a national court on the basis of the principle of ne bis in idem as provided in article 20, the requested State shall immediately consult with the Court to determine if there has been a relevant ruling on admissibility. If the case is admissible, the requested State shall proceed with the execution of the request. If an admissibility ruling is pending, the requested State may postpone the execution of the request for surrender of the person until the Court makes a determination on admissibility.

3. a) A State Party shall authorize, in accordance with its national procedural law, transportation through its territory of a person being surrendered to the Court by another State, except where transit through that State would impede or delay the surrender.

b) A request by the Court for transit shall be transmitted in accordance with article 87. The request for transit shall contain:

(i) A description of the person being transported;
(ii) A brief statement of the facts of the case and their legal characterization; and
(iii) The warrant for arrest and surrender;

c) A person being transported shall be detained in custody during the period of transit;
d) No authorization is required if the person is transported by air and no landing is scheduled on the territory of the transit State;
e) If an unscheduled landing occurs on the territory of the transit State, that State may require a request for transit from the Court as provided for in subparagraph (b). The transit State shall detain the person being transported until the request for transit is received and the transit is effected, provided that detention for purposes of this subparagraph may not be extended beyond 96 hours from the unscheduled landing unless the request is received within that time.

4. If the person sought is being proceeded against or is serving a sentence in the requested State for a crime different from that for which surrender to the Court is sought, the requested State, after making its decision to grant the request, shall consult with the Court.

Article 90
Competing requests
1. A State Party which receives a request from the Court for the surrender of a person under article 89 shall, if it also receives a request from any other State for the extradition of the same person for the same conduct which forms the basis of the crime for which the Court seeks the person’s surrender, notify the Court and the requesting State of that fact.

2. Where the requesting State is a State Party, the requested State shall give priority to the request from the Court if:
   a) The Court has, pursuant to article 18 or 19, made a determination that the case in respect of which surrender is sought is admissible and that determination takes into account the investigation or prosecution conducted by the requesting State in respect of its request for extradition; or
   b) The Court makes the determination described in subparagraph (a) pursuant to the requested State’s notification under paragraph 1.

3. Where a determination under paragraph 2
   a) has not been made, the requested State may, at its discretion, pending the determination of the Court under paragraph 2
   b) proceed to deal with the request for extradition from the requesting State but shall not extradite the person until the Court has determined that the case is inadmissible. The Court’s determination shall be made on an expedited basis.

4. If the requesting State is a State not Party to this Statute the requested State, if it is not under an international obligation to extradite the person to the requesting State, shall give priority to the request for surrender from the Court, if the Court has determined that the case is admissible.

5. Where a case under paragraph 4 has not been determined to be admissible by the Court, the requested State may, at its discretion, proceed to deal with the request for extradition from the requesting State.

6. In cases where paragraph 4 applies except that the requested State is under an existing international obligation to extradite the person to the requesting State not Party to this Statute, the requested State shall determine whether to surrender the person to the Court or extradite the person to the requesting State. In making its decision, the requested State shall consider all the relevant factors, including but not limited to:
   a) The respective dates of the requests;
   b) The interests of the requesting State including, where relevant, whether the crime was committed in its territory and the nationality of the victims and of the person sought; and
c) The possibility of subsequent surrender between the Court and the requesting State.

7. Where a State Party which receives a request from the Court for the surrender of a person also receives a request from any State for the extradition of the same person for conduct other than that which constitutes the crime for which the Court seeks the person’s surrender:
   a) The requested State shall, if it is not under an existing international obligation to extradite the person to the requesting State, give priority to the request from the Court;
   b) The requested State shall, if it is under an existing international obligation to extradite the person to the requesting State, determine whether to surrender the person to the Court or to extradite the person to the requesting State. In making its decision, the requested State shall consider all the relevant factors, including but not limited to those set out in paragraph 6, but shall give special consideration to the relative nature and gravity of the conduct in question.

8. Where pursuant to a notification under this article, the Court has determined a case to be inadmissible, and subsequently extradition to the requesting State is refused, the requested State shall notify the Court of this decision.

Article 91
Contents of request for arrest and surrender
1. A request for arrest and surrender shall be made in writing. In urgent cases, a request may be made by any medium capable of delivering a written record, provided that the request shall be confirmed through the channel provided for in article 87, paragraph 1 (a).

2. In the case of a request for the arrest and surrender of a person for whom a warrant of arrest has been issued by the Pre-Trial Chamber under article 58, the request shall contain or be supported by:
   a) Information describing the person sought, sufficient to identify the person, and information as to that person’s probable location;
   b) A copy of the warrant of arrest; and
   c) Such documents, statements or information as may be necessary to meet the requirements for the surrender process in the requested State, except that those requirements should not be more burdensome than those applicable to requests for extradition pursuant to treaties or arrangements between the requested State and other States and should, if possible, be less burdensome, taking into account the distinct nature of the Court.

3. In the case of a request for the arrest and surrender of a person already convicted, the request shall contain or be supported by:
   a) A copy of any warrant of arrest for that person;
   b) A copy of the judgement of conviction;
   c) Information to demonstrate that the person sought is the one referred to in the judgement of conviction; and
   d) If the person sought has been sentenced, a copy of the sentence imposed and, in the case of a sentence for imprisonment, a statement of any time already served and the time remaining to be served.

4. Upon the request of the Court, a State Party shall consult with the Court, either generally or with respect to a specific matter, regarding any requirements under its national law that may apply under paragraph 2 c). During the consultations, the State Party shall advise the Court of the specific requirements of its national law.
Article 92
Provisional arrest
1. In urgent cases, the Court may request the provisional arrest of the person sought, pending presentation of the request for surrender and the documents supporting the request as specified in article 91.
2. The request for provisional arrest shall be made by any medium capable of delivering a written record and shall contain:
   a) Information describing the person sought, sufficient to identify the person, and information as to that person’s probable location;
   b) A concise statement of the crimes for which the person’s arrest is sought and of the facts which are alleged to constitute those crimes, including, where possible, the date and location of the crime;
   c) A statement of the existence of a warrant of arrest or a judgement of conviction against the person sought; and
   d) A statement that a request for surrender of the person sought will follow.
3. A person who is provisionally arrested may be released from custody if the requested State has not received the request for surrender and the documents supporting the request as specified in article 91 within the time limits specified in the Rules of Procedure and Evidence. However, the person may consent to surrender before the expiration of this period if permitted by the law of the requested State. In such a case, the requested State shall proceed to surrender the person to the Court as soon as possible.
4. The fact that the person sought has been released from custody pursuant to paragraph 3 shall not prejudice the subsequent arrest and surrender of that person if the request for surrender and the documents supporting the request are delivered at a later date. Article 93 Other forms of cooperation
1. States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions:
   a) The identification and whereabouts of persons or the location of items;
   b) The taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Court;
   c) The questioning of any person being investigated or prosecuted;
   d) The service of documents, including judicial documents;
   e) Facilitating the voluntary appearance of persons as witnesses or experts before the Court;
   f) The temporary transfer of persons as provided in paragraph 7;
   g) The examination of places or sites, including the exhumation and examination of grave sites;
   h) The execution of searches and seizures;
   i) The provision of records and documents, including official records and documents;
   j) The protection of victims and witnesses and the preservation of evidence;
   k) The identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties; and
   l) Any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.
2. The Court shall have the authority to provide an assurance to a witness or an expert appearing before the Court that he or she will not be prosecuted, detained or subjected to any restriction of personal freedom by the Court in respect of any act or omission that preceded the departure of that person from the requested State.

3. Where execution of a particular measure of assistance detailed in a request presented under paragraph 1, is prohibited in the requested State on the basis of an existing fundamental legal principle of general application, the requested State shall promptly consult with the Court to try to resolve the matter. In the consultations, consideration should be given to whether the assistance can be rendered in another manner or subject to conditions. If after consultations the matter cannot be resolved, the Court shall modify the request as necessary.

4. In accordance with article 72, a State Party may deny a request for assistance, in whole or in part, only if the request concerns the production of any documents or disclosure of evidence which relates to its national security.

5. Before denying a request for assistance under paragraph 1 (l), the requested State shall consider whether the assistance can be provided subject to specified conditions, or whether the assistance can be provided at a later date or in an alternative manner, provided that if the Court or the Prosecutor accepts the assistance subject to conditions, the Court or the Prosecutor shall abide by them. If a request for assistance is denied, the requested State Party shall promptly inform the Court or the Prosecutor of the reasons for such denial.

7. a) The Court may request the temporary transfer of a person in custody for purposes of identification or for obtaining testimony or other assistance. The person may be transferred if the following conditions are fulfilled:

   (i) The person freely gives his or her informed consent to the transfer; and
   (ii) The requested State agrees to the transfer, subject to such conditions as that State and the Court may agree.

   b) The person being transferred shall remain in custody. When the purposes of the transfer have been fulfilled, the Court shall return the person without delay to the requested State.

8. a) The Court shall ensure the confidentiality of documents and information, except as required for the investigation and proceedings described in the request.

   b) The requested State may, when necessary, transmit documents or information to the Prosecutor on a confidential basis. The Prosecutor may then use them solely for the purpose of generating new evidence.

   c) The requested State may, on its own motion or at the request of the Prosecutor, subsequently consent to the disclosure of such documents or information. They may then be used as evidence pursuant to the provisions of Parts 5 and 6 and in accordance with the Rules of Procedure and Evidence.

9. a) (i) In the event that a State Party receives competing requests, other than for surrender or extradition, from the Court and from another State pursuant to an international obligation, the State Party shall endeavour, in consultation with the Court and the other State, to meet both requests, if necessary by postponing or attaching conditions to one or the other request.

   (ii) Failing that, competing requests shall be resolved in accordance with the principles established in article 90.

   b) Where, however, the request from the Court concerns information, property or persons which are subject to the control of a third State or an international organization by virtue of an
international agreement, the requested States shall so inform the Court and the Court shall
direct its request to the third State or international organization.

10. a) The Court may, upon request, cooperate with and provide assistance to a State Party
conducting an investigation into or trial in respect of conduct which constitutes a crime
within the jurisdiction of the Court or which constitutes a serious crime under the national
law of the requesting State.

b) (i) The assistance provided under subparagraph (a) shall include, inter alia:
   a. The transmission of statements, documents or other types of evidence obtained in the course
      of an investigation or a trial conducted by the Court; and
   b. The questioning of any person detained by order of the Court;

   (ii) In the case of assistance under subparagraph

b) (i) a: a. If the documents or other types of evidence have been obtained with the assistance of
a State, such transmission shall require the consent of that State;

b. If the statements, documents or other types of evidence have been provided by a witness or
expert, such transmission shall be subject to the provisions of article 68.

c) The Court may, under the conditions set out in this paragraph, grant a request for assistance
under this paragraph from a State which is not a Party to this Statute.

Article 94
Postponement of execution of a request in respect of ongoing investigation or prosecution
1. If the immediate execution of a request would interfere with an ongoing investigation or
prosecution of a case different from that to which the request relates, the requested State may
postpone the execution of the request for a period of time agreed upon with the Court. However, the
postponement shall be no longer than is necessary to complete the relevant investigation or
prosecution in the requested State. Before making a decision to postpone, the requested State
should consider whether the assistance may be immediately provided subject to certain conditions.

2. If a decision to postpone is taken pursuant to paragraph 1, the Prosecutor may, however, seek
measures to preserve evidence, pursuant to article 93, paragraph 1 (j).

Article 95
Postponement of execution of a request in respect of an admissibility challenge
Where there is an admissibility challenge under consideration by the Court pursuant to article 18 or
19, the requested State may postpone the execution of a request under this Part pending a
determination by the Court, unless the Court has specifically ordered that the Prosecutor may pursue
the collection of such evidence pursuant to article 18 or 19.

Article 96
Contents of request for other forms of assistance under article 93
1. A request for other forms of assistance referred to in article 93 shall be made in writing. In urgent
cases, a request may be made by any medium capable of delivering a written record, provided that
the request shall be confirmed through the channel provided for in article 87, paragraph 1 (a).

2. The request shall, as applicable, contain or be supported by the following:
   a) A concise statement of the purpose of the request and the assistance sought, including the
      legal basis and the grounds for the request;
   b) As much detailed information as possible about the location or identification of any person or
      place that must be found or identified in order for the assistance sought to be provided;
c) A concise statement of the essential facts underlying the request;
d) The reasons for and details of any procedure or requirement to be followed;
e) Such information as may be required under the law of the requested State in order to execute
   the request; and
f) Any other information relevant in order for the assistance sought to be provided. 3. Upon the
   request of the Court, a State Party shall consult with the Court, either generally or with
   respect to a specific matter, regarding any requirements under its national law that may
   apply under paragraph 2
e). During the consultations, the State Party shall advise the Court of the specific requirements of
   its national law.
4. The provisions of this article shall, where applicable, also apply in respect of a request for
   assistance made to the Court.

Article 97
Consultations
Where a State Party receives a request under this Part in relation to which it identifies problems
which may impede or prevent the execution of the request, that State shall consult with the Court
without delay in order to resolve the matter. Such problems may include, inter alia:
   a) Insufficient information to execute the request;
   b) In the case of a request for surrender, the fact that despite best efforts, the person sought
cannot be located or that the investigation conducted has determined that the person in the
requested State is clearly not the person named in the warrant; or
   c) The fact that execution of the request in its current form would require the requested State to
   breach a pre-existing treaty obligation undertaken with respect to another State.

Article 98
Cooperation with respect to waiver of immunity and consent to surrender
1. The Court may not proceed with a request for surrender or assistance which would require the
requested State to act inconsistently with its obligations under international law with respect to the
State or diplomatic immunity of a person or property of a third State, unless the Court can first
obtain the cooperation of that third State for the waiver of the immunity.
2. The Court may not proceed with a request for surrender which would require the requested State
to act inconsistently with its obligations under international agreements pursuant to which the
consent of a sending State is required to surrender a person of that State to the Court, unless the
Court can first obtain the cooperation of the sending State for the giving of consent for the
surrender.

Article 99
Execution of requests under articles 93 and 96
1. Requests for assistance shall be executed in accordance with the relevant procedure under the
law of the requested State and, unless prohibited by such law, in the manner specified in the
request, including following any procedure outlined therein or permitting persons specified in the
request to be present at and assist in the execution process.
2. In the case of an urgent request, the documents or evidence produced in response shall, at the
request of the Court, be sent urgently.
3. Replies from the requested State shall be transmitted in their original language and form.
4. Without prejudice to other articles in this Part, where it is necessary for the successful execution of a request which can be executed without any compulsory measures, including specifically the interview of or taking evidence from a person on a voluntary basis, including doing so without the presence of the authorities of the requested State Party if it is essential for the request to be executed, and the examination without modification of a public site or other public place, the Prosecutor may execute such request directly on the territory of a State as follows:

a) When the State Party requested is a State on the territory of which the crime is alleged to have been committed, and there has been a determination of admissibility pursuant to article 18 or 19, the Prosecutor may directly execute such request following all possible consultations with the requested State Party;

b) In other cases, the Prosecutor may execute such request following consultations with the requested State Party and subject to any reasonable conditions or concerns raised by that State Party. Where the requested State Party identifies problems with the execution of a request pursuant to this subparagraph it shall, without delay, consult with the Court to resolve the matter.

5. Provisions allowing a person heard or examined by the Court under article 72 to invoke restrictions designed to prevent disclosure of confidential information connected with national security shall also apply to the execution of requests for assistance under this article.

**Article 100**

**Costs**

1. The ordinary costs for execution of requests in the territory of the requested State shall be borne by that State, except for the following, which shall be borne by the Court:

   a) Costs associated with the travel and security of witnesses and experts or the transfer under article 93 of persons in custody;
   b) Costs of translation, interpretation and transcription;
   c) Travel and subsistence costs of the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar and staff of any organ of the Court;
   d) Costs of any expert opinion or report requested by the Court;
   e) Costs associated with the transport of a person being surrendered to the Court by a custodial State; and
   f) Following consultations, any extraordinary costs that may result from the execution of a request.

2. The provisions of paragraph 1 shall, as appropriate, apply to requests from States Parties to the Court. In that case, the Court shall bear the ordinary costs of execution.

**Article 101**

**Rule of speciality**

1. A person surrendered to the Court under this Statute shall not be proceeded against, punished or detained for any conduct committed prior to surrender, other than the conduct or course of conduct which forms the basis of the crimes for which that person has been surrendered.

2. The Court may request a waiver of the requirements of paragraph 1 from the State which surrendered the person to the Court and, if necessary, the Court shall provide additional information in accordance with article 91. States Parties shall have the authority to provide a waiver to the Court and should endeavour to do so.
**Article 102**

**Use of terms**

For the purposes of this Statute:

a) “surrender” means the delivering up of a person by a State to the Court, pursuant to this Statute.

b) “extradition” means the delivering up of a person by one State to another as provided by treaty, convention or national legislation.

**PART 10. ENFORCEMENT**

**Article 103**

**Role of States in enforcement of sentences of imprisonment**

1. a) A sentence of imprisonment shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons.

b) At the time of declaring its willingness to accept sentenced persons, a State may attach conditions to its acceptance as agreed by the Court and in accordance with this Part.

(c) A State designated in a particular case shall promptly inform the Court whether it accepts the Court’s designation.

2. a) The State of enforcement shall notify the Court of any circumstances, including the exercise of any conditions agreed under paragraph 1, which could materially affect the terms or extent of the imprisonment. The Court shall be given at least 45 days’ notice of any such known or foreseeable circumstances. During this period, the State of enforcement shall take no action that might prejudice its obligations under article 110.

b) Where the Court cannot agree to the circumstances referred to in subparagraph (a), it shall notify the State of enforcement and proceed in accordance with article 104, paragraph 1.

3. In exercising its discretion to make a designation under paragraph 1, the Court shall take into account the following:

a) The principle that States Parties should share the responsibility for enforcing sentences of imprisonment, in accordance with principles of equitable distribution, as provided in the Rules of Procedure and Evidence;

b) The application of widely accepted international treaty standards governing the treatment of prisoners;

c) The views of the sentenced person;

d) The nationality of the sentenced person;

e) Such other factors regarding the circumstances of the crime or the person sentenced, or the effective enforcement of the sentence, as may be appropriate in designating the State of enforcement.

4. If no State is designated under paragraph 1, the sentence of imprisonment shall be served in a prison facility made available by the host State, in accordance with the conditions set out in the headquarters agreement referred to in article 3, paragraph 2. In such a case, the costs arising out of the enforcement of a sentence of imprisonment shall be borne by the Court.
Article 104
Change in designation of State of enforcement
1. The Court may, at any time, decide to transfer a sentenced person to a prison of another State.
2. A sentenced person may, at any time, apply to the Court to be transferred from the State of enforcement.

Article 105
Enforcement of the sentence
1. Subject to conditions which a State may have specified in accordance with article 103, paragraph (b), the sentence of imprisonment shall be binding on the States Parties, which shall in no case modify it.
2. The Court alone shall have the right to decide any application for appeal and revision. The State of enforcement shall not impede the making of any such application by a sentenced person.

Article 106
Supervision of enforcement of sentences and conditions of imprisonment
1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international treaty standards governing treatment of prisoners.
2. The conditions of imprisonment shall be governed by the law of the State of enforcement and shall be consistent with widely accepted international treaty standards governing treatment of prisoners; in no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in the State of enforcement.
3. Communications between a sentenced person and the Court shall be unimpeded and confidential.

Article 107
Transfer of the person upon completion of sentence
1. Following completion of the sentence, a person who is not a national of the State of enforcement may, in accordance with the law of the State of enforcement, be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred to that State, unless the State of enforcement authorizes the person to remain in its territory.
2. If no State bears the costs arising out of transferring the person to another State pursuant to paragraph 1, such costs shall be borne by the Court.
3. Subject to the provisions of article 108, the State of enforcement may also, in accordance with its national law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

Article 108
Limitation on the prosecution or punishment of other offences
1. A sentenced person in the custody of the State of enforcement shall not be subject to prosecution or punishment or to extradition to a third State for any conduct engaged in prior to that person's delivery to the State of enforcement, unless such prosecution, punishment or extradition has been approved by the Court at the request of the State of enforcement.
2. The Court shall decide the matter after having heard the views of the sentenced person.
3. Paragraph 1 shall cease to apply if the sentenced person remains voluntarily for more than 30
days in the territory of the State of enforcement after having served the full sentence imposed by
the Court, or returns to the territory of that State after having left it.

Article 109
Enforcement of fines and forfeiture measures
1. States Parties shall give effect to fines or forfeitures ordered by the Court under Part 7, without
prejudice to the rights of bona fide third parties, and in accordance with the procedure of their
national law.
2. If a State Party is unable to give effect to an order for forfeiture, it shall take measures to recover
the value of the proceeds, property or assets ordered by the Court to be forfeited, without prejudice
to the rights of bona fide third parties.
3. Property, or the proceeds of the sale of real property or, where appropriate, the sale of other
property, which is obtained by a State Party as a result of its enforcement of a judgement of the
Court shall be transferred to the Court.

Article 110
Review by the Court concerning reduction of sentence
1. The State of enforcement shall not release the person before expiry of the sentence pronounced
by the Court.
2. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the
matter after having heard the person.
3. When the person has served two thirds of the sentence, or 25 years in the case of life
imprisonment, the Court shall review the sentence to determine whether it should be reduced. Such
a review shall not be conducted before that time.
4. In its review under paragraph 3, the Court may reduce the sentence if it finds that one or more of
the following factors are present:
   a) The early and continuing willingness of the person to cooperate with the Court in its
      investigations and prosecutions;
   b) The voluntary assistance of the person in enabling the enforcement of the judgements and
      orders of the Court in other cases, and in particular providing assistance in locating assets
      subject to orders of fine, forfeiture or reparation which may be used for the benefit of
      victims; or
   c) Other factors establishing a clear and significant change of circumstances sufficient to justify
      the reduction of sentence, as provided in the Rules of Procedure and Evidence.
5. If the Court determines in its initial review under paragraph 3 that it is not appropriate to reduce
the sentence, it shall thereafter review the question of reduction of sentence at such intervals and
applying such criteria as provided for in the Rules of Procedure and Evidence.

Article 111
Escape
If a convicted person escapes from custody and flees the State of enforcement, that State may, after
consultation with the Court, request the person’s surrender from the State in which the person is
located pursuant to existing bilateral or multilateral arrangements, or may request that the Court
seek the person’s surrender, in accordance with Part 9. It may direct that the person be delivered to
the State in which he or she was serving the sentence or to another State designated by the Court.
2.10 CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND THEIR DESTRUCTION (1993)

This instrument went into force for Syria on 13 October 2013.

PREAMBLE
The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction,

Desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925 (the Geneva Protocol of 1925),

Recognizing that this Convention reaffirms principles and objectives of and obligations assumed under the Geneva Protocol of 1925, and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction signed at London, Moscow and Washington on 10 April 1972,

Bearing in mind the objective contained in Article IX of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction,

Determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the implementation of the provisions of this Convention, thereby complementing the obligations assumed under the Geneva Protocol of 1925,

Recognizing the prohibition, embodied in the pertinent agreements and relevant principles of international law, of the use of herbicides as a method of warfare,

Considering that achievements in the field of chemistry should be used exclusively for the benefit of mankind,

Desiring to promote free trade in chemicals as well as international cooperation and exchange of scientific and technical information in the field of chemical activities for purposes not prohibited under this Convention in order to enhance the economic and technological development of all States Parties,

Convinced that the complete and effective prohibition of the development, production, acquisition, stockpiling, retention, transfer and use of chemical weapons, and their destruction, represent a necessary step towards the achievement of these common objectives,

Have agreed as follows

Article 1 – General Obligations
1. Each State Party to this Convention undertakes never under any circumstances:
a) To develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;
b) To use chemical weapons;
c) To engage in any military preparations to use chemical weapons;
d) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.

2. Each State Party undertakes to destroy chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.

3. Each State Party undertakes to destroy all chemical weapons it abandoned on the territory of another State Party, in accordance with the provisions of this Convention.

4. Each State Party undertakes to destroy any chemical weapons production facilities it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.


Article 2 – Definitions and Criteria
For the purposes of this Convention:
1. "Chemical Weapons" means the following, together or separately:
   a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;
   b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such munitions and devices;
   c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b).
2. "Toxic Chemical" means:
   Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.
   (For the purpose of implementing this Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)
3. "Precursor" means:
   Any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.
   (For the purpose of implementing this Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)
4. "Key Component of Binary or Multicomponent Chemical Systems" (hereinafter referred to as "key component") means: The precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.
5. "Old Chemical Weapons" means:
   a) Chemical weapons which were produced before 1925; or
b) Chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.

6. "Abandoned Chemical Weapons" means: Chemical weapons, including old chemical weapons, abandoned by a State after 1 January 1925 on the territory of another State without the consent of the latter.

7. "Riot Control Agent" means: Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

8. "Chemical Weapons Production Facility":
   a) Means any equipment, as well as any building housing such equipment, that was designed, constructed or used at any time since 1 January 1946:
      (i) As part of the stage in the production of chemicals ("final technological stage") where the material flows would contain, when the equipment is in operation:
         (1) Any chemical listed in Schedule 1 in the Annex on Chemicals; or
         (2) Any other chemical that has no use, above 1 tonne per year on the territory of a State Party or in any other place under the jurisdiction or control of a State Party, for purposes not prohibited under this Convention, but can be used for chemical weapons purposes;
      or
      (ii) For filling chemical weapons, including, inter alia, the filling of chemicals listed in Schedule 1 into munitions, devices or bulk storage containers; the filling of chemicals into containers that form part of assembled binary munitions and devices or into chemical submunitions that form part of assembled unitary munitions and devices, and the loading of the containers and chemical submunitions into the respective munitions and devices;
   b) Does not mean:
      (i) Any facility having a production capacity for synthesis of chemicals specified in subparagraph (a) (i) that is less than 1 tonne;
      (ii) Any facility in which a chemical specified in subparagraph (a) (i) is or was produced as an unavoidable by product of activities for purposes not prohibited under this Convention, provided that the chemical does not exceed 3 per cent of the total product and that the facility is subject to declaration and inspection under the Annex on Implementation and Verification (hereinafter referred to as "Verification Annex"); or
      (iii) The single small scale facility for production of chemicals listed in Schedule 1 for purposes not prohibited under this Convention as referred to in Part VI of the Verification Annex.

9. "Purposes Not Prohibited Under this Convention" means:
   a) Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
   b) Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
   c) Military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;
   d) Law enforcement including domestic riot control purposes.

10. "Production Capacity" means:
    The annual quantitative potential for manufacturing a specific chemical based on the technological process actually used or, if the process is not yet operational, planned to be used at the relevant facility. It shall be deemed to be equal to the nameplate capacity or, if the nameplate
capacity is not available, to the design capacity. The nameplate capacity is the product output under conditions optimized for maximum quantity for the production facility, as demonstrated by one or more test runs. The design capacity is the corresponding theoretically calculated product output.

11. "Organization" means the Organization for the Prohibition of Chemical Weapons established pursuant to Article VIII of this Convention.

12. For the purposes of Article VI:
   e) "Production" of a chemical means its formation through chemical reaction;
   f) "Processing" of a chemical means a physical process, such as formulation, extraction and purification, in which a chemical is not converted into another chemical;
   g) "Consumption" of a chemical means its conversion into another chemical via a chemical reaction.

Article 3 – Declarations

1. Each State Party shall submit to the Organization, not later than 30 days after this Convention enters into force for it, the following declarations, in which it shall:
   a) With respect to chemical weapons:
      (i) Declare whether it owns or possesses any chemical weapons, or whether there are any chemical weapons located in any place under its jurisdiction or control;
      (ii) Specify the precise location, aggregate quantity and detailed inventory of chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraphs 1 to 3, of the Verification Annex, except for those chemical weapons referred to in sub subparagraph (iii);
      (iii) Report any chemical weapons on its territory that are owned and possessed by another State and located in any place under the jurisdiction or control of another State, in accordance with Part IV (A), paragraph 4, of the Verification Annex;
      (iv) Declare whether it has transferred or received, directly or indirectly, any chemical weapons since 1 January 1946 and specify the transfer or receipt of such weapons, in accordance with Part IV (A), paragraph 5, of the Verification Annex;
      (v) Provide its general plan for destruction of chemical weapons that it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraph 6, of the Verification Annex;
   b) With respect to old chemical weapons and abandoned chemical weapons:
      (i) Declare whether it has on its territory old chemical weapons and provide all available information in accordance with Part IV (B), paragraph 3, of the Verification Annex;
      (ii) Declare whether there are abandoned chemical weapons on its territory and provide all available information in accordance with Part IV (B), paragraph 8, of the Verification Annex;
      (iii) Declare whether it has abandoned chemical weapons on the territory of other States and provide all available information in accordance with Part IV (B), paragraph 10, of the Verification Annex;
   c) With respect to chemical weapons production facilities:
      (i) Declare whether it has or has had any chemical weapons production facility under its ownership or possession, or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946;
(ii) Specify any chemical weapons production facility it has or has had under its ownership or possession or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946, in accordance with Part V, paragraph 1, of the Verification Annex, except for those facilities referred to in sub subparagraph (iii);

(iii) Report any chemical weapons production facility on its territory that another State has or has had under its ownership and possession and that is or has been located in any place under the jurisdiction or control of another State at any time since 1 January 1946, in accordance with Part V, paragraph 2, of the Verification Annex;

(iv) Declare whether it has transferred or received, directly or indirectly, any equipment for the production of chemical weapons since 1 January 1946 and specify the transfer or receipt of such equipment, in accordance with Part V, paragraphs 3 to 5, of the Verification Annex;

(v) Provide its general plan for destruction of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 6, of the Verification Annex;

(vi) Specify actions to be taken for closure of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 1 (i), of the Verification Annex;

(vii) Provide its general plan for any temporary conversion of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, into a chemical weapons destruction facility, in accordance with Part V, paragraph 7, of the Verification Annex;

d) With respect to other facilities: Specify the precise location, nature and general scope of activities of any facility or establishment under its ownership or possession, or located in any place under its jurisdiction or control, and that has been designed, constructed or used since 1 January 1946 primarily for development of chemical weapons. Such declaration shall include, inter alia, laboratories and test and evaluation sites;

e) With respect to riot control agents: Specify the chemical name, structural formula and Chemical Abstracts Service (CAS) registry number, if assigned, of each chemical it holds for riot control purposes. This declaration shall be updated not later than 30 days after any change becomes effective.

2. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

Article 4 – Chemical Weapons

1. The provisions of this Article and the detailed procedures for its implementation shall apply to all chemical weapons owned or possessed by a State Party, or that are located in any place under its jurisdiction or control, except old chemical weapons and abandoned chemical weapons to which Part IV (B) of the Verification Annex applies.

2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.
3. All locations at which chemical weapons specified in paragraph 1 are stored or destroyed shall be subject to systematic verification through on site inspection and monitoring with on site instruments, in accordance with Part IV (A) of the Verification Annex.

4. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (a), has been submitted, provide access to chemical weapons specified in paragraph 1 for the purpose of systematic verification of the declaration through on site inspection. Thereafter, each State Party shall not remove any of these chemical weapons, except to a chemical weapons destruction facility. It shall provide access to such chemical weapons, for the purpose of systematic on site verification.

5. Each State Party shall provide access to any chemical weapons destruction facilities and their storage areas, that it owns or possesses, or that are located in any place under its jurisdiction or control, for the purpose of systematic verification through on site inspection and monitoring with on site instruments.

6. Each State Party shall destroy all chemical weapons specified in paragraph 1 pursuant to the Verification Annex and in accordance with the agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than two years after this Convention enters into force for it and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such chemical weapons at a faster rate.

7. Each State Party shall:
   i. Submit detailed plans for the destruction of chemical weapons specified in paragraph 1 not later than 60 days before each annual destruction period begins, in accordance with Part IV (A), paragraph 29, of the Verification Annex; the detailed plans shall encompass all stocks to be destroyed during the next annual destruction period;
   ii. Submit declarations annually regarding the implementation of its plans for destruction of chemical weapons specified in paragraph 1, not later than 60 days after the end of each annual destruction period; and
   iii. Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons specified in paragraph 1 have been destroyed.

8. If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 6, it shall destroy chemical weapons specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.

9. Any chemical weapons discovered by a State Party after the initial declaration of chemical weapons shall be reported, secured and destroyed in accordance with Part IV (A) of the Verification Annex.

10. Each State Party, during transportation, sampling, storage and destruction of chemical weapons, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall transport, sample, store and destroy chemical weapons in accordance with its national standards for safety and emissions.

11. Any State Party which has on its territory chemical weapons that are owned or possessed by another State, or that are located in any place under the jurisdiction or control of another State, shall make the fullest efforts to ensure that these chemical weapons are removed from its territory not later than one year after this Convention enters into force for it. If they are not removed within one year, the State Party may request the Organization and other States Parties to provide assistance in the destruction of these chemical weapons.
12. Each State Party undertakes to cooperate with other States Parties that request information or assistance on a bilateral basis or through the Technical Secretariat regarding methods and technologies for the safe and efficient destruction of chemical weapons.

13. In carrying out verification activities pursuant to this Article and Part IV (A) of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons storage and their destruction among States Parties.

To this end, the Executive Council shall decide to limit verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

i. Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part IV (A) of the Verification Annex;

ii. Implementation of such an agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and

iii. Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

14. If the Executive Council takes a decision pursuant to paragraph 13, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

15. Nothing in paragraphs 13 and 14 shall affect the obligation of a State Party to provide declarations pursuant to Article III, this Article and Part IV (A) of the Verification Annex.

16. Each State Party shall meet the costs of destruction of chemical weapons it is obliged to destroy. It shall also meet the costs of verification of storage and destruction of these chemical weapons unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 13, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

17. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

**Article 5 – Chemical Weapons Production Facilities**

1. The provisions of this Article and the detailed procedures for its implementation shall apply to any and all chemical weapons production facilities owned or possessed by a State Party, or that are located in any place under its jurisdiction or control.

2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.

3. All chemical weapons production facilities specified in paragraph 1 shall be subject to systematic verification through on site inspection and monitoring with on site instruments in accordance with Part V of the Verification Annex.

4. Each State Party shall cease immediately all activity at chemical weapons production facilities specified in paragraph 1, except activity required for closure.

5. No State Party shall construct any new chemical weapons production facilities or modify any existing facilities for the purpose of chemical weapons production or for any other activity prohibited under this Convention.
6. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (c), has been submitted, provide access to chemical weapons production facilities specified in paragraph 1, for the purpose of systematic verification of the declaration through on site inspection.

7. Each State Party shall:
Close, not later than 90 days after this Convention enters into force for it, all chemical weapons production facilities specified in paragraph 1, in accordance with Part V of the Verification Annex, and give notice thereof; and
Provide access to chemical weapons production facilities specified in paragraph 1, subsequent to closure, for the purpose of systematic verification through on site inspection and monitoring with on site instruments in order to ensure that the facility remains closed and is subsequently destroyed.

8. Each State Party shall destroy all chemical weapons production facilities specified in paragraph 1 and related facilities and equipment, pursuant to the Verification Annex and in accordance with an agreed rate and sequence of destruction (hereinafter referred to as “order of destruction”). Such destruction shall begin not later than one year after this Convention enters into force for it, and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such facilities at a faster rate.

9. Each State Party shall:
   a) Submit detailed plans for destruction of chemical weapons production facilities specified in paragraph 1, not later than 180 days before the destruction of each facility begins;
   b) Submit declarations annually regarding the implementation of its plans for the destruction of all chemical weapons production facilities specified in paragraph 1, not later than 90 days after the end of each annual destruction period; and
   c) Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons production facilities specified in paragraph 1 have been destroyed.

10. If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 8, it shall destroy chemical weapons production facilities specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.

11. Each State Party, during the destruction of chemical weapons production facilities, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall destroy chemical weapons production facilities in accordance with its national standards for safety and emissions.

12. Chemical weapons production facilities specified in paragraph 1 may be temporarily converted for destruction of chemical weapons in accordance with Part V, paragraphs 18 to 25, of the Verification Annex. Such a converted facility must be destroyed as soon as it is no longer in use for destruction of chemical weapons but, in any case, not later than 10 years after entry into force of this Convention.

13. A State Party may request, in exceptional cases of compelling need, permission to use a chemical weapons production facility specified in paragraph 1 for purposes not prohibited under this Convention. Upon the recommendation of the Executive Council, the Conference of the States Parties shall decide whether or not to approve the request and shall establish the conditions upon which approval is contingent in accordance with Part V, Section D, of the Verification Annex.

14. The chemical weapons production facility shall be converted in such a manner that the converted facility is not more capable of being reconverted into a chemical weapons production
facility than any other facility used for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes not involving chemicals listed in Schedule 1.

15. All converted facilities shall be subject to systematic verification through on site inspection and monitoring with on site instruments in accordance with Part V, Section D, of the Verification Annex.

16. In carrying out verification activities pursuant to this Article and Part V of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons production facilities and their destruction among States Parties. To this end, the Executive Council shall decide to limit the verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:
   a) Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part V of the Verification Annex;
   b) Implementation of the agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and
   c) Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

17. If the Executive Council takes a decision pursuant to paragraph 16, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

18. Nothing in paragraphs 16 and 17 shall affect the obligation of a State Party to make declarations pursuant to Article III, this Article and Part V of the Verification Annex.

19. Each State Party shall meet the costs of destruction of chemical weapons production facilities it is obliged to destroy. It shall also meet the costs of verification under this Article unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 16, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

Article 6 – Activities not Prohibited under this Convention

1. Each State Party has the right, subject to the provisions of this Convention, to develop, produce, otherwise acquire, retain, transfer and use toxic chemicals and their precursors for purposes not prohibited under this Convention.

2. Each State Party shall adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control for purposes not prohibited under this Convention. To this end, and in order to verify that activities are in accordance with obligations under this Convention, each State Party shall subject toxic chemicals and their precursors listed in Schedules 1, 2 and 3 of the Annex on Chemicals, facilities related to such chemicals, and other facilities as specified in the Verification Annex, that are located on its territory or in any other place under its jurisdiction or control, to verification measures as provided in the Verification Annex.

3. Each State Party shall subject chemicals listed in Schedule 1 (hereinafter referred to as "Schedule 1 chemicals") to the prohibitions on production, acquisition, retention, transfer and use as specified in Part VI of the Verification Annex. It shall subject Schedule 1 chemicals and facilities specified in Part VI of the Verification Annex to systematic verification through on site
inspection and monitoring with on site instruments in accordance with that Part of the Verification Annex.

4. Each State Party shall subject chemicals listed in Schedule 2 (hereinafter referred to as "Schedule 2 chemicals") and facilities specified in Part VII of the Verification Annex to data monitoring and on site verification in accordance with that Part of the Verification Annex.

5. Each State Party shall subject chemicals listed in Schedule 3 (hereinafter referred to as "Schedule 3 chemicals") and facilities specified in Part VIII of the Verification Annex to data monitoring and on site verification in accordance with that Part of the Verification Annex.

6. Each State Party shall subject facilities specified in Part IX of the Verification Annex to data monitoring and eventual on site verification in accordance with that Part of the Verification Annex unless decided otherwise by the Conference of the States Parties pursuant to Part IX, paragraph 22, of the Verification Annex.

7. Not later than 30 days after this Convention enters into force for it, each State Party shall make an initial declaration on relevant chemicals and facilities in accordance with the Verification Annex.

8. Each State Party shall make annual declarations regarding the relevant chemicals and facilities in accordance with the Verification Annex.

9. For the purpose of on site verification, each State Party shall grant to the inspectors access to facilities as required in the Verification Annex.

10. In conducting verification activities, the Technical Secretariat shall avoid undue intrusion into the State Party’s chemical activities for purposes not prohibited under this Convention and, in particular, abide by the provisions set forth in the Annex on the Protection of Confidential Information (hereinafter referred to as "Confidentiality Annex").

11. The provisions of this Article shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

Article 7 – National Implementation Measures

General undertakings

1. Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention. In particular, it shall:
   a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;
   b) Not permit in any place under its control any activity prohibited to a State Party under this Convention; and
   c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

2. Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.
3. Each State Party, during the implementation of its obligations under this Convention, shall assign the highest priority to ensuring the safety of people and to protecting the environment, and shall cooperate as appropriate with other States Parties in this regard.

Relations between the State Party and the Organization

4. In order to fulfil its obligations under this Convention, each State Party shall designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization and other States Parties. Each State Party shall notify the Organization of its National Authority at the time that this Convention enters into force for it.

5. Each State Party shall inform the Organization of the legislative and administrative measures taken to implement this Convention.

6. Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Organization in connection with the implementation of this Convention. It shall treat such information and data exclusively in connection with its rights and obligations under this Convention and in accordance with the provisions set forth in the Confidentiality Annex.

7. Each State Party undertakes to cooperate with the Organization in the exercise of all its functions and in particular to provide assistance to the Technical Secretariat.

Article 8 – The Organization

A. GENERAL PROVISIONS

1. The States Parties to this Convention hereby establish the Organization for the Prohibition of Chemical Weapons to achieve the object and purpose of this Convention, to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among States Parties.

2. All States Parties to this Convention shall be members of the Organization. A State Party shall not be deprived of its membership in the Organization.

3. The seat of the Headquarters of the Organization shall be The Hague, Kingdom of the Netherlands.

4. There are hereby established as the organs of the Organization: the Conference of the States Parties, the Executive Council, and the Technical Secretariat.

5. The Organization shall conduct its verification activities provided for under this Convention in the least intrusive manner possible consistent with the timely and efficient accomplishment of their objectives. It shall request only the information and data necessary to fulfil its responsibilities under this Convention. It shall take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of this Convention and, in particular, shall abide by the provisions set forth in the Confidentiality Annex.

6. In undertaking its verification activities the Organization shall consider measures to make use of advances in science and technology.

7. The costs of the Organization’s activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and this Organization, and subject to the provisions of Articles IV and V. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget. The budget of the Organization
shall comprise two separate chapters, one relating to administrative and other costs, and one relating to verification costs.

8. A member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

B. THE CONFERENCE OF THE STATES PARTIES

Composition, procedures and decision making

9. The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all members of this Organization. Each member shall have one representative in the Conference, who may be accompanied by alternates and advisers.

10. The first session of the Conference shall be convened by the depositary not later than 30 days after the entry into force of this Convention.

11. The Conference shall meet in regular sessions which shall be held annually unless it decides otherwise.

12. Special sessions of the Conference shall be convened:
   a) When decided by the Conference;
   b) When requested by the Executive Council;
   c) When requested by any member and supported by one third of the members; or
   d) In accordance with paragraph 22 to undertake reviews of the operation of this Convention. Except in the case of subparagraph (d), the special session shall be convened not later than 30 days after receipt of the request by the Director General of the Technical Secretariat, unless specified otherwise in the request.

13. The Conference shall also be convened in the form of an Amendment Conference in accordance with Article XV, paragraph 2.

14. Sessions of the Conference shall take place at the seat of the Organization unless the Conference decides otherwise.

15. The Conference shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next regular session.

16. A majority of the members of the Organization shall constitute a quorum for the Conference.

17. Each member of the Organization shall have one vote in the Conference.

18. The Conference shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take the decision by a two thirds majority of members present and voting unless specified otherwise in this Convention. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Conference by the majority required for decisions on matters of substance.
Powers and functions

19. The Conference shall be the principal organ of the Organization. It shall consider any questions, matters or issues within the scope of this Convention, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any questions, matters or issues related to this Convention raised by a State Party or brought to its attention by the Executive Council.

20. The Conference shall oversee the implementation of this Convention, and act in order to promote its object and purpose. The Conference shall review compliance with this Convention. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines in accordance with this Convention to either of them in the exercise of their functions.

21. The Conference shall:
   a) Consider and adopt at its regular sessions the report, programme and budget of the Organization, submitted by the Executive Council, as well as consider other reports;
   b) Decide on the scale of financial contributions to be paid by States Parties in accordance with paragraph 7;
   c) Elect the members of the Executive Council;
   d) Appoint the Director General of the Technical Secretariat (hereinafter referred to as "the Director General");
   e) Approve the rules of procedure of the Executive Council submitted by the latter;
   f) Establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Convention;
   g) Foster international cooperation for peaceful purposes in the field of chemical activities;
   h) Review scientific and technological developments that could affect the operation of this Convention and, in this context, direct the Director General to establish a Scientific Advisory Board to enable him, in the performance of his functions, to render specialized advice in areas of science and technology relevant to this Convention, to the Conference, the Executive Council or States Parties. The Scientific Advisory Board shall be composed of independent experts appointed in accordance with terms of reference adopted by the Conference;
   i) Consider and approve at its first session any draft agreements, provisions and guidelines developed by the Preparatory Commission;
   j) Establish at its first session the voluntary fund for assistance in accordance with Article X;
   k) Take the necessary measures to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention, in accordance with Article XII.

22. The Conference shall not later than one year after the expiry of the fifth and the tenth year after the entry into force of this Convention, and at such other times within that time period as may be decided upon, convene in special sessions to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments. At intervals of five years thereafter, unless otherwise decided upon, further sessions of the Conference shall be convened with the same objective.
C. THE EXECUTIVE COUNCIL

Composition, procedure and decision making
23. The Executive Council shall consist of 41 members. Each State Party shall have the right, in accordance with the principle of rotation, to serve on the Executive Council. The members of the Executive Council shall be elected by the Conference for a term of two years. In order to ensure the effective functioning of this Convention, due regard being specially paid to equitable geographical distribution, to the importance of chemical industry, as well as to political and security interests, the Executive Council shall be composed as follows:

a) Nine States Parties from Africa to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

b) Nine States Parties from Asia to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, four members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these four members;

c) Five States Parties from Eastern Europe to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these five States Parties, one member shall, as a rule, be the State Party with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating this one member;

d) Seven States Parties from Latin America and the Caribbean to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these seven States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

e) Ten States Parties from among Western European and other States to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these 10 States Parties, 5 members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these five members;

f) One further State Party to be designated consecutively by States Parties located in the regions of Asia and Latin America and the Caribbean. As a basis for this designation it is understood that this State Party shall be a rotating member from these regions.

24. For the first election of the Executive Council 20 members shall be elected for a term of one year, due regard being paid to the established numerical proportions as described in paragraph 23.

25. After the full implementation of Articles IV and V the Conference may, upon the request of a majority of the members of the Executive Council, review the composition of the Executive
Council taking into account developments related to the principles specified in paragraph 23 that are governing its composition.

26. The Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval.

27. The Executive Council shall elect its Chairman from among its members.

28. The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as often as may be required for the fulfilment of its powers and functions.

29. Each member of the Executive Council shall have one vote. Unless otherwise specified in this Convention, the Executive Council shall take decisions on matters of substance by a two thirds majority of all its members. The Executive Council shall take decisions on questions of procedure by a simple majority of all its members. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Executive Council by the majority required for decisions on matters of substance.

Powers and functions

30. The Executive Council shall be the executive organ of the Organization. It shall be responsible to the Conference. The Executive Council shall carry out the powers and functions entrusted to it under this Convention, as well as those functions delegated to it by the Conference. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and assure their proper and continuous implementation.

31. The Executive Council shall promote the effective implementation of, and compliance with, this Convention. It shall supervise the activities of the Technical Secretariat, cooperate with the National Authority of each State Party and facilitate consultations and cooperation among States Parties at their request.

32. The Executive Council shall:
   a) Consider and submit to the Conference the draft programme and budget of the Organization;
   b) Consider and submit to the Conference the draft report of the Organization on the implementation of this Convention, the report on the performance of its own activities and such special reports as it deems necessary or which the Conference may request;
   c) Make arrangements for the sessions of the Conference including the preparation of the draft agenda.

33. The Executive Council may request the convening of a special session of the Conference.

34. The Executive Council shall:
   a) Conclude agreements or arrangements with States and international organizations on behalf of the Organization, subject to prior approval by the Conference;
   b) Conclude agreements with States Parties on behalf of the Organization in connection with Article X and supervise the voluntary fund referred to in Article X;
   c) Approve agreements or arrangements relating to the implementation of verification activities, negotiated by the Technical Secretariat with States Parties.

35. The Executive Council shall consider any issue or matter within its competence affecting this Convention and its implementation, including concerns regarding compliance, and cases of non compliance, and, as appropriate, inform States Parties and bring the issue or matter to the attention of the Conference.

36. In its consideration of doubts or concerns regarding compliance and cases of non compliance, including, inter alia, abuse of the rights provided for under this Convention, the Executive Council
shall consult with the States Parties involved and, as appropriate, request the State Party to take measures to redress the situation within a specified time. To the extent that the Executive Council considers further action to be necessary, it shall take, inter alia, one or more of the following measures:

a) Inform all States Parties of the issue or matter;
b) Bring the issue or matter to the attention of the Conference;
c) Make recommendations to the Conference regarding measures to redress the situation and to ensure compliance.

The Executive Council shall, in cases of particular gravity and urgency, bring the issue or matter, including relevant information and conclusions, directly to the attention of the United Nations General Assembly and the United Nations Security Council. It shall at the same time inform all States Parties of this step.

**D. THE TECHNICAL SECRETARIAT**

37. The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. The Technical Secretariat shall carry out the verification measures provided for in this Convention. It shall carry out the other functions entrusted to it under this Convention as well as those functions delegated to it by the Conference and the Executive Council.

38. The Technical Secretariat shall:

a) Prepare and submit to the Executive Council the draft programme and budget of the Organization;
b) Prepare and submit to the Executive Council the draft report of the Organization on the implementation of this Convention and such other reports as the Conference or the Executive Council may request;
c) Provide administrative and technical support to the Conference, the Executive Council and subsidiary organs;
d) Address and receive communications on behalf of the Organization to and from States Parties on matters pertaining to the implementation of this Convention;
e) Provide technical assistance and technical evaluation to States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled and unscheduled chemicals.

39. The Technical Secretariat shall:

a) Negotiate agreements or arrangements relating to the implementation of verification activities with States Parties, subject to approval by the Executive Council;
b) Not later than 180 days after entry into force of this Convention, coordinate the establishment and maintenance of permanent stockpiles of emergency and humanitarian assistance by States Parties in accordance with Article X, paragraphs 7 (b) and (c). The Technical Secretariat may inspect the items maintained for serviceability. Lists of items to be stockpiled shall be considered and approved by the Conference pursuant to paragraph 21 (i) above;
c) Administer the voluntary fund referred to in Article X, compile declarations made by the States Parties and register, when requested, bilateral agreements concluded between States Parties or between a State Party and the Organization for the purposes of Article X.

40. The Technical Secretariat shall inform the Executive Council of any problem that has arisen with regard to the discharge of its functions, including doubts, ambiguities or uncertainties about
compliance with this Convention that have come to its notice in the performance of its verification activities and that it has been unable to resolve or clarify through its consultations with the State Party concerned.

41. The Technical Secretariat shall comprise a Director General, who shall be its head and chief administrative officer, inspectors and such scientific, technical and other personnel as may be required.

42. The Inspectorate shall be a unit of the Technical Secretariat and shall act under the supervision of the Director General.

43. The Director General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.

44. The Director General shall be responsible to the Conference and the Executive Council for the appointment of the staff and the organization and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director General, as inspectors or as other members of the professional and clerical staff. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible. Recruitment shall be guided by the principle that the staff shall be kept to a minimum necessary for the proper discharge of the responsibilities of the Technical Secretariat.

45. The Director General shall be responsible for the organization and functioning of the Scientific Advisory Board referred to in paragraph 21 (h). The Director General shall, in consultation with States Parties, appoint members of the Scientific Advisory Board, who shall serve in their individual capacity. The members of the Board shall be appointed on the basis of their expertise in the particular scientific fields relevant to the implementation of this Convention. The Director General may also, as appropriate, in consultation with members of the Board, establish temporary working groups of scientific experts to provide recommendations on specific issues. In regard to the above, States Parties may submit lists of experts to the Director General.

46. In the performance of their duties, the Director General, the inspectors and the other members of the staff shall not seek or receive instructions from any Government or from any other source external to the Organization. They shall refrain from any action that might reflect on their positions as international officers responsible only to the Conference and the Executive Council.

47. Each State Party shall respect the exclusively international character of the responsibilities of the Director General, the inspectors and the other members of the staff and not seek to influence them in the discharge of their responsibilities.

E. PRIVILEGES AND IMMUNITIES

48. The Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

49. Delegates of States Parties, together with their alternates and advisers, representatives appointed to the Executive Council together with their alternates and advisers, the Director General and the staff of the Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

50. The legal capacity, privileges, and immunities referred to in this Article shall be defined in agreements between the Organization and the States Parties as well as in an agreement between
the Organization and the State in which the headquarters of the Organization is seated. These agreements shall be considered and approved by the Conference pursuant to paragraph 21 (i).

51. Notwithstanding paragraphs 48 and 49, the privileges and immunities enjoyed by the Director General and the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B, of the Verification Annex.

Article 9 – Consultations, Cooperation and Fact Finding

1. States Parties shall consult and cooperate, directly among themselves, or through the Organization or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions, of this Convention.

2. Without prejudice to the right of any State Party to request a challenge inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, through exchange of information and consultations among themselves, any matter which may cause doubt about compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous. A State Party which receives a request from another State Party for clarification of any matter which the requesting State Party believes causes such a doubt or concern shall provide the requesting State Party as soon as possible, but in any case not later than 10 days after the request, with information sufficient to answer the doubt or concern raised along with an explanation of how the information provided resolves the matter. Nothing in this Convention shall affect the right of any two or more States Parties to arrange by mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance or gives rise to a concern about a related matter which may be considered ambiguous. Such arrangements shall not affect the rights and obligations of any State Party under other provisions of this Convention.

Procedure for requesting clarification

3. A State Party shall have the right to request the Executive Council to assist in clarifying any situation which may be considered ambiguous or which gives rise to a concern about the possible non compliance of another State Party with this Convention. The Executive Council shall provide appropriate information in its possession relevant to such a concern.

4. A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible non compliance with this Convention. In such a case, the following shall apply:
    a) The Executive Council shall forward the request for clarification to the State Party concerned through the Director General not later than 24 hours after its receipt;
    b) The requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case not later than 10 days after the receipt of the request;
    c) The Executive Council shall take note of the clarification and forward it to the requesting State Party not later than 24 hours after its receipt;
    d) If the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain from the requested State Party further clarification;
e) For the purpose of obtaining further clarification requested under subparagraph (d), the Executive Council may call on the Director General to establish a group of experts from the Technical Secretariat, or if appropriate staff are not available in the Technical Secretariat, from elsewhere, to examine all available information and data relevant to the situation causing the concern. The group of experts shall submit a factual report to the Executive Council on its findings;

f) If the requesting State Party considers the clarification obtained under subparagraphs (d) and (e) to be unsatisfactory, it shall have the right to request a special session of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. In such a special session, the Executive Council shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

5. A State Party shall also have the right to request the Executive Council to clarify any situation which has been considered ambiguous or has given rise to a concern about its possible non-compliance with this Convention. The Executive Council shall respond by providing such assistance as appropriate.

6. The Executive Council shall inform the States Parties about any request for clarification provided in this Article.

7. If the doubt or concern of a State Party about a possible non-compliance has not been resolved within 60 days after the submission of the request for clarification to the Executive Council, or it believes its doubts warrant urgent consideration, notwithstanding its right to request a challenge inspection, it may request a special session of the Conference in accordance with Article VIII, paragraph 12 (c). At such a special session, the Conference shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

Procedures for challenge inspections

8. Each State Party has the right to request an on site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director General and in accordance with the Verification Annex.

9. Each State Party is under the obligation to keep the inspection request within the scope of this Convention and to provide in the inspection request all appropriate information on the basis of which a concern has arisen regarding possible non-compliance with this Convention as specified in the Verification Annex. Each State Party shall refrain from unfounded inspection requests, care being taken to avoid abuse. The challenge inspection shall be carried out for the sole purpose of determining facts relating to the possible non-compliance.

10. For the purpose of verifying compliance with the provisions of this Convention, each State Party shall permit the Technical Secretariat to conduct the on site challenge inspection pursuant to paragraph 8.

11. Pursuant to a request for a challenge inspection of a facility or location, and in accordance with the procedures provided for in the Verification Annex, the inspected State Party shall have:

   a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention and, to this end, to enable the inspection team to fulfil its mandate;
b) The obligation to provide access within the requested site for the sole purpose of establishing facts relevant to the concern regarding possible non compliance; and

c) The right to take measures to protect sensitive installations, and to prevent disclosure of confidential information and data, not related to this Convention.

12. With regard to an observer, the following shall apply:

a) The requesting State Party may, subject to the agreement of the inspected State Party, send a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection.

b) The inspected State Party shall then grant access to the observer in accordance with the Verification Annex.

c) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the final report.

13. The requesting State Party shall present an inspection request for an on site challenge inspection to the Executive Council and at the same time to the Director General for immediate processing.

14. The Director General shall immediately ascertain that the inspection request meets the requirements specified in Part X, paragraph 4, of the Verification Annex, and, if necessary, assist the requesting State Party in filing the inspection request accordingly. When the inspection request fulfils the requirements, preparations for the challenge inspection shall begin.

15. The Director General shall transmit the inspection request to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.

16. After having received the inspection request, the Executive Council shall take cognizance of the Director General’s actions on the request and shall keep the case under its consideration throughout the inspection procedure. However, its deliberations shall not delay the inspection process.

17. The Executive Council may, not later than 12 hours after having received the inspection request, decide by a three quarter majority of all its members against carrying out the challenge inspection, if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention as described in paragraph 8. Neither the requesting nor the inspected State Party shall participate in such a decision. If the Executive Council decides against the challenge inspection, preparations shall be stopped, no further action on the inspection request shall be taken, and the States Parties concerned shall be informed accordingly.

18. The Director General shall issue an inspection mandate for the conduct of the challenge inspection. The inspection mandate shall be the inspection request referred to in paragraphs 8 and 9 put into operational terms, and shall conform with the inspection request.

19. The challenge inspection shall be conducted in accordance with Part X or, in the case of alleged use, in accordance with Part XI of the Verification Annex. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission.

20. The inspected State Party shall assist the inspection team throughout the challenge inspection and facilitate its task. If the inspected State Party proposes, pursuant to Part X, Section C, of the Verification Annex, arrangements to demonstrate compliance with this Convention, alternative to full and comprehensive access, it shall make every reasonable effort, through consultations with the inspection team, to reach agreement on the modalities for establishing the facts with the aim of demonstrating its compliance.
21. The final report shall contain the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. The Director General shall promptly transmit the final report of the inspection team to the requesting State Party, to the inspected State Party, to the Executive Council and to all other States Parties. The Director General shall further transmit promptly to the Executive Council the assessments of the requesting and of the inspected States Parties, as well as the views of other States Parties which may be conveyed to the Director General for that purpose, and then provide them to all States Parties.

22. The Executive Council shall, in accordance with its powers and functions, review the final report of the inspection team as soon as it is presented, and address any concerns as to:
   a) Whether any non compliance has occurred;
   b) Whether the request had been within the scope of this Convention; and
   c) Whether the right to request a challenge inspection had been abused.

23. If the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 22, it shall take the appropriate measures to redress the situation and to ensure compliance with this Convention, including specific recommendations to the Conference. In the case of abuse, the Executive Council shall examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.

24. The requesting State Party and the inspected State Party shall have the right to participate in the review process. The Executive Council shall inform the States Parties and the next session of the Conference of the outcome of the process.

25. If the Executive Council has made specific recommendations to the Conference, the Conference shall consider action in accordance with Article XII.

Article 10 – Assistance and Protection Against Chemical Weapons

1. For the purposes of this Article, "Assistance" means the coordination and delivery to States Parties of protection against chemical weapons, including, inter alia, the following: detection equipment and alarm systems; protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures.

2. Nothing in this Convention shall be interpreted as impeding the right of any State Party to conduct research into, develop, produce, acquire, transfer or use means of protection against chemical weapons, for purposes not prohibited under this Convention.

3. Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

4. For the purposes of increasing the transparency of national programmes related to protective purposes, each State Party shall provide annually to the Technical Secretariat information on its programme, in accordance with procedures to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

5. The Technical Secretariat shall establish, not later than 180 days after entry into force of this Convention and maintain, for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties.
The Technical Secretariat shall also, within the resources available to it, and at the request of a State Party, provide expert advice and assist the State Party in identifying how its programmes for the development and improvement of a protective capacity against chemical weapons could be implemented.

6. Nothing in this Convention shall be interpreted as impeding the right of States Parties to request and provide assistance bilaterally and to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.

7. Each State Party undertakes to provide assistance through the Organization and to this end to elect to take one or more of the following measures:
   a) To contribute to the voluntary fund for assistance to be established by the Conference at its first session;
   b) To conclude, if possible not later than 180 days after this Convention enters into force for it, agreements with the Organization concerning the procurement, upon demand, of assistance;
   c) To declare, not later than 180 days after this Convention enters into force for it, the kind of assistance it might provide in response to an appeal by the Organization. If, however, a State Party subsequently is unable to provide the assistance envisaged in its declaration, it is still under the obligation to provide assistance in accordance with this paragraph.

8. Each State Party has the right to request and, subject to the procedures set forth in paragraphs 9, 10 and 11, to receive assistance and protection against the use or threat of use of chemical weapons if it considers that:
   a) Chemical weapons have been used against it;
   b) Riot control agents have been used against it as a method of warfare; or
   c) It is threatened by actions or activities of any State that are prohibited for States Parties by Article I.

9. The request, substantiated by relevant information, shall be submitted to the Director General, who shall transmit it immediately to the Executive Council and to all States Parties. The Director General shall immediately forward the request to States Parties which have volunteered, in accordance with paragraphs 7 (b) and (c), to dispatch emergency assistance in case of use of chemical weapons or use of riot control agents as a method of warfare, or humanitarian assistance in case of serious threat of use of chemical weapons or serious threat of use of riot control agents as a method of warfare to the State Party concerned not later than 12 hours after receipt of the request. The Director General shall initiate, not later than 24 hours after receipt of the request, an investigation in order to provide foundation for further action. He shall complete the investigation within 72 hours and forward a report to the Executive Council. If additional time is required for completion of the investigation, an interim report shall be submitted within the same time frame. The additional time required for investigation shall not exceed 72 hours. It may, however, be further extended by similar periods. Reports at the end of each additional period shall be submitted to the Executive Council. The investigation shall, as appropriate and in conformity with the request and the information accompanying the request, establish relevant facts related to the request as well as the type and scope of supplementary assistance and protection needed.

10. The Executive Council shall meet not later than 24 hours after receiving an investigation report to consider the situation and shall take a decision by simple majority within the following 24 hours on whether to instruct the Technical Secretariat to provide supplementary assistance. The Technical Secretariat shall immediately transmit to all States Parties and relevant international organizations the investigation report and the decision taken by the Executive
Council. When so decided by the Executive Council, the Director General shall provide assistance immediately. For this purpose, the Director General may cooperate with the requesting State Party, other States Parties and relevant international organizations. The States Parties shall make the fullest possible efforts to provide assistance.

11. If the information available from the ongoing investigation or other reliable sources would give sufficient proof that there are victims of use of chemical weapons and immediate action is indispensable, the Director General shall notify all States Parties and shall take emergency measures of assistance, using the resources the Conference has placed at his disposal for such contingencies. The Director General shall keep the Executive Council informed of actions undertaken pursuant to this paragraph.

**Article 11 – Economic and Technological Development**

1. The provisions of this Convention shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

2. Subject to the provisions of this Convention and without prejudice to the principles and applicable rules of international law, the States Parties shall:
   a) Have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer, and use chemicals;
   b) Undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention;
   c) Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
   d) Not use this Convention as grounds for applying any measures other than those provided for, or permitted, under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;
   e) Undertake to review their existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of this Convention.

**Article 12 – Measures to Redress a Situation and to Ensure Compliance, Including Sanctions**

1. The Conference shall take the necessary measures, as set forth in paragraphs 2, 3 and 4, to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention. In considering action pursuant to this paragraph, the Conference shall take into account all information and recommendations on the issues submitted by the Executive Council.

2. In cases where a State Party has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, inter alia, upon the recommendation of the Executive Council, restrict or suspend the State Party’s rights and
privileges under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.

3. In cases where serious damage to the object and purpose of this Convention may result from activities prohibited under this Convention, in particular by Article I, the Conference may recommend collective measures to States Parties in conformity with international law.

4. The Conference shall, in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the United Nations General Assembly and the United Nations Security Council.

Article 13 – Relation to Other International Agreements
Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972.

Article 14 – Settlement of Disputes
1. Disputes that may arise concerning the application or the interpretation of this Convention shall be settled in accordance with the relevant provisions of this Convention and in conformity with the provisions of the Charter of the United Nations.

2. When a dispute arises between two or more States Parties, or between one or more States Parties and the Organization, relating to the interpretation or application of this Convention, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties’ choice, including recourse to appropriate organs of this Convention and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The States Parties involved shall keep the Executive Council informed of actions being taken.

3. The Executive Council may contribute to the settlement of a dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement process of their choice and recommending a time limit for any agreed procedure.

4. The Conference shall consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council. The Conference shall, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes in conformity with Article VIII, paragraph 21 (f).

5. The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organization. An agreement between the Organization and the United Nations shall be concluded for this purpose in accordance with Article VIII, paragraph 34 (a).

6. This Article is without prejudice to Article IX or to the provisions on measures to redress a situation and to ensure compliance, including sanctions.
**Article 15 - Amendments**

1. Any State Party may propose amendments to this Convention. Any State Party may also propose changes, as specified in paragraph 4, to the Annexes of this Convention. Proposals for amendments shall be subject to the procedures in paragraphs 2 and 3. Proposals for changes, as specified in paragraph 4, shall be subject to the procedures in paragraph 5.

2. The text of a proposed amendment shall be submitted to the Director General for circulation to all States Parties and to the Depositary. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one third or more of the States Parties notify the Director General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

3. Amendments shall enter into force for all States Parties 30 days after deposit of the instruments of ratification or acceptance by all the States Parties referred to under subparagraph (b) below:
   a) (When adopted by the Amendment Conference by a positive vote of a majority of all States Parties with no State Party casting a negative vote; and
   b) Ratified or accepted by all those States Parties casting a positive vote at the Amendment Conference.

4. In order to ensure the viability and the effectiveness of this Convention, provisions in the Annexes shall be subject to changes in accordance with paragraph 5, if proposed changes are related only to matters of an administrative or technical nature. All changes to the Annex on Chemicals shall be made in accordance with paragraph 5. Sections A and C of the Confidentiality Annex, Part X of the Verification Annex, and those definitions in Part I of the Verification Annex which relate exclusively to challenge inspections, shall not be subject to changes in accordance with paragraph 5.

5. Proposed changes referred to in paragraph 4 shall be made in accordance with the following procedures:
   a) The text of the proposed changes shall be transmitted together with the necessary information to the Director General. Additional information for the evaluation of the proposal may be provided by any State Party and the Director General. The Director General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;
   b) Not later than 60 days after its receipt, the Director General shall evaluate the proposal to determine all its possible consequences for the provisions of this Convention and its implementation and shall communicate any such information to all States Parties and the Executive Council;
   c) The Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 4. Not later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations, to all States Parties for consideration. States Parties shall acknowledge receipt within 10 days;
   d) If the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that the proposal be rejected,
it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;

e) If a recommendation of the Executive Council does not meet with the acceptance required under subparagraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 4, shall be taken as a matter of substance by the Conference at its next session;

f) The Director General shall notify all States Parties and the Depositary of any decision under this paragraph;

g) Changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director General of their approval unless another time period is recommended by the Executive Council or decided by the Conference.

**Article 16 – Duration and Withdrawal**

1. This Convention shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events, related to the subject matter of this Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal 90 days in advance to all other States Parties, the Executive Council, the Depositary and the United Nations Security Council. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

3. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law, particularly the Geneva Protocol of 1925.

**Article 17 – Status of the Annexes**

The Annexes form an integral part of this Convention. Any reference to this Convention includes the Annexes.

**Article 18 - Signature**

This Convention shall be open for signature for all States before its entry into force.

**Article 19 - Ratification**

This Convention shall be subject to ratification by States Signatories according to their respective constitutional processes.

**Article 20 - Accession**

Any State which does not sign this Convention before its entry into force may accede to it at any time thereafter.

**Article 21 – Entry into Force**

1. This Convention shall enter into force 180 days after the date of the deposit of the 65th instrument of ratification, but in no case earlier than two years after its opening for signature.

2. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession.
Article 22 - Reservations
The Articles of this Convention shall not be subject to reservations. The Annexes of this Convention shall not be subject to reservations incompatible with its object and purpose.

Article 23 - Depositary
The Secretary General of the United Nations is hereby designated as the Depositary of this Convention and shall, inter alia:

a) Promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention, and of the receipt of other notices;

b) Transmit duly certified copies of this Convention to the Governments of all signatory and acceding States; and

c) Register this Convention pursuant to Article 102 of the Charter of the United Nations.

Article 24 – Authentic texts
This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention. Done at Paris on the thirteenth day of January, one thousand nine hundred and ninety-three.
Part 3  International Case Law
3.1 The case of the S.S. “Lotus”, 7 September 1927

Having determined the position resulting from the terms of the special agreement, the Court must now ascertain which were the principles of international law that the prosecution of Lieutenant Demons could conceivably be said to contravene. It is Article 15 of the Convention of Lausanne of July 24th, 1923, respecting conditions of residence and business and jurisdiction, which refers the contracting Parties to the principles of international law as regards the delimitation of their respective jurisdiction. This clause is as follows:

“Subject to the provisions of Article 16, all questions of jurisdiction shall, as between Turkey, and the other contracting Powers, be decided in accordance with the principles of international law.”

The French Government maintains that the meaning of the expression “principles of international law” in this article should be sought in the light of the evolution of the Convention. Thus it states that during the preparatory work, the Turkish Government, by means of an amendment to the relevant article of a draft for the Convention, sought to extend its jurisdiction to crimes committed in the territory of a third State, provided that, under Turkish law, such crimes were within the jurisdiction of Turkish Courts. This amendment, in regard to which the representatives of France and Italy made reservations, was definitely rejected by the British representative; and the question having been subsequently referred to the Drafting Committee, the latter confined itself in its version of the draft to a declaration to the effect that questions of jurisdiction should be decided in accordance with the principles of international law. The French Government deduces from these facts that the prosecution of Demons is contrary to the intention which guided the preparation of the Convention of Lausanne.

The Court must recall in this connection what it has said in some of its preceding judgments and opinions, namely, that there is no occasion to have regard to preparatory work if the text of a convention is sufficiently clear in itself. Now the Court considers that the words “principles of international law”, as ordinarily used, can only mean international law as it is applied between all nations belonging to the community of States. This interpretation is borne out by the context of the article itself which says that the principles of international law are to determine questions of jurisdiction—not only criminal but also civil—between the contracting Parties, subject only to the exception provided for in Article 16. Again, the preamble of the Convention says that the High Contracting Parties are desirous of effecting a settlement in accordance “with modern international law”, and Article 28 of the Treaty of Peace of Lausanne, to which the Convention in question is annexed, decrees the complete abolition of the Capitulations “in every respect”. In these circumstances it is impossible—except in pursuance of a definite stipulation— to construe the expression “principles of international law” otherwise than as meaning the principles which are in force between all independent nations and which therefore apply equally to all the contracting Parties.

Moreover, the records of the preparation of the Convention respecting conditions of residence and business and jurisdiction would not furnish anything calculated to overrule the construction indicated by the actual terms of Article 15. It is true that the representatives of France, Great Britain and Italy rejected the Turkish amendment already mentioned. But only the British delegate—and this conformably to British municipal law which maintains the territorial principle in
regard to criminal jurisdiction-stated the reasons for his opposition to the Turkish amendment; the reasons for the French and Italian reservations and for the omission from the draft prepared by the Drafting Committee of any definition of the scope of the criminal jurisdiction in respect of foreigners, are unknown and might have been unconnected with the arguments now advanced by France.

It should be added to these observations that the original draft of the relevant article, which limited Turkish jurisdiction to crimes committed in Turkey itself, was also discarded by the Drafting Committee; this circumstance might with equal justification give the impression that the intention of the framers of the Convention was not to limit this jurisdiction in any way.

The two opposing proposals designed to determine definitely the area of application of Turkish criminal law having thus been discarded, the wording ultimately adopted by common consent for Article 15 can only refer to the principles of general international law relating to jurisdiction. The Court, having to consider whether there are any rules of international law which may have been violated by the prosecution in pursuance of Turkish law of Lieutenant Demons, is confronted in the first place by a question of principle which, in the written and oral arguments of the two Parties, has proved to be a fundamental one. The French Government contends that the Turkish Courts, in order to have jurisdiction, should be able to point to some title to jurisdiction recognized by international law in favour of Turkey.

On the other hand, the Turkish Government takes the view that Article 15 allows Turkey jurisdiction whenever such jurisdiction does not come into conflict with a principle of international law. The latter view seems to be in conformity with the special agreement itself, No. I of which asks the Court to say whether Turkey has acted contrary to the principles of international law and, if so, what principles. According to the special agreement, therefore, it is not a question of stating principles which would permit Turkey to take criminal proceedings, but of formulating the principles, if any, which might have been violated by such proceedings. This way of stating the question is also dictated by the very nature and existing conditions of international law.

International law governs relations between independent States. The rules of law binding upon States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims.

Restrictions upon the independence of States cannot therefore be presumed. Now the first and foremost restriction imposed by international law upon a State is that-failing the existence of a permissive rule to the contrary-it may not exercise its power in any form in the territory of another State.

In this sense jurisdiction is certainly territorial; it cannot be exercised by a State outside its territory except by virtue of a permissive rule derived from international custom or from a convention. It does not, however, follow that international law prohibits a State from exercising jurisdiction in its own territory, in respect of any case which relates to acts which have taken place
abroad, and in which it cannot rely on some permissive rule of international law. Such a view would only be tenable if international law contained a general prohibition to States to extend the application of their laws and the jurisdiction of their courts to persons, property and acts 'outside their territory, and if, as an exception to this general prohibition, it allowed States to do so in certain specific cases. But this is certainly not the case under international law as it stands at present. Far from laying down a general prohibition to the effect that States may not extend the application of their laws and the jurisdiction of their courts to person, property and acts outside their territory, it leaves them in this respect a wide measure of discretion which is only limited in certain cases by prohibitive rules; as regards other cases, every State remains free to adopt the principles which it regards as best and most suitable.

This discretion left to States by international law explains the great variety of rules which they have been able to adopt without objections or complaints on the part of other States; it is in order to remedy the difficulties resulting from such variety that efforts have been made for many years past, both in Europe and America, to prepare conventions the effect of which would be precisely to limit the discretion at present left to States in this respect by international law, thus making good the existing lacunae in respect of jurisdiction or removing the conflicting jurisdictions arising from the diversity of the principles adopted by the various States. In these circumstances, all that can be required of a State is that it should not overstep the limits which international law places upon its jurisdiction; within these limits, its title to exercise jurisdiction rests in its sovereignty.

It follows from the foregoing that the contention of the French Government to the effect that Turkey must in each case be able to cite a rule of international law authorizing her to exercise jurisdiction, is opposed to the generally accepted international law to which Article 15 of the Convention of Lausanne refers. Having regard to the terms of Article 15 and to the construction which the Court has just placed upon it, this contention would apply in regard to civil as well as to criminal cases, and would be applicable on conditions of absolute reciprocity as between Turkey and the other contracting Parties; in practice, it would therefore in many cases result in paralyzing the action of the courts, owing to the impossibility of citing a universally accepted rule on which to support the exercise of their jurisdiction. Nevertheless, it has to be seen whether the foregoing considerations really apply as regards criminal jurisdiction, or whether this jurisdiction is governed by a different principle: this might be the outcome of the close connection which for a long time existed between the conception of supreme criminal jurisdiction and that of a State, and also by the especial importance of criminal jurisdiction from the point of view of the individual. Though it is true that in all systems of law the principle of the territorial character of criminal law is fundamental, it is equally true that all or nearly all these systems of law extend their action to offences committed outside the territory of the State which adopts them, and they do so in ways which vary from State to State.

The territoriality of criminal law, therefore, is not an absolute principle of international law and by no means coincides with territorial sovereignty.

This situation may be considered from two different stand-points corresponding to the points of view respectively taken up by the Parties. According to one of these standpoints, the principle of freedom, in virtue of which each State may regulate its legislation at its discretion, provided that
in so doing it does not come in conflict with a restriction imposed by international law, would also apply as regards law governing the scope of jurisdiction in criminal cases. According to the other standpoint, the exclusively territorial character of law relating to this domain constitutes a principle which, except as otherwise expressly provided, would, ipso facto, prevent States from extending the criminal jurisdiction of their courts beyond their frontiers; the exceptions in question, which include for instance extraterritorial jurisdiction over nationals and over crimes directed against public safety, would therefore rest on special permissive rules forming part of international law.

Adopting, for the purposes of the argument, the standpoint of the latter of these two systems, it must be recognized that, in the absence of a treaty provision, its correctness depends upon whether there is a custom having the force of law establishing it. The same is true as regards the applicability of this system assuming it to have been recognized as sound-in the particular case. It follows that, even from this point of view, before ascertaining whether there may be a rule of international law expressly allowing Turkey to prosecute a foreigner for an offence committed by him outside Turkey, it is necessary to begin by establishing both that the system is well-founded and that it is applicable in the particular case. Now, in order to establish the first of these points, one must, as has just been seen, prove the existence of a principle of international law restricting the discretion of States as regards criminal legislation. Consequently, whichever of the two systems described above be adopted, the same result will be arrived at in this particular case: the necessity of ascertaining whether or not under international law there is a principle which would have prohibited Turkey, in the circumstances of the case before the Court, from prosecuting Lieutenant Demons. And moreover, on either hypothesis, this must be ascertained by examining precedents offering a close analogy to the case under consideration; for it is only from precedents of this nature that the existence of a general principle applicable to the particular case may appear. For if it were found, for example, that, according to the practice of States, the jurisdiction of the State whose flag was flown was not established by international law as exclusive with regard to collision cases on the high seas, it would not be necessary to ascertain whether there were a more general restriction; since, as regards that restriction-supposing that it existed-the fact that it had been established that there was no prohibition in respect of collision on the high seas would be tantamount to a special permissive rule.

The Court therefore must, in any event, ascertain whether or not there exists a rule of international law limiting the freedom of States to extend the criminal jurisdiction of their courts to a situation uniting the circumstances of the present case. The Court will now proceed to ascertain whether general international law, to which Article 15 of the Convention of Lausanne refers, contains a rule prohibiting Turkey from prosecuting Lieutenant Demons. For this purpose, it will in the first place examine the value of the arguments advanced by the French Government, without however omitting to take into account other possible aspects of the problem, which might show the existence of a restrictive rule applicable in this case.

This being so, the Court does not think it necessary to consider the contention that a State cannot punish offences committed abroad by a foreigner simply by reason of the nationality of the victim. For this contention only relates to the case where the nationality of the victim is the only criterion on which the criminal jurisdiction of the State is based. Even if that argument were correct generally speaking-and in regard to this the Court reserves its opinion-it could only be used in the present case if
international law forbade Turkey to take into consideration the fact that the offence produced its effects on the Turkish vessel and consequently in a place assimilated to Turkish territory in which the application of Turkish criminal law cannot be challenged, even in regard to offences committed there by foreigners. But no such rule of international law exists. No argument has come to the knowledge of the Court from which it could be deduced that States recognize themselves to be under an obligation towards each other only to have regard to the place where the author of the offence happens to be at the time of the offence. On the contrary, it is certain that the courts of many countries, even of countries which have given their criminal legislation a strictly territorial character, interpret criminal law in the sense that it only remains to examine the third argument advanced by the French Government and to ascertain whether a rule specially applying to collision cases has grown up, according to which criminal proceedings regarding such cases come exclusively within the jurisdiction of the State whose flag is flown. In this connection, the Agent for the French Government has drawn the Court’s attention to the fact that questions of jurisdiction in collision cases, which frequently arise before civil courts, are but rarely encountered in the practice of criminal courts. He deduces from this that, in practice, prosecutions only occur before the courts of the State whose flag is flown and that that circumstance is proof of a tacit consent on the part of States and, consequently, shows what positive international law is in collision cases.

In the Court’s opinion, this conclusion is not warranted. Even if the rarity of the judicial decisions to be found among the reported cases were sufficient to prove in point of fact the circumstance alleged by the Agent for the French Government, it would merely show that States had often, in practice, abstained from instituting criminal proceedings, and not that they recognized themselves as being obliged to do so; for only if such abstention were based on their being conscious of having a duty to abstain would it be possible to speak of an international custom. The alleged fact does not allow one to infer that States have been conscious of having such a duty; on the other hand, as will presently be seen, there are other circumstances calculated to show that the contrary is true.

So far as the Court is aware there are no decisions of international tribunals in this matter; but some decisions of municipal courts have been cited. Without pausing to consider the value to be attributed to the judgments of municipal courts in connection with the establishment of the existence of a rule of international law, it will suffice to observe that the decisions quoted sometimes support one view and sometimes the other. Whilst the French Government have been able to cite the Ortigia-Oncle-Joseph case before the Court of Aix and the Franconia-Strathclyde case before the British Court for Crown Cases Reserved, as being in favour of the exclusive jurisdiction of the State whose flag is flown, on the other hand the Ortigia-Oncle-Joseph case before the Italian Courts and the Ekbatalza-West-Hinder case before the Belgian Courts have been cited in support of the opposing contention.

Lengthy discussions have taken place between the Parties as to the importance of each of these decisions as regards the details of which the Court confines itself to a reference to the Cases and Counter-Cases of the Parties. The Court does not think it necessary to stop to consider them. It will suffice to observe that, as municipal jurisprudence is thus divided, it is hardly possible to see in it an indication of the existence of the restrictive rule of international law which alone could serve as a basis for the contention of the French Government.
On the other hand, the Court feels called upon to lay stress upon the fact that it does not appear that the States concerned have objected to criminal proceedings in respect of collision cases before the courts of a country other than that the flag of which was flown, or that they have made protests: their conduct does not appear to have differed appreciably from that observed by them in all case; of concurrent jurisdiction. This fact is directly opposed to the existence of a tacit consent on the part of States to the exclusive jurisdiction of the State whose flag is flown, such as the Agent for the French Government has thought it possible to deduce from the infrequency of questions of jurisdiction before criminal courts. It seems hardly probable, and it would not be in accordance with international practice, that the French Government in the Ortigia-Oncle-Joseph case and the German Government in the Ekbatana-West-Hinder case would have omitted to protest against the exercise of criminal jurisdiction by the Italian and Belgian Courts, if they had really thought that this was a violation of international law.

As regards the Fjfanconia case (R. v. Keyn 1877, L. R. 2 Ex. Div. 63) upon which the Agent for the French Government has particularly relied, it should be observed that the part of the decision which bears the closest relation to the present case is the part relating to the localization of the offence on the vessel responsible for the collision.

But, whatever the value of the opinion expressed by the majority of the judges on this particular point may be in other respects, there would seem to be no doubt that if, in the minds of these judges, it was based on a rule of international law, their conception of that law, peculiar to English jurisprudence, is far from being generally accepted even in common-law countries. This view seems moreover to be borne out by the fact that the standpoint taken by the majority of the judges in regard to the localization of an offence, the author of which is situated in the territory of one State whilst its effects are produced in another State, has been abandoned in more recent English decisions (R. v. Nillins, 1884, 53 L. J. 157; R. V. Godfrey, L. R. 1923, I K. B. 24). This development of English case-law tends to support the view that international law leaves States a free hand in this respect.

In support of the theory in accordance with which criminal jurisdiction in collision cases would exclusively belong to the State of the flag flown by the ship, it has been contended that it is a question of the observance of the national regulations of each merchant marine and that effective punishment does not consist so much in the infliction of some months’ imprisonment upon the captain as in the cancellation of his certificate as master, that is to Say, in depriving him of the command of his ship.

In regard to this, the Court must observe that in the present case a prosecution was instituted for an offence at criminal law and not for a breach of discipline. Neither the necessity of taking administrative regulations into account (even ignoring the circumstance that it is a question of uniform regulations adopted by States as a result of an international conference) nor the impossibility of applying certain disciplinary penalties can prevent the application of criminal law and of penal measures of repression.
The conclusion at which the Court has therefore arrived is that there is no rule of international law in regard to collision cases to the effect that criminal proceedings are exclusively within the jurisdiction of the State whose flag is flown.

This conclusion moreover is easily explained if the manner in which the collision brings the jurisdiction of two different countries into play be considered.

The offence for which Lieutenant Demons appears to have been prosecuted was an act-of negligence or imprudence-having its origin on board the Lotus, whilst its effects made themselves felt on board the Boz-Kourt. These two elements are, legally, entirely inseparable, so much so that their separation renders the offence non-existent. Neither the exclusive jurisdiction of either State, nor the limitations of the jurisdiction of each to the occurrences which took place on the respective ships would appear calculated to satisfy the requirements of justice and effectively to protect the interests of the two States. It is only natural that each should be able to exercise jurisdiction and to do so in respect of the incident as a whole. It is therefore a case of concurrent jurisdiction.

Having thus answered the first question submitted by the special agreement in the negative, the Court need not consider the second question, regarding the pecuniary reparation which might have been due to Lieutenant Demons.
3.2 GERMANY v. ITALY, JUDGMENT, 3 FEBRUARY 2012 (INTERNATIONAL COURT OF JUSTICE)

REPORTS OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS JURISDICTIONAL IMMUNITIES OF THE STATE

50. The Court must determine whether, as Italy maintains, the failure of a State to perform completely a duty of reparation which it allegedly bears is capable of having an effect, in law, on the existence and scope of that State’s jurisdictional immunity before foreign courts. This question is one of law on which the Court must rule in order to determine the customary international law applicable in respect of State immunity for the purposes of the present case.

Should the preceding question be answered in the affirmative, the second question would be whether, in the specific circumstances of the case, taking account in particular of Germany’s conduct on the issue of reparation, the Italian courts had sufficient grounds for setting aside Germany’s immunity. It is not necessary for the Court to satisfy itself that it has jurisdiction to respond to this second question until it has responded to the first.

55. It follows that the Court must determine, in accordance with Article 38 (1) (b) of its Statute, the existence of "international custom, as evidence of a general practice accepted as law" conferring immunity on States and, if so, what is the scope and extent of that immunity. To do so, it must apply the criteria which it has repeatedly laid down for identifying a rule of customary international law. In particular, as the Court made clear in the North Sea Continental Shelf cases, the existence of a rule of customary international law requires that there be "a settled practice" together with opinio juris (North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands), Judgment, I.C.J. Reports 1969, p. 44, para. 77). Moreover, as the Court has also observed, "it is of course axiomatic that the material of customary international law is to be looked for primarily in the actual practice and opinio juris of States, even though multilateral conventions may have an important role to play in recording and defining rules deriving from custom, or indeed in developing them" (Continental Shelf (Libyan Arab Jamahiriya/ Malta), Judgment, I.C.J. Reports 1985, pp. 29-30, para. 27).

In the present context, State practice of particular significance is to be found in the judgments of national courts faced with the question whether a foreign State is immune, the legislation of those States which have enacted statutes dealing with immunity, the claims to immunity advanced by States before foreign courts and the statements made by States, first in the course of the extensive study of the subject by the International Law Commission and then in the context of the adoption of the United Nations Convention. Opinio juris in this context is reflected in particular in the assertion by States claiming immunity that international law accords them a right to such immunity from the jurisdiction of other States; in the acknowledgment, by States granting immunity, that international law imposes upon them an obligation to do so; and, conversely, in the assertion by States in other cases of a right to exercise jurisdiction over foreign States. While it may be true that States sometimes decide to accord an immunity more extensive than that required by
international law, for present purposes, the point is that the grant of immunity in such a case is not accompanied by the requisite opinio juris and therefore sheds no light upon the issue currently under consideration by the Court.

56. Although there has been much debate regarding the origins of State immunity and the identification of the principles underlying that immunity in the past, the International Law Commission concluded in 1980 that the rule of State immunity had been "adopted as a general rule of customary international law solidly rooted in the current practice of States" (Yearbook of the International Law Commission, 1980, Vol. II (2), p. 147, para. 26). That conclusion was based upon an extensive survey of State practice and, in the opinion of the Court, is confirmed by the record of national legislation, judicial decisions, assertions of a right to immunity and the comments of States on what became the United Nations Convention. That practice shows that, whether in claiming immunity for themselves or according it to others, States generally proceed on the basis that there is a right to immunity under international law, together with a corresponding obligation on the part of other States to respect and give effect to that immunity.

57. The Court considers that the rule of State immunity occupies an important place in international law and international relations. It derives from the principle of sovereign equality of States, which, as Article 2, paragraph 1, of the Charter of the United Nations makes clear, is one of the fundamental principles of the international legal order. This principle has to be viewed together with the principle that each State possesses sovereignty over its own territory and that there flows from that sovereignty the jurisdiction of the State over events and persons within that territory.

Exceptions to the immunity of the State represent a departure from the principle of sovereign equality. Immunity may represent a departure from the principle of territorial sovereignty and the jurisdiction which flows from it.

58. The Parties are thus in broad agreement regarding the validity and importance of State immunity as a part of customary international law.

They differ, however, as to whether (as Germany contends) the law to be applied is that which determined the scope and extent of State immunity in 1943-1945, i.e., at the time that the events giving rise to the proceedings in the Italian courts took place, or (as Italy maintains) that which applied at the time the proceedings themselves occurred. The Court observes that, in accordance with the principle stated in Article 13 of the International Law Commission Articles on Responsibility of States for Internationally Wrongful Acts, the compatibility of an act with international law can be determined only by reference to the law in force at the time when the act occurred. In that context, it is important to distinguish between the relevant acts of Germany and those of Italy. The relevant German acts — which are described in paragraph 52 — occurred in 1943-1945, and it is, therefore, the international law of that time which is applicable to them. The relevant Italian acts — the denial of immunity and exercise of jurisdiction by the Italian courts — did not occur until the proceedings in the Italian courts took place. Since the claim before the Court concerns the actions of the Italian courts, it is the international law in force at the time of those proceedings which the Court has to apply. Moreover, as the Court has stated (in the context of the
personal immunities accorded by international law to foreign ministers), the law of immunity is essentially procedural in nature (Arrest Warrant of 1 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002, p. 25, para. 60). It regulates the exercise of jurisdiction in respect of particular conduct and is thus entirely distinct from the substantive law which determines whether that conduct is lawful or unlawful. For these reasons, the Court considers that it must examine and apply the law on State immunity as it existed at the time of the Italian proceedings, rather than that which existed in 1943-1945.

66. The Court will first consider whether the adoption of Article 11 of the European Convention or Article 12 of the United Nations Convention affords any support to Italy’s contention that States are no longer entitled to immunity in respect of the type of acts specified in the preceding paragraph. As the Court has already explained (see paragraph 54 above), neither Convention is in force between the Parties to the present case. The provisions of these Conventions are, therefore, relevant only in so far as their provisions and the process of their adoption and implementation shed light on the content of customary international law.

70. Turning to State practice in the form of national legislation, the Court notes that nine of the ten States referred to by the Parties which have legislated specifically for the subject of State immunity have adopted provisions to the effect that a State is not entitled to immunity in respect of torts occasioning death, personal injury or damage to property occurring on the territory of the forum State (United States of America Foreign Sovereign Immunities Act 1976, 28 USC, Sect. 1605 (a) (5) ; United Kingdom State Immunity Act 1978, Sect. 5 ; South Africa Foreign States Immunities Act 1981, Sect. 6 ; Canada State Immunity Act 1985, Sect. 6 ; Australia Foreign States Immunities Act 1985, Sect. 13 ; Singapore State Immunity Act 1985, Sect. 7 ; Argentina Law No. 24.488 (Statute on the Immunity of Foreign States before Argentine Tribunals) 1995, Article 2 (e) ; Israel Foreign State Immunity Law 2008, Sect. 5 ; and Japan, Act on the Civil Jurisdiction of Japan with respect to a Foreign State, 2009, Article 10). Only Pakistan’s State Immunity Ordinance 1981 contains no comparable provision.

77. In the Court’s opinion, State practice in the form of judicial decisions supports the proposition that State immunity for acta jure imperii continues to extend to civil proceedings for acts occasioning death, personal injury or damage to property committed by the armed forces and other organs of a State in the conduct of armed conflict, even if the relevant acts take place on the territory of the forum State. That practice is accompanied by opinio juris, as demonstrated by the positions taken by States and the jurisprudence of a number of national courts which have made clear that they considered that customary international law required immunity. The almost complete absence of contrary jurisprudence is also significant, as is the absence of any statements by States in connection with the work of the International Law Commission regarding State immunity and the adoption of the United Nations Convention or, so far as the Court has been able to discover, in any other context asserting that customary international law does not require immunity in such cases.

78. In light of the foregoing, the Court considers that customary international law continues to require that a State be accorded immunity in proceedings for torts allegedly committed on the territory of another State by its armed forces and other organs of State in the course of conducting
an armed conflict. That conclusion is confirmed by the judgments of the European Court of Human Rights to which the Court has referred (see paragraphs 72, 73 and 76).

B. The relationship between jus cogens and the rule of State immunity

92. The Court now turns to the second strand in Italy's argument, which emphasizes the jus cogens status of the rules which were violated by Germany during the period 1943-1945. This strand of the argument rests on the premise that there is a conflict between jus cogens rules forming part of the law of armed conflict and according immunity to Germany. Since jus cogens rules always prevail over any inconsistent rule of international law, whether contained in a treaty or in customary international law, so the argument runs, and since the rule which accords one State immunity before the courts of another does not have the status of jus cogens, the rule of immunity must give way.

93. This argument therefore depends upon the existence of a conflict between a rule, or rules, of jus cogens, and the rule of customary law which requires one State to accord immunity to another. In the opinion of the Court, however, no such conflict exists. Assuming for this purpose that the rules of the law of armed conflict which prohibit the murder of civilians in occupied territory, the deportation of civilian inhabitants to slave labour and the deportation of prisoners of war to slave labour are rules of jus cogens, there is no conflict between those rules and the rules on State immunity. The two sets of rules address different matters. The rules of State immunity are procedural in character and are confined to determining whether or not the courts of one State may exercise jurisdiction in respect of another State. They do not bear upon the question whether or not the conduct in respect of which the proceedings are brought was lawful or unlawful. That is why the application of the contemporary law of State immunity to proceedings concerning events which occurred in 1943-1945 does not infringe the principle that law should not be applied retrospectively to determine matters of legality and responsibility (as the Court has explained in paragraph 58 above). For the same reason, recognizing the immunity of a foreign State in accordance with customary international law does not amount to recognizing as lawful a situation created by the breach of a jus cogens rule, or rendering aid and assistance in maintaining that situation, and so cannot contravene the principle in Article 41 of the International Law Commission's Articles on State Responsibility.

94. In the present case, the violation of the rules prohibiting murder, deportation and slave labour took place in the period 1943-1945. The illegality of these acts is openly acknowledged by all concerned. The application of rules of State immunity to determine whether or not the Italian courts have jurisdiction to hear claims arising out of those violations cannot involve any conflict with the rules which were violated. Nor is the argument strengthened by focusing upon the duty of the wrongdoing State to make reparation, rather than upon the original wrongful act. The duty to make reparation is a rule which exists independently of those rules which concern the means by which it is to be effected. The law of State immunity concerns only the latter; a decision that a foreign State is immune no more conflicts with the duty to make reparation than it does with the rule prohibiting the original wrongful act. Moreover, against the background of a century of practice in which almost every peace treaty or post-war settlement has involved either a decision not to require the payment of reparations or the use of lump sum settlements and set-offs, it is difficult to see that international law contains a rule requiring the payment of full compensation.
to each and every individual victim as a rule accepted by the international community of States as a whole as one from which no derogation is permitted.

95. To the extent that it is argued that no rule which is not of the status of jus cogens may be applied if to do so would hinder the enforcement of a jus cogens rule, even in the absence of a direct conflict, the Court sees no basis for such a proposition. A jus cogens rule is one from which no derogation is permitted but the rules which determine the scope and extent of jurisdiction and when that jurisdiction may be exercised do not derogate from those substantive rules which possess jus cogens status, nor is there anything inherent in the concept of jus cogens which would require their modification or would displace their application. The Court has taken that approach in two cases, notwithstanding that the effect was that a means by which a jus cogens rule might be enforced was rendered unavailable.

In Armed Activities, it held that the fact that a rule has the status of jus cogens does not confer upon the Court a jurisdiction which it would not otherwise possess (Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006, p. 32, para. 64, and p. 52, para. 125). In Arrest Warrant, the Court held, albeit without express reference to the concept of jus cogens, that the fact that a Minister for Foreign Affairs was accused of criminal violations of rules which undoubtedly possess the character of jus cogens did not deprive the Democratic Republic of the Congo of the entitlement which it possessed as a matter of customary international law to demand immunity on his behalf (Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002, p. 24, para. 58, and p. 33, para. 78). The Court considers that the same reasoning is applicable to the application of the customary international law regarding the immunity of one State from proceedings in the courts of another.

96. In addition, this argument about the effect of jus cogens displacing the law of State immunity has been rejected by the national courts of the United Kingdom (Jones v. Saudi Arabia, House of Lords, [2007] 1 AC 270 ; ILR, Vol. 129, p. 629), Canada (Bouzari v. Islamic Republic of Iran, Court of Appeal of Ontario, DLR, 4th Series, Vol. 243, p. 406 ; ILR, Vol. 128, p. 586), Poland (Natoniewski, Supreme Court, Polish Yearbook of International Law, Vol. XXX, 2010, p. 299), Slovenia (case No. Up-13/99, Constitutional Court of Slovenia), New Zealand (Fang v. Jiang, High Court, [2007] NZAR, p. 420 ; ILR, Vol. 141, p. 702) and Greece (Margel-Ios, Special Supreme Court, ILR, Vol. 129, p. 525), as well as by the European Court of Human Rights in Al-Adsani v. United Kingdom and Kalogeropoulos and Others v. Greece and Germany (which are discussed in paragraph 90 above), in each case after careful consideration. The Court does not consider the judgment of the French Cour de cassation of 9 March 2011 in La Reunion aerienne v. Libyan Arab Jamahiriya (case No. 09-14743, 9 March 2011, Bull. civ., March 2011, No. 49, p. 49) as supporting a different conclusion. The Cour de cassation in that case stated only that, even if a jus cogens norm could constitute a legitimate restriction on State immunity, such a restriction could not be justified on the facts of that case. It follows, therefore, that the judgments of the Italian courts which are the subject of the present proceedings are the only decisions of national courts to have accepted the reasoning on which this part of Italy’s second argument is based. Moreover, none of the national legislation on State immunity considered in paragraphs 70-71 above, has limited immunity in cases where violations of jus cogens are alleged.
97. Accordingly, the Court concludes that even on the assumption that the proceedings in the Italian courts involved violations of jus cogens rules, the applicability of the customary international law on State immunity was not affected.

C. The “last resort” argument

98. The third and final strand of the Italian argument is that the Italian courts were justified in denying Germany the immunity to which it would otherwise have been entitled, because all other attempts to secure compensation for the various groups of victims involved in the Italian proceedings had failed. Germany’s response is that in the aftermath of the Second World War it made considerable financial and other sacrifices by way of reparation in the context of a complex series of inter-State arrangements under which, reflecting the economic realities of the time, no Allied State received compensation for the full extent of the losses which its people had suffered. It also points to the payments which it made to Italy under the terms of the two 1961 Agreements and to the payments made more recently under the 2000 Federal Law to various Italians who had been unlawfully deported to forced labour in Germany. Italy maintains, however, that large numbers of Italian victims were nevertheless left without any compensation.

99. The Court notes that Germany has taken significant steps to ensure that a measure of reparation was made to Italian victims of war crimes and crimes against humanity. Nevertheless, Germany decided to exclude from the scope of its national compensation scheme most of the claims by Italian military internees on the ground that prisoners of war were not entitled to compensation for forced labour (see paragraph 26 above). The overwhelming majority of Italian military internees were, in fact, denied treatment as prisoners of war by the Nazi authorities. Notwithstanding that history, in 2001 the German Government determined that those internees were ineligible for compensation because they had had a legal entitlement to prisoner-of-war status. The Court considers that it is a matter of surprise — and regret — that Germany decided to deny compensation to a group of victims on the ground that they had been entitled to a status which, at the relevant time, Germany had refused to recognize, particularly since those victims had thereby been denied the legal protection to which that status entitled them.

100. Moreover, as the Court has said, albeit in the different context of the immunity of State officials from criminal proceedings, the fact that immunity may bar the exercise of jurisdiction in a particular case does not alter the applicability of the substantive rules of international law (Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Reports 2002, p. 25, para. 60; see also Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France), Judgment, I.C.J. Reports 2008, p. 244, para. 196). In that context, the Court would point out that whether a State is entitled to immunity before the courts of another State is a question entirely separate from whether the international responsibility of that State is engaged and whether it has an obligation to make reparation.

101. That notwithstanding, the Court cannot accept Italy’s contention that the alleged shortcomings in Germany’s provisions for reparation to Italian victims entitled the Italian courts to deprive Germany of jurisdictional immunity. The Court can find no basis in the State practice from
which customary international law is derived that international law makes the entitlement of a State to immunity dependent upon the existence of effective alternative means of securing redress. Neither in the national legislation on the subject, nor in the jurisprudence of the national courts which have been faced with objections based on immunity, is there any evidence that entitlement to immunity is subjected to such a precondition.

States also did not include any such condition in either the European Convention or the United Nations Convention.

Moreover, the Court cannot fail to observe that the application of any such condition, if it indeed existed, would be exceptionally difficult in practice, particularly in a context such as that of the present case, when claims have been the subject of extensive intergovernmental discussion. If one follows the Italian argument, while such discussions were still ongoing and had a prospect of achieving a successful outcome, then it seems that immunity would still prevail, whereas, again according to this argument, immunity would presumably cease to apply at some point when prospects for an inter-State settlement were considered to have disappeared. Yet national courts in one of the countries concerned are unlikely to be well placed to determine when that point has been reached. Moreover, if a lump sum settlement has been made — which has been the normal practice in the aftermath of war, as Italy recognizes — then the determination of whether a particular claimant continued to have an entitlement to compensation would entail an investigation by the court of the details of that settlement and the manner in which the State which had received funds (in this case the State in which the court in question is located) has distributed those funds. Where the State receiving funds as part of what was intended as a comprehensive settlement in the aftermath of an armed conflict has elected to use those funds to rebuild its national economy and infrastructure, rather than distributing them to individual victims amongst its nationals, it is difficult to see why the fact that those individuals had not received a share in the money should be a reason for entitling them to claim against the State that had transferred money to their State of nationality.

The Court therefore rejects Italy’s argument that Germany could be refused immunity on this basis.

In coming to this conclusion, the Court is not unaware that the immunity from jurisdiction of Germany in accordance with international law may preclude judicial redress for the Italian nationals concerned. It considers however that the claims arising from the treatment of the Italian military internees referred to in paragraph 99, together with other claims of Italian nationals which have allegedly not been settled — and which formed the basis for the Italian proceedings — could be the subject of further negotiation involving the two States concerned, with a view to resolving the issue.

D. The combined effect of the circumstances relied upon by Italy

In the course of the oral proceedings, counsel for Italy maintained that the three strands of Italy’s second argument had to be viewed together; it was because of the cumulative effect of the gravity of the violations, the status of the rules violated and the absence of alternative means of redress that the Italian courts had been justified in refusing to accord immunity to Germany.
106. The Court has already held that none of the three strands of the second Italian argument would, of itself, justify the action of the Italian courts. It is not persuaded that they would have that effect if taken together. Nothing in the examination of State practice lends support to the proposition that the concurrent presence of two, or even all three, of these elements would justify the refusal by a national court to accord to a respondent State the immunity to which it would otherwise be entitled.

In so far as the argument based on the combined effect of the circumstances is to be understood as meaning that the national court should balance the different factors, assessing the respective weight, on the one hand, of the various circumstances that might justify the exercise of its jurisdiction, and, on the other hand, of the interests attaching to the protection of immunity, such an approach would disregard the very nature of State immunity. As explained in paragraph 56 above, according to international law, State immunity, where it exists, is a right of the foreign State. In addition, as explained in paragraph 82 of this Judgment, national courts have to determine questions of immunity at the outset of the proceedings, before consideration of the merits. Immunity cannot, therefore, be made dependent upon the outcome of a balancing exercise of the specific circumstances of each case to be conducted by the national court before which immunity is claimed.

4. Conclusions

107. The Court therefore holds that the action of the Italian courts in denying Germany the immunity to which the Court has held it was entitled under customary international law constitutes a breach of the obligations owed by the Italian State to Germany.

108. It is, therefore, unnecessary for the Court to consider a number of questions which were discussed at some length by the Parties. In particular, the Court need not rule on whether, as Italy contends, international law confers upon the individual victim of a violation of the law of armed conflict a directly enforceable right to claim compensation. Nor need it rule on whether, as Germany maintains, Article 77, paragraph 4, of the Treaty of Peace or the provisions of the 1961 Agreements amounted to a binding waiver of the claims which are the subject of the Italian proceedings.

That is not to say, of course, that these are unimportant questions, only that they are not ones which fall for decision within the limits of the present case. The question whether Germany still has a responsibility towards Italy, or individual Italians, in respect of war crimes and crimes against humanity committed by it during the Second World War does not affect Germany’s entitlement to immunity. Similarly, the Court’s ruling on the issue of immunity can have no effect on whatever responsibility Germany may have.
3.3 Democratic Republic of the Congo v. Belgium, Judgement of 14 February 2002 (International Court of Justice)

International Court of Justice Reports of Judgments, Advisory Opinions and Orders Case Concerning the Arrest Warrant

13. On 11 April 2000 an investigating judge of the Brussels Tribunal de première instance issued "an international arrest warrant in absentia" against Mr. Abdulaye Yerodia Ndombasi, charging him, as perpetrator or co-perpetrator, with offences constituting grave breaches of the Geneva Conventions of 1949 and of the Additional Protocols thereto, and with crimes against humanity.

At the time when the arrest warrant was issued Mr. Yerodia was the Minister for Foreign Affairs of the Congo.

51. The Court would observe at the outset that in international law it is firmly established that, as also diplomatic and consular agents, certain holders of high-ranking office in a State, such as the Head of State, Head of Government and Minister for Foreign Affairs, enjoy immunities from jurisdiction in other States, both civil and criminal. For the purposes of the present case, it is only the immunity from criminal jurisdiction and the inviolability of an incumbent Minister for Foreign Affairs that fall for the Court to consider.

52. A certain number of treaty instruments were cited by the Parties in this regard. These included, first, the Vienna Convention on Diplomatic Relations of 18 April 1961, which states in its preamble that the purpose of diplomatic privileges and immunities is "to ensure the efficient performance of the functions of diplomatic missions as representing States". It provides in Article 32 that only the sending State may waive such immunity. On these points, the Vienna Convention on Diplomatic Relations, to which both the Congo and Belgium are parties, reflects customary international law. The same applies to the corresponding provisions of the Vienna Convention on Consular Relations of 24 April 1963. To which the Congo and Belgium are also parties.

The Congo and Belgium further cite the New York Convention on Special Missions of 8 December 1969, to which they are not, however, parties. They recall that under Article 21, paragraph 2, of that Convention: "The Head of the Government, the Minister for Foreign Affairs and other persons of high rank, when they take part in a special mission of the sending State, shall enjoy in the receiving State or in a third State, in addition to what is granted by the present Convention, the facilities, privileges and immunities, accorded by international law."

These conventions provide useful guidance on certain aspects of the question of immunities. They do not, however, contain any provision specifically defining the immunities enjoyed by Ministers for Foreign Affairs. It is consequently on the basis of customary international law that the Court must decide the questions relating to the immunities of such Ministers raised in the present case.

53. In customary international law, the immunities accorded to Ministers for Foreign Affairs are not granted for their personal benefit, but to ensure the effective performance of their functions...
on behalf of their respective States. In order to determine the extent of these immunities, the Court must therefore first consider the nature of the functions exercised by a Minister for Foreign Affairs. He or she is in charge of his or her Government’s diplomatic activities and generally acts as its representative in international negotiations and intergovernmental meetings. Ambassadors and other diplomatic agents carry out their duties under his or her authority. His or her acts may bind the State represented, and there is a presumption that a Minister for Foreign Affairs, simply by virtue of that office, has full powers to act on behalf of the State (see, for example, Article 7, paragraph 2 (u), of the 1969 Vienna Convention on the Law of Treaties). In the performance of these functions, he or she is frequently required to travel internationally, and thus must be in a position freely to do so whenever the need should arise. He or she must also be in constant communication with the Government, and with its diplomatic missions around the world, and be capable at any time of communicating with representatives of other States. The Court further observes that a Minister for Foreign Affairs, responsible for the conduct of his or her State’s relations with all other States, occupying a position such that, like the Head of State or the Head of Government, he or she is recognized under international law as representative of the State solely by virtue of his or her office. He or she does not have to present letters of credence: to the contrary, it is generally the Minister who determines the authority to be conferred upon diplomatic agents and countersigns their letters of credence. Finally, it is to the Minister for Foreign Affairs that chargés d'affaires are accredited.

54. The Court accordingly concludes that the functions of a Minister for Foreign Affairs (are such that, throughout the duration of his or her office, he or she when abroad enjoys full immunity from criminal jurisdiction and inviolability. That immunity and that inviolability protect the individual concerned against any act of authority of another State which would hinder him or her in the performance of his or her duties.

55. In this respect, no distinction can be drawn between acts performed by a Minister for Foreign Affairs in an “official” capacity, and those claimed to have been performed in a “private capacity”, or, for that matter, between acts performed before the person concerned assumed office as Minister for Foreign Affairs and acts committed during the period of office. Thus, if a Minister for Foreign Affairs is arrested in another State on a criminal charge, he or she is clearly thereby prevented from exercising the functions of his or her office. The consequences of such impediment to the exercise of those official functions are equally serious, regardless of whether the Minister for Foreign Affairs was, at the time of arrest, present in the territory of the arresting State on an “official” visit or a “private” visit, regardless of whether the arrest relates to acts allegedly performed before the person became the Minister for Foreign Affairs or to acts performed while in office, and regardless of whether the arrest relates to alleged acts performed in an “official” capacity or a “private” capacity. Furthermore, even the mere risk that, by travelling to or transiting another State a Minister for Foreign Affairs might be exposing himself or herself to legal proceedings could deter the Minister from travelling internationally when required to do so for the purposes of the performance of his or her official functions.

56. The Court will now address Belgium’s argument that immunities accorded to incumbent Ministers for Foreign Affairs an in no case protect them where they are suspected of having committed war crimes or crimes against humanity. In support of this position, Belgium refers in its
Counter-Memorial 1:o various legal instruments creating international criminal tribunals, to examples from national legislation, and to the jurisprudence of national and international courts. Belgium begins by pointing out that certain provisions of the instruments creating international criminal tribunals state expressly that the official capacity of a person shall not be a bar to the exercise by such tribunals of their jurisdiction.

Belgium also places emphasis on certain decisions of national courts, and in particular on the judgments rendered on 24 March 1999 by the House of Lords in the United Kingdom and on 13 March 2001 by the Court of Cassation in France in the Pinochet and Qudduji cases respectively, in which it contends that an exception to the immunity rule was accepted in the case of serious crimes under international law. Thus, according to Belgium, the Pinochet decision recognizes an exception to the immunity rule when Lord Millett stated that "international law cannot be supposed to have established a crime having the character of a jus cogens and at the same time to have provided an immunity which is coextensive with the obligation it seeks to impose", or when Lord Phillips of Worth Matravers said that "no established rule of international law requires state immunity ratiore materiae to be accorded in respect of prosecution for an international crime". As to the French Court of Cassation, Belgium contends that, in holding that, "under international law as it currently stands, the crime alleged [acts of terrorism], irrespective of its gravity, does not come within the exceptions to the principle of immunity from jurisdiction for incumbent foreign Heads of State", the Court explicitly recognized the existence of such exceptions.

57. The Congo, for its part, States that, under international law as it currently stands, there is no basis for asserting that there is any exception to the principle of absolute immunity from criminal process of an incumbent Minister for Foreign Affairs where he or she is accused of having committed crimes under international law.

In support of this contention, the Congo refers to State practice, giving particular consideration in this regard to the Pinochet and Qudduji cases, and concluding that such practice does not correspond to that which Belgium claims but, on the contrary, confirms the absolute nature of the immunity from criminal process of Heads of State and Ministers for Foreign affairs. Thus, in the Pinochet case, the Congo cites Lord Browne-Wilkinson's statement that "[this immunity enjoyed by a head of state in power and an ambassador in post is a complete immunity attached to the person of the head of state or ambassador and rendering him immune from all actions or prosecutions . . .]."

According to the Congo, the French Court of Cassation adopted the same position in its Qudduji judgment, in affirming that "international custom bars the prosecution of incumbent Heads of State, in the absence of any contrary international provision binding on the parties concerned, before the criminal courts of a foreign State".

As regards the instruments creating international criminal tribunals and the latter's jurisprudence, these, in the Congo's view, concern only those tribunals, and no inference can be drawn from them in regard to criminal proceeding before national courts against persons enjoying immunity under international law.
58. The Court has carefully examined State practice, including national legislation and those few decisions of national higher courts, such as the House of Lords or the French Court of Cassation. It has been unable to deduce from this practice that there exists under customary international law any form of exception to the rule according immunity from criminal jurisdiction and inviolability to incumbent Ministers for Foreign Affairs, where they are suspected of having committed war crimes or crimes against humanity.

The Court has also examined the rules concerning the immunity or criminal responsibility of persons having an official capacity contained in the legal instruments creating international criminal tribunals, and which are specifically applicable to the latter (see Charter of the International Military Tribunal of Nuremberg, Article 7; Charter of the International Military Tribunal of Tokyo, Article 6; Statute of the International Criminal Tribunal for the former Yugoslavia, Article 7, para. Z; Statute of the International Criminal Tribunal for Rwanda, Article 6, para. 2; Statute of the International Criminal Court, Article 27). It finds that these rules likewise do not enable it to conclude that any such an exception exists in customary international law in regard to national courts.

Finally, none of the decisions of the Nuremberg and Tokyo international military tribunals, or of the International Criminal Tribunal for the former Yugoslavia, cited by Belgium deal with the question of the immunities of incumbent Ministers for Foreign Affairs before national courts where they are accused of having committed war crimes or crimes against humanity. The Court accordingly notes that those decisions are in no way at variance with the findings it has reached above.

In view of the foregoing, the Court accordingly cannot accept Belgium’s argument in this regard.

59. It should further be noted that the rules governing the jurisdiction of national courts must be carefully distinguished from those governing jurisdictional immunities: jurisdiction does not imply absence of immunity, while absence of immunity does not imply jurisdiction. Thus, although various international conventions or the prevention and punishment of certain serious crimes impose or States obligations of prosecution or extradition, thereby requiring them to extend their criminal jurisdiction, such extension of jurisdiction in no way affects immunities under customary international law, including those of Ministers for Foreign Affairs. These remain opposable before he courts of a foreign State, even where those courts exercise such a jurisdiction under these conventions.

60. The Court emphasizes, however, that the immunity from jurisdiction enjoyed by incumbent Ministers for Foreign Affairs does not mean that they enjoy impunity in respect of any crimes they might have committed, irrespective of their gravity. Immunity from criminal jurisdiction and individual criminal responsibility are quite separate concepts. While jurisdictional immunity is procedural in nature, criminal responsibility is a question of substantive law. Jurisdictional immunity may well bar prosecution for a certain period or for certain offences; it cannot exonerate the person to whom it applies from all criminal responsibility.
Accordingly, the immunities enjoyed under international law by an incumbent or former Minister for Foreign Affairs do not represent a bar to criminal prosecution in certain circumstances.

First, such persons enjoy no criminal immunity under international law in their own countries, and may thus be tried by those countries’ courts in accordance with the relevant rules of domestic law.

Secondly, they will cease to enjoy immunity from foreign jurisdiction if the State which they represent or have represented decides to waive that immunity.

Thirdly, after a person ceases to hold the office of Minister for Foreign Affairs, he or she will no longer enjoy all of the immunities accorded by international law in other States. Provided that it has jurisdiction under international law, a court of one State may try a former Minister for Foreign Affairs of another State in respect of acts committed prior or subsequent to his or her period of office, as well as in respect of acts committed during that period of office in a private capacity.

Fourthly, an incumbent or former Minister for Foreign Affairs may be subject to criminal proceedings before certain international criminal courts, where they have jurisdiction. Examples include the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda, established pursuant to Security Council resolutions under Chapter VI of the United Nations Charter, and the future International Criminal Court created by the 1998 Rome Convention. The latter’s Statute expressly provides, in Article 27, paragraph 2, that “[i]mmunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.”
3.4 R v Evans and others, ex parte Pinochet Ugarte; R v Bartle and others, ex parte Pinochet Ugarte, Judgment of 24 March 1999 (House of Lords, UK)

Amnesty International and others intervening

LORD BROWNE-WILKINSON. My Lords, as is well known, this case concerns an attempt by the government of Spain to extradite Senator Pinochet from this country to stand trial in Spain for crimes committed (primarily in Chile) during the period when Senator Pinochet was head of state in Chile. The interaction between the various legal issues which arise is complex. I will therefore seek, first, to give a short account of the legal principles which are in play in order that my exposition of the facts will be more intelligible.

Outline of the law

State immunity

This is the point around which most of the argument turned. It is of considerable general importance internationally since, if Senator Pinochet is not entitled to immunity in relation to the acts of torture alleged to have occurred after 29 September 1988 it will be the first time, so far as counsel have discovered, when a local domestic court has refused to afford immunity to a head of state or former head of state on the grounds that there can be no immunity against prosecution for certain international crimes.

Given the importance of the point, it is surprising how narrow is the area of dispute. There is general agreement between the parties as to the rules of statutory immunity and the rationale which underlies them. The issue is whether international law grants state immunity in relation to the international crime of torture and, if so, whether the Republic of Chile is entitled to claim such immunity even though Chile, Spain and the United Kingdom are all parties to the Torture Convention and therefore ‘contractually’ bound to give effect to its provisions from 8 December 1988 at the latest. It is a basic principle of international law that one sovereign state (the forum state) does not adjudicate on the conduct of a foreign state. The foreign state is entitled to procedural immunity from the processes of the forum state. This immunity extends to both criminal and civil liability. State immunity probably grew from the historical immunity of the person of the monarch. In any event, such personal immunity of the head of state persists to the present day: the head of state is entitled to the same immunity as the state itself. The diplomatic representative of the foreign state in the forum state is also afforded the same immunity in recognition of the dignity of the state which he represents. This immunity enjoyed by a head of state in power and an ambassador in post is a complete immunity attaching to the person of the head of state or ambassador and rendering him immune from all actions or prosecutions whether or not they relate to matters done for the benefit of the state. Such immunity is said to be granted ratione personae. What then when the ambassador leaves his post or the head of state is deposed? The position of the ambassador is covered by the Vienna Convention on Diplomatic
Relations 1961 (the Vienna Convention) (Vienna, 18 April 1961; TS 19 (1965); Cmnd 2565). After providing for immunity from arrest (see art 29) and from criminal and civil jurisdiction (see art 31), art 39(1) provides that the ambassador’s privileges shall be enjoyed from the moment he takes up post; and art 39(2) provides:

‘When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.’

The continuing partial immunity of the ambassador after leaving post is of a different kind from that enjoyed ratione personae while he was in post. Since he is no longer the representative of the foreign state he merits no particular privileges or immunities as a person. However, in order to preserve the integrity of the activities of the foreign state during the period when he was ambassador, it is necessary to provide that immunity is afforded to his official acts during his tenure in post. If this were not done the sovereign immunity of the state could be evaded by calling in question acts done during the previous ambassador’s time. Accordingly, under art 39(2) the ambassador, like any other official of the state, enjoys immunity in relation to his official acts done while he was an official. This limited immunity, ratione materiae, is to be contrasted with the former immunity ratione personae which gave complete immunity to all activities whether public or private.

In my judgment at common law a former head of state enjoys similar immunities, ratione materiae, once he ceases to be head of state. He too loses immunity ratione personae on ceasing to be head of state (see Sir Arthur Watts QC ‘Legal Position in International Law of Heads of States, Heads of Governments and Foreign Ministers’ (1994) 247 Recueil des Cours p 88 and the cases there cited). He can be sued on his private obligations (see Ex King Farouk of Egypt v Christian Dior SARL (1957) 24 ILR 228 and Jimenez v Aristegieta (1962) 311 F 2d 547). As ex-head of state he cannot be sued in respect of acts performed whilst head of state in his public capacity (see Hatch v Baez (1876) 7 Hun 596). Thus, at common law, the position of the former ambassador and the former head of state appears to be much the same: both enjoy immunity for acts done in performance of their respective functions whilst in office. I have belaboured this point because there is a strange feature of the UK law which I must mention shortly. The State Immunity Act 1978 modifies the traditional complete immunity normally afforded by the common law in claims for damages against foreign states. Such modifications are contained in Pt I of the 1978 Act. Section 16(1) provides that nothing in Pt I of the 1978 Act is to apply to criminal proceedings. Therefore, Pt I has no direct application to the present case. However, Pt III of the 1978 Act contains s 20(1), which provides: ‘Subject to the provisions of this section and to any necessary modifications, the Diplomatic Privileges Act 1964 shall apply to-(a) a sovereign or other head of State . . . as it applies to a head of a diplomatic mission.’ The correct way in which to apply art 39(2) of the Vienna Convention to a former head of state is baffling. To what ‘functions’ is one to have regard? When do they cease since the former head of state almost certainly never arrives in this country let alone leaves it? Is a former head of state’s immunity limited to the exercise of the functions of a member of the mission, or is that again something which is subject to
‘necessary modification’? It is hard to resist the suspicion that something has gone wrong. A search was done on the parliamentary history of the section.

From this it emerged that the original s 20(1)(a) read:

‘... a sovereign or other head of State who is in the United Kingdom at the invitation or with the consent of the Government of the United Kingdom.’

On that basis the section would have been intelligible. However, it was changed by a government amendment the mover of which said that the clause as introduced ‘leaves an unsatisfactory doubt about the position of heads of state who are not in the United Kingdom’; he said that the amendment was to ensure that heads of state would be treated like heads of diplomatic missions ‘irrespective of presence in the United Kingdom’. The parliamentary history, therefore, discloses no clear indication of what was intended. However, in my judgment it does not matter unduly since Parliament cannot have intended to give heads of state and former heads of state greater rights than they already enjoyed under international law. Accordingly, ‘the necessary modifications’ which need to be made will produce the result that a former head of state has immunity in relation to acts done as part of his official functions when head of state. Accordingly, in my judgment, Senator Pinochet as former head of state enjoys immunity ratione materiae in relation to acts done by him as head of state as part of his official functions as head of state.

The question then which has to be answered is whether the alleged organisation of state torture by Senator Pinochet (if proved) would constitute an act committed by Senator Pinochet as part of his official functions as head of state. It is not enough to say that it cannot be part of the functions of the head of state to commit a crime. Actions which are criminal under the local law can still have been done officially and therefore give rise to immunity ratione materiae. The case needs to be analysed more closely. Can it be said that the commission of a crime which is an international crime against humanity and jus cogens is an act done in an official capacity on behalf of the state? I believe there to be strong ground for saying that the implementation of torture as defined by the Torture Convention cannot be a state function. This is the view taken by Sir Arthur Watts, who said:

‘While generally international law . . . does not directly involve obligations on individuals personally, that is not always appropriate, particularly for acts of such seriousness that they constitute not merely international wrongs (in the broad sense of a civil wrong) but rather international crimes which offend against the public order of the international community. States are artificial legal persons: they can only act through the institutions and agencies of the State, which means, ultimately, through its officials and other individuals acting on behalf of the State. For international conduct which is so serious as to be tainted with criminality to be regarded as attributable only to the impersonal State and not to the individuals who ordered or perpetrated it is both unrealistic and offensive to common notions of justice. The idea that individuals who commit international crimes are internationally accountable for them has now become an accepted part of international law. Problems in this area—such as the non-existence of any standing international tribunal to have jurisdiction over such crimes, and the lack of agreement as to what acts are internationally criminal for this purpose—have not affected the general acceptance
of the principle of individual responsibility for international criminal conduct.’ (See (1994) 247 Recueil des Cours p 82.)

Later, he said:

‘It can no longer be doubted that as a matter of general customary international law a Head of State will personally be liable to be called to account if there is sufficient evidence that he authorised or perpetrated such serious international crimes.’ (See (1994) 247 Recueil des Cours p 84.) It can be objected that Sir Arthur was looking at those cases where the international community has established an international tribunal in relation to which the regulating document expressly makes the head of state subject to the tribunal’s jurisdiction (see eg the Nuremberg Charter art 7, the Statute of the Tribunal for the Former Yugoslavia, the Statute of the Tribunal for Rwanda and the Statute of the International Criminal Court (the Rome Statute) (Rome, 17 July 1998, adopted by the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court)). It is true that in these cases it is expressly said that the head of state or former head of state is subject to the court’s jurisdiction. But those are cases in which a new court with no existing jurisdiction is being established. The jurisdiction being established by the Torture Convention and the International Convention against the Taking of Hostages 1979 (the Taking of Hostages Convention) (New York, 18 December 1979; TS 81 (1983); Cmnd 7893) is one where existing domestic courts of all the countries are being authorised and required to take jurisdiction internationally. The question is whether, in this new type of jurisdiction, the only possible view is that those made subject to the jurisdiction of each of the state courts of the world in relation to torture are not entitled to claim immunity. I have doubts whether, before the coming into force of the Torture Convention, the existence of the international crime of torture as jus cogens was enough to justify the conclusion that the organisation of state torture could not rank for immunity purposes as performance of an official function. At that stage there was no international tribunal to punish torture and no general jurisdiction to permit or require its punishment in domestic courts. Not until there was some form of universal jurisdiction for the punishment of the crime of torture could it really be talked about as a fully constituted international crime. But in my judgment the Torture Convention did provide what was missing: a worldwide universal jurisdiction. Further, it required all member states to ban and outlaw torture (see art 2). How can it be for international law purposes an official function to do something which international law itself prohibits and criminalises? Thirdly, an essential feature of the international crime of torture is that it must be committed ‘by or with the acquiescence of a public official or other person acting in an official capacity’. As a result all defendants in torture cases will be state officials. Yet, if the former head of state has immunity, the man most responsible will escape liability while his inferiors (the chiefs of police, junior army officers) who carried out his orders will be liable. I find it impossible to accept that this was the intention.

Finally, and to my mind decisively, if the implementation of a torture regime is a public function giving rise to immunity ratione materiae, this produces bizarre results. Immunity ratione materiae applies not only to ex-heads of state and ex-ambassadors but to all state officials who have been involved in carrying out the functions of the state. Such immunity is necessary in order to prevent state immunity being circumvented by prosecuting or suing the official who, for example, actually carried out the torture when a claim against the head of state would be precluded by the doctrine of immunity. If that applied to the present case, and if the implementation of the torture regime is
to be treated as official business sufficient to found an immunity for the former head of state, it must also be official business sufficient to justify immunity for his inferiors who actually did the torturing. Under the convention the international crime of torture can only be committed by an official or someone in an official capacity. They would all be entitled to immunity. It would follow that there can be no case outside Chile in which a successful prosecution for torture can be brought unless the state of Chile is prepared to waive its right to its officials’ immunity. Therefore, the whole elaborate structure of universal jurisdiction over torture committed by officials is rendered abortive and one of the main objectives of the Torture Convention— to provide a system under which there is no safe haven for torturers—will have been frustrated. In my judgment all these factors together demonstrate that the notion of continued immunity for ex-heads of state is inconsistent with the provisions of the Torture Convention.

For these reasons in my judgment if, as alleged, Senator Pinochet organised and authorised torture after 8 December 1988 he was not acting in any capacity which gives rise to immunity ratione materiae because such actions were contrary to international law, Chile had agreed to outlaw such conduct and Chile had agreed with the other parties to the Torture Convention that all signatory states should have jurisdiction to try official torture (as defined in the convention) even if such torture were committed in Chile.
VI. Applicable Law

General Requirements of Articles 2, 3 & 5 of the Statute

557. Having considered the evidence offered at trial, it is now appropriate to discuss the law relating to the offences charged.

558. The competence of this International Tribunal and hence of this Trial Chamber is determined by the terms of the Statute. Article 1 of the Statute confers power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. The Statute then, in Articles 2, 3, 4 and 5, specifies the crimes under international law over which the International Tribunal has jurisdiction. In the present case, only Articles 2, 3 and 5 are relevant. It is not in dispute that the offences as alleged in the Indictment satisfy the requirements of time and place imposed by Article 1 and, as will be seen, each of the rules of customary international humanitarian law to which the Indictment directs the Trial Chamber is concerned with serious violations of that body of law.

559. Each of the relevant Articles of the Statute, either by its terms or by virtue of the customary rules which it imports, proscribes certain acts when committed “within the context of” an “armed conflict”. Article 2 of the Statute directs the Trial Chamber to the grave breaches regime of the Geneva Conventions which applies only to armed conflicts of an international character and to offences committed against persons or property regarded as “protected”, in particular civilians in the hands of a party to a conflict of which they are not nationals. Article 3 of the Statute directs the Trial Chamber to those sources of customary international humanitarian law that comprise the “laws or customs of war”. Article 3 is a general provision covering, subject to certain conditions, all violations of international humanitarian law which do not fall under Article 2 or are not covered by Articles 4 or 5. This includes violations of the rules contained in Article 3 common to the Geneva Conventions (“Common Article 3”), applicable to armed conflicts in general, with which the accused has been charged under Article 3 of the Statute. Article 5 of the Statute directs the Trial Chamber to crimes against humanity proscribed by customary international humanitarian law.

By virtue of the Statute, those crimes must also occur in the context of an armed conflict, whether international or non-international in character. An armed conflict exists for the purposes of the application of Article 5 if it is found to exist for the purposes of either Article 2 or Article 3.

560. Consequently, it is necessary to show, first, that an armed conflict existed at all relevant times in the territory of the Republic of Bosnia and Herzegovina and, secondly, that the acts of the
accused were committed within the context of that armed conflict and for the application of Article 2, that the conflict was international in character and that the offences charged were committed against protected persons.

1. Existence of an Armed Conflict

According to the Appeals Chamber Decision, the test for determining the existence of such a conflict is that an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.

(a) Protracted armed violence between governmental forces and organized armed groups

The test applied by the Appeals Chamber to the existence of an armed conflict for the purposes of the rules contained in Common Article 3 focuses on two aspects of a conflict: the intensity of the conflict and the organization of the parties to the conflict. In an armed conflict of an internal or mixed character, these closely related criteria are used solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganized and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law. Factors relevant to this determination are addressed in the Commentary to Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Convention I, ("Commentary, Geneva Convention I").

2. Nexus between the Acts of the Accused and the Armed Conflict

The existence of an armed conflict or occupation and the applicability of international humanitarian law to the territory is not sufficient to create international jurisdiction over each and every serious crime committed in the territory of the former Yugoslavia. For a crime to fall within the jurisdiction of the International Tribunal, a sufficient nexus must be established between the alleged offence and the armed conflict which gives rise to the applicability of international humanitarian law.

In relation to the applicability of international humanitarian law to the acts alleged in the Indictment, the Appeals Chamber has held that: Even if substantial clashes were not occurring in the Prijedor region at the time and place the crimes allegedly were committed - a factual issue on which the Appeals Chamber does not pronounce - international humanitarian law applies. It is sufficient that the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict.

For an offence to be a violation of international humanitarian law, therefore, this Trial Chamber needs to be satisfied that each of the alleged acts was in fact closely related to the hostilities. It would be sufficient to prove that the crime was committed in the course of or as part of the hostilities in, or occupation of, an area controlled by one of the parties. It is not, however, necessary to show that armed conflict was occurring at the exact time and place of the proscribed acts alleged to have occurred, as the Appeals Chamber has indicated, nor is it necessary that the crime alleged takes place during combat, that it be part of a policy or of a practice officially endorsed or tolerated by one of the parties to the conflict, or that the act be in actual furtherance of a policy associated with the conduct of war or in the actual interest of a party to the conflict;
the obligations of individuals under international humanitarian law are independent and apply without prejudice to any questions of the responsibility of States under international law. The only question, to be determined in the circumstances of each individual case, is whether the offences were closely related to the armed conflict as a whole.

Article 2 of the Statute

The Customary Status of Article 2

577. Article 2 of the Statute provides that the "International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949", and there follows a list of the specific crimes proscribed. Implicit in the Appeals Chamber Decision is the conclusion that the Geneva Conventions are a part of customary international law, and as such their application in the present case does not violate the principle of nullum crimen sine lege.

2. Status of the Victims as "Protected Persons"

(a) Introduction

578. According to the Appeals Chamber, the Statute specifically restricts the prosecution of grave breaches to those committed against "persons or property protected under the provisions of the relevant Geneva Conventions". In this case, each of the victims of the crimes alleged to have been committed by the accused were civilians caught up in the ongoing armed conflict in the Republic of Bosnia and Herzegovina. Some of the victims were in towns and villages captured by the VRS, while others fell victim to the acts of the accused while detained at one of the camps established in opština Prijedor to facilitate the ethnic cleansing of that area. As such, their status under the Geneva Conventions is governed by the terms of Article 4 of Geneva Convention IV, which defines those civilians who fall under the protection of that Convention ("protected persons") as follows: Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. The central question is thus whether at all relevant times the victims of the accused were in the hands of "a Party to the conflict or Occupying Power of which they are not nationals". Implicit in this expression is a threefold requirement. The first and second requirements are that the victims be "in the hands of" a "Party to the conflict or Occupying Power". The third is that the civilian victims not be nationals of that Party or Occupying Power.

(b) Were the victims in the hands of a party to the conflict?

579. As previously discussed, the Republika Srpska was a party to the conflict in the Republic of Bosnia and Herzegovina opposed to the Republic's secession from the Socialist Federal Republic of Yugoslavia. While the victims in the camps at Omarska, Keraterm and Trnopolje were in the hands of the armed forces and authorities of the Republika Srpska, the expression "in the hands of" is not restricted to situations in which the individual civilian is physically in the hands of a Party or Occupying Power. As the Commentary to Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Convention IV, ("Commentary, Geneva Convention IV") explains: The expression "in the hands of" is used in an extremely general sense. It is not merely a question
of being in enemy hands directly, as a prisoner is. The mere fact of being in the territory of a party to the conflict or an occupied territory implies that one is in the power, or "hands", of the Occupying Power. It is possible that this power will never actually be exercised over the protected person: very likely an inhabitant of an occupied territory will never have anything to do with the Occupying Power or its organizations. In other words, the expression 'in the hands of' need not necessarily be understood in the physical sense; it simply means that the person is in territory under the control of the Power in question.

Consequently, those persons who found themselves in territory effectively occupied by a party to the conflict can be considered to have been in the hands of that party. However, given that the take-over of općina Prijedor began before the JNA withdrawal on 19 May 1992 and was not completed until after that date, the exact date when the victims of the acts of the accused fell into the hands of the opposing armed forces is highly relevant to an assessment of their status under international humanitarian law.

3. Legal Findings
608. The consequence of this finding, as far as this trial is concerned, is that, since Article 2 of the Statute is applicable only to acts committed against "protected persons" within the meaning of the Geneva Conventions, and since it cannot be said that any of the victims, all of whom were civilians, were at any relevant time in the hands of a party to the conflict of which they were not nationals, the accused must be found not guilty of the counts which rely upon that Article, namely Counts 5, 8, 9, 12, 15, 18, 21, 24, 27, 29 and 32.

Article 3 of the Statute
609. Article 3 of the Statute directs the Trial Chamber to the laws or customs of war, being that body of customary international humanitarian law not covered by Articles 2, 4 or 5 of the Statute. As previously noted, that body of law includes the regime of protection established under Common Article 3 applicable to armed conflicts not of an international character, as a reflection of elementary considerations of humanity, and which is applicable to armed conflicts in general.

Two aspects must be considered. First, there are the requirements imposed by Article 3 of the Statute for the inclusion of a law or custom of war within the jurisdiction of this International Tribunal. Secondly, there are the additional requirements for the applicability of the proscriptive rules contained in paragraph 1 of Common Article 3 in addition to the elements of the proscribed acts contained therein.

Requirements of Article 3 of the Statute
610. According to the Appeals Chamber, the conditions that must be satisfied to fulfil the requirements of Article 3 of the Statute are:
(i) the violation must constitute an infringement of a rule of international humanitarian law;
(ii) the rule must be customary in nature or, if it belongs to treaty law, the required conditions must be met;
(iii) the violation must be "serious", that is to say, it must constitute a breach of a rule protecting important values, and the breach must involve grave consequences for the victim and
(iv) the violation of the rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.
Those requirements apply to any and all laws or customs of war which Article 3 covers.

611. In relation to requirements (i) and (ii), it is sufficient to note that the Appeals Chamber has held, on the basis of the Nicaragua case, that Common Article 3 satisfies these requirements as part of customary international humanitarian law.

612. While, for some laws or customs of war, requirement (iii) may be of particular relevance, each of the prohibitions in Common Article 3: against murder; the taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; and the passing of sentences and the carrying-out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilised peoples, constitute, as the Court put it, "elementary considerations of humanity", the breach of which may be considered to be a "breach of a rule protecting important values" and which "must involve grave consequences for the victim".

Although it may be possible that a violation of some of the prohibitions of Common Article 3 may be so minor as to not involve "grave consequences for the victim", each of the violations with which the accused has been charged clearly does involve such consequences.

613. Finally, in relation to the fourth requirement, namely that the rule of customary international humanitarian law imposes individual criminal responsibility, the Appeals Chamber held in the Appeals Chamber Decision84 that customary international law imposes criminal liability for serious violations of common Article 3, as supplemented by other general principles and rules on the protection of victims of internal armed conflict, and for breaching certain fundamental principles and rules regarding means and methods of combat in civil strife.

Consequently, this Trial Chamber has the competence to hear and determine the charges against the accused under Article 3 of the Statute relating to violations of the customary international humanitarian law applicable to armed conflicts, as found in Common Article 3.

2. Conditions of Applicability of the Rules Contained in Common Article 3

614. The rules contained in paragraph 1 of Common Article 3 proscribe a number of acts which:
(i) are committed within the context of an armed conflict;
(ii) have a close connection to the armed conflict; and
(iii) are committed against persons taking no active part in hostilities.

The first and second of these requirements have already been dealt with above.

Consequently, the Trial Chamber turns to the third requirement.

615. The customary international humanitarian law regime governing conflicts not of an international character extends protection, from acts of murder, torture and other acts proscribed by Common Article 3, to: 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 . . . without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria . . .
This protection embraces, at the least, all of those protected persons covered by the grave breaches regime applicable to conflicts of an international character: civilians, prisoners of war, wounded and sick members of the armed forces in the field and wounded sick and shipwrecked members of the armed forces at sea. Whereas the concept of “protected person” under the Geneva Conventions is defined positively, the class of persons protected by the operation of Common Article 3 is defined negatively. For that reason, the test the Trial Chamber has applied is to ask whether, at the time of the alleged offence, the alleged victim of the proscribed acts was directly taking part in hostilities, being those hostilities in the context of which the alleged offences are said to have been committed. If the answer to that question is negative, the victim will enjoy the protection of the proscriptions contained in Common Article 3.

616. It is unnecessary to define exactly the line dividing those taking an active part in hostilities and those who are not so involved. It is sufficient to examine the relevant facts of each victim and to ascertain whether, in each individual’s circumstances, that person was actively involved in hostilities at the relevant time. Violations of the rules contained in Common Article 3 are alleged to have been committed against persons who, on the evidence presented to this Trial Chamber, were captured or detained by Bosnian Serb forces, whether committed during the course of the armed take-over of the Kozarac area or while those persons were being rounded-up for transport to each of the camps in optina Prijedor.

Whatever their involvement in hostilities prior to that time, each of these classes of persons cannot be said to have been taking an active part in the hostilities. Even if they were members of the armed forces of the Government of the Republic of Bosnia and Herzegovina or otherwise engaging in hostile acts prior to capture, such persons would be considered “members of armed forces” who are “placed hors de combat by detention”. Consequently, these persons enjoy the protection of those rules of customary international humanitarian law applicable to armed conflicts, as contained in Article 3 of the Statute.

3. Legal Findings
617. For the purposes of the application of the rules of customary international humanitarian law contained in Common Article 3, this Trial Chamber finds, in the present case, that:

(i) an armed conflict existed at all relevant times in relation to the alleged offences;
(ii) each of the victims of the acts charged was a person protected by those provisions being a person taking no active part in the hostilities; and (iii) the offences charged were committed within the context of that armed conflict. Accordingly, the requirements of Article 3 of the Statute are met.

D. Article 5 of the Statute
1. The Customary Status in International Humanitarian Law of the Prohibition Against Crimes Against Humanity

618. The Appeals Chamber Decision discusses Articles 2 and 3 of the Statute at some length. In contrast, the discussion of Article 5 is confined to the requirement of a link to an armed conflict as provided in the Statute and thus now requires further discussion in considerable detail. The notion of crimes against humanity as an independent juridical concept, and the imputation of individual
criminal responsibility for their commission, was first recognized in Article 6(c) of the Nürnberg Charter (Annex to the Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis (London Agreement) (“Nürnberg Charter”), which granted the International Military Tribunal for the Trial of the Major War Criminals (“Nürnberg Tribunal”) jurisdiction over this crime.

The term “crimes against humanity”, although not previously codified, had been used in a nontechnical sense as far back as 1915 and in subsequent statements concerning the First World War and was hinted at in the preamble to the 1907 Hague Convention in the so-called “Martens Clause”. Thus when crimes against humanity were included in the Nürnberg Charter, although it was the first technical use of the term, it was not considered a novel concept. Nevertheless, a new category of crime was created.

619. The decision to include crimes against humanity in the Nürnberg Charter and thus grant the Nürnberg Tribunal jurisdiction over this crime resulted from the Allies’ decision not to limit their retributive powers to those who committed war crimes in the traditional sense but to include those who committed other serious crimes that fall outside the ambit of traditional war crimes, such as crimes where the victim is stateless, has the same nationality as the perpetrator, or that of a state allied with that of the perpetrator. The origins of this decision can be found in assertions made by individual governments, the London International Assembly and the United Nations War Crimes Commission.

620. Unlike the crime of aggression and war crimes, the Trial of the Major War Criminals before the International Military Tribunal (“Nürnberg Judgment”) does not delve into the legality of the inclusion of crimes against humanity in the Nürnberg Charter and the pre-existence of the prohibition, noting only that “from the beginning of the War in 1939 War Crimes were committed on a vast scale, which were also Crimes against Humanity”.

Thus the inclusion of crimes against humanity in the Nürnberg Charter was justified by their relation to war crimes, the gaps in the traditional definition of which it was designed to fill, the customary nature of which is described. Additionally, the Nürnberg Judgment noted that, in regard to the law to be applied, the Nürnberg Charter was decisive and binding on the Nürnberg Tribunal and that it “is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law”. On the basis of the Nürnberg Charter the prohibition against crimes against humanity, and the attribution of individual criminal responsibility for their commission, was also contained in the Charter of the International Military Tribunal for the Far East of 19 January 1946 (“Tokyo Charter”) and in Law No. 10 of the Control Council for Germany (“Control Council Law No. 10”), which were utilised for additional prosecutions for atrocities committed during the Second World War.

621. The prohibition of crimes against humanity was subsequently affirmed by the General Assembly in its resolution entitled Affirmation of the Principles of International Law recognized by the Charter of the Nureenber Tribunal and thereafter confirmed in the Principles of International Law Recognized in the Charter of the Nürenberg Tribunal and in the Judgement of the Tribunal (“Nürenberg Principles”), adopted by the International Law Commission in 1950 and submitted to the General Assembly, Principle VI.c of which provides that a crime against humanity is punishable as a crime under international law. The attribution of individual criminal
responsibility for the commission of crimes against humanity, as it was applied by the Nürnberg Tribunal, was also approved in Principle I of the Nürenberg Principles, which provides that “[a] person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment”.

622. The customary status of the Nürnberg Charter, and thus the attribution of individual criminal responsibility for the commission of crimes against humanity, was expressly noted by the Secretary-General. Additional codifications of international law have also confirmed the customary law status of the prohibition of crimes against humanity, as well as two of its most egregious manifestations: genocide and apartheid.

623. Thus, since the Nürnberg Charter, the customary status of the prohibition against crimes against humanity and the attribution of individual criminal responsibility for their commission have not been seriously questioned. It would seem that this finding is implicit in the Appeals Chamber Decision which found that “[i]t is by now a settled rule of customary international law that crimes against humanity do not require a connection to international armed conflict.” If customary international law is determinative of what type of conflict is required in order to constitute a crime against humanity, the prohibition against crimes against humanity is necessarily part of customary international law. As such, the commission of crimes against humanity violates customary international law, of which Article 5 of the Statute is, for the most part, reflective. As stated by the Appeals Chamber: “[T]here is no question . . . that the definition of crimes against humanity adopted by the Security Council in Article 5 comports with the principle of nullum crimen sine lege.”

2. Conditions of Applicability
624. Article 5 of the Statute grants the International Tribunal subject-matter jurisdiction over crimes against humanity and there follows a list of the specific offences proscribed.

625. The Indictment charges the accused with 10 counts of crimes against humanity. In each case the accused is charged under the appropriate head of Article 5 of the Statute as well as Article 7, paragraph 1. In order to prove that the accused committed the crimes alleged, both the conditions of applicability for crimes against humanity as well as the specific elements of each offence must be established. It is the common conditions of applicability for crimes against humanity that are the subject of this section.

626. Article 5 of the Statute grants the International Tribunal jurisdiction to prosecute crimes against humanity only “when committed in armed conflict” (whether international or internal) and they must be “directed against any civilian population”. These conditions contain within them several elements. The Prosecution argues that the elements of crimes against humanity are:

(1) that the accused committed one of the acts enumerated in Article 5;
(2) the acts were committed during an armed conflict;
(3) at the time of the commission of the acts or omissions there was an ongoing widespread or systematic attack directed against a civilian population; and
(4) the accused knew or had reason to know that by his acts or omission, he was participating in the attack on the population. The Defence for the most part agrees with these elements, although it argues that:

(1) the crimes must be committed in an armed conflict; and

(2) the attack must be widespread and systematic.

The Trial Chamber’s determination of the conditions of applicability, as elaborated below, is that, first, “when committed in armed conflict” necessitates the existence of an armed conflict and a nexus between the act and that conflict. Secondly, “directed against any civilian population” is interpreted to include a broad definition of the term “civilian”. It furthermore requires that the acts be undertaken on a widespread or systematic basis and in furtherance of a policy. The Report of the Secretary-General and the interpretation of several Security Council members reveal the additional requirement that all relevant acts must be undertaken on discriminatory grounds. Finally, the perpetrator must have knowledge of the wider context in which his act occurs.

(a) When committed in armed conflict

627. Article 5 of the Statute, addressing crimes against humanity, grants the International Tribunal jurisdiction over the enumerated acts “when committed in armed conflict”. The requirement of an armed conflict is similar to that of Article 6(c) of the Nürnberg Charter which limited the Nürnberg Tribunal’s jurisdiction to crimes against humanity committed “before or during the war”, although in the case of the Nürnberg Tribunal jurisdiction was further limited by requiring that crimes against humanity be committed “in execution of or in connection with” war crimes or crimes against peace. Despite this precedent, the inclusion of the requirement of an armed conflict deviates from the development of the doctrine after the Nürnberg Charter, beginning with Control Council Law No. 10, which no longer links the concept of crimes against humanity with an armed conflict. As the Secretary-General stated: “Crimes against humanity are aimed at any civilian population and are prohibited regardless of whether they are committed in an armed conflict, international or internal in character.” In the Statute of the International Tribunal for Rwanda the requirement of an armed conflict is omitted, requiring only that the acts be committed as part of an attack against a civilian population. The Appeals Chamber has stated that, by incorporating the requirement of an armed conflict, “the Security Council may have defined the crime in Article 5 more narrowly than necessary under customary international law.” Having stated earlier that “[s]ince customary international law no longer requires any nexus between crimes against humanity and armed conflict . . . Article 5 was intended to reintroduce this nexus for the purposes of this Tribunal.” Accordingly, its existence must be proved, as well as the link between the act or omission charged and the armed conflict.

(i) The existence of an armed conflict

628. The Appeals Chamber, as discussed in greater detail in Section VI. A of this Opinion and Judgment, stated that “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.” Consequently, this is the test which the Trial Chamber has applied and it has concluded that the evidence establishes the existence of an armed conflict.
(ii) The nexus between the act or omission and the armed conflict

629. The next issue which must be addressed is the required nexus between the act or omission and the armed conflict. The Prosecution argues that to establish the nexus necessary for a violation of Article 5 it is sufficient to demonstrate that the crimes were committed at some point in the course or duration of an armed conflict, even if such crimes were not committed in direct relation to or as part of the conduct of hostilities, occupation, or other integral aspects of the armed conflict. In contrast the Defence argues that the act must be committed "in" armed conflict.

630. The Statute does not elaborate on the required link between the act and the armed conflict. Nor, for that matter, does the Appeals Chamber Decision, although it contains several statements that are relevant in this regard. First is the finding, noted above, that the Statute is more restrictive than custom in that "customary international law no longer requires any nexus between crimes against humanity and armed conflict". Accordingly, it is necessary to determine the degree of nexus which is imported by the Statute by its inclusion of the requirement of an armed conflict. This, then, is a question of statutory interpretation.

631. The Appeals Chamber Decision is relevant to this question of statutory interpretation. In addressing Article 3 the Appeals Chamber noted that where interpretative declarations are made by Security Council members and are not contested by other delegations "they can be regarded as providing an authoritative interpretation" of the relevant provisions of the Statute. Importantly, several permanent members of the Security Council commented that they interpret "when committed in armed conflict" in Article 5 of the Statute to mean "during a period of armed conflict". These statements were not challenged and can thus, in line with the Appeals Chamber Decision, be considered authoritative interpretations of this portion of Article 5.

632. The Appeals Chamber, in dismissing the Defence argument that the concept of armed conflict covers only the precise time and place of actual hostilities, said: "It is sufficient that the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict. Thus it is not necessary that the acts occur in the heat of battle. The foregoing supports a narrow interpretation of the required nexus to an armed conflict. This interpretation is further supported by Virginia Morris and Michael P. Scharf who note in regard to the inclusion of the requirement "in armed conflict" that "[t]his limitation is temporal rather than substantive in character, as indicated by the phrase 'when committed in armed conflict'. This phrase does not require any connection with a war crime or any substantive connection to an armed conflict."

633. On the basis of the foregoing the Trial Chamber accepts, with some caveats, the Prosecution proposition that it is sufficient for purposes of crimes against humanity that the act occurred in the course or duration of an armed conflict. The first such caveat, a seemingly obvious one, is that the act be linked geographically as well as temporally with the armed conflict. In this regard it is important to note that the Appeals Chamber found that: the temporal and geographic scope of both internal and international armed conflicts extends beyond the exact time and place of hostilities.

...  
International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of
internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.

634. Secondly, the act and the conflict must be related or, to reverse this proposition, the act must not be unrelated to the armed conflict, must not be done for purely personal motives of the perpetrator. This is further discussed below in regard to the level of intent required.

(b) Directed against any civilian population

635. The requirement in Article 5 that the enumerated acts be "directed against any civilian population" contains several elements. The inclusion of the word "any" makes it clear that crimes against humanity can be committed against civilians of the same nationality as the perpetrator or those who are stateless, as well as those of a different nationality. However, the remaining aspects, namely the definition of a "civilian" population and the implications of the term "population", require further examination.

(i) The meaning of "civilian"

636. That the prohibited act must be committed against a "civilian" population itself raises two aspects: what must the character of the targeted population be and how is it to be determined whether an individual victim qualifies as a civilian such that acts taken against the person constitute crimes against humanity?

637. The Statute does not provide any guidance regarding the definition of "civilian" nor, for that matter, does the Report of the Secretary-General. The Prosecution in its pre-trial brief argues that the term "civilian" covers "all non-combatants within the meaning of common Article 3 to the [Geneva] Conventions" because of the finding that the language of Common Article 3 reflects "elementary considerations of humanity" which are "applicable under customary international law to any armed conflict"119. The Defence agrees that "civilians" under Article 5 covers all non-combatants, arguing however that the concept of "noncombatants" is not always clear in application. The Defence notes that particularly in situations such as that in Bosnia and Herzegovina, "where groups are mobilising without necessarily being under the direct control of the central government," there is a "grey area" between combatants and noncombatants. Thus the Defence concludes that the notion of noncombatants may not be sufficiently defined to determine in all cases whether the victims were civilians.

638. Regarding the first aspect, it is clear that the targeted population must be of a predominantly civilian nature. The presence of certain non-civilians in their midst does not change the character of the population.

639. The second aspect, determining which individual of the targeted population qualify as civilians for purposes of crimes against humanity, is not, however, quite as clear. Common Article 3, the language of which reflects "elementary considerations of humanity" which are "applicable under customary international law to any armed conflict"121, provides that in an armed conflict "not of an international character" Contracting States are obliged "as a minimum" to comply with the following: "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 . . . .” Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims in International Armed Conflicts (Protocol I) defines civilians by the exclusion of prisoners of war and armed forces, considering a person a civilian in case of doubt. However, this definition of civilians contained in Common Article 3 is not immediately applicable to crimes against humanity because it is a part of the laws or customs of war and can only be applied by analogy. The same applies to the definition contained in Protocol I and the Commentary, Geneva Convention IV, on the treatment of civilians, both of which advocate a broad interpretation of the term “civilian”. They, and particularly Common Article 3, do, however, provide guidance in answering the most difficult question: specifically, whether acts taken against an individual who cannot be considered a traditional “non-combatant” because he is actively involved in the conduct of hostilities by membership in some form of resistance group can nevertheless constitute crimes against humanity if they are committed in furtherance or as part of an attack directed against a civilian population.

640. In this regard the United Nations War Crimes Commission stated in reference to Article 6(c) of the Nürnberg Charter that “[t]he words ‘civilian population’ appear to indicate that ‘crimes against humanity’ are restricted to inhumane acts committed against civilians as opposed to members of the armed forces . . .”123. In contrast, the Supreme Court of the British zone determined that crimes against humanity were applicable in all cases where the perpetrator and the victim were of the same nationality, regardless of whether the victim was civilian or military124. Similarly, the possibility of considering members of the armed forces as potential victims of crimes against humanity was recognized as early as 1946125. The Commission of Experts Established Pursuant to Security Council Resolution (“Commission of Experts”) observed: “It seems obvious that article 5 applies first and foremost to civilians, meaning people who are not combatants. This, however, should not lead to any quick conclusions concerning people who at one particular point in time did bear arms.”126 The Commission of Experts then provided an example based on the situation in the former Yugoslavia and concluded: “A Head of a family who under such circumstances tries to protect his family gun-in-hand does not thereby lose his status as a civilian. Maybe the same is the case for the sole policeman or local defence guard doing the same, even if they joined hands to try to prevent the cataclysm.”

641. Precisely this issue was considered in the case of Fédération Nationale des Déportés et Internés Résistants et Patriotes and Others v. Barbie (Barbie case)128. In this case the Chambre d’accusation of the Court of Appeal of Lyons ordered that an indictment for crimes against humanity be issued against Klaus Barbie, head of the Gestapo of Lyons during the Second World War, but only for “persecutions against innocent Jews”, and held that prosecution was barred by the statute of limitations for crimes committed by Barbie against combatants who were members of the Resistance or whom Barbie thought were members of the Resistance, even if they were Jewish, because these acts could only constitute war crimes and not crimes against humanity129. The order of the examining magistrate along the same lines was confirmed by the Cour d’Assises and an appeal was lodged. On appeal the Cour de Cassation quashed and annulled the judgment in part, holding that members of the Resistance could be victims of crimes against humanity as long as the necessary intent for crimes against humanity was present130. As the court stated, “[n]either the driving force which motivated the victims, nor their possible membership of the
Resistance, excludes the possibility that the accused acted with the element of intent necessary for the commission of crimes against humanity.” Thus, according to the Cour de Cassation, not only was the general population considered to be one of a civilian character despite the presence of Resistance members in its midst but members of the Resistance themselves could be considered victims of crimes against humanity if the other requisite elements are met.

642. While instructive, it should be noted that the court in the Barbie case was applying national legislation that declared crimes against humanity not subject to statutory limitation, although the national legislation defined crimes against humanity by reference to the United Nations resolution of 13 February 1946, which referred back to the Nürnberg Charter (law of 26 December 1964132; and the fact that a crime against humanity is an international crime was relied upon to deny the accused's appeal on the bases of disguised extradition and an elapsed statute of limitations.

643. Despite the limitations inherent in the use of these various sources, from Common Article 3 to the Barbie case, a wide definition of civilian population, as supported by these sources, is justified. Thus the presence of those actively involved in the conflict should not prevent the characterization of a population as civilian and those actively involved in a resistance movement can qualify as victims of crimes against humanity. As noted by Trial Chamber I of the International Tribunal in its Review of the Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence in The Prosecutor v. Mile Msksic, Miroslav Radic, and Veselin [jivan-anin (“Vukovar Hospital Decision”), although crimes against humanity must target a civilian population, individuals who at one time performed acts of resistance may in certain circumstances be victims of crimes against humanity. In the context of that case patients in a hospital, either civilians or resistance fighters who had laid down their arms, were considered victims of crimes against humanity.

(ii) The meaning of “population”

644. The requirement in Article 5 of the Statute that the prohibited acts must be directed against a civilian “population” does not mean that the entire population of a given State or territory must be victimised by these acts in order for the acts to constitute a crime against humanity. Instead the “population” element is intended to imply crimes of a collective nature and thus exclude single or isolated acts which, although possibly constituting war crimes or crimes against national penal legislation, do not rise to the level of crimes against humanity. As explained by this Trial Chamber in its Decision on the Form of the Indictment, the inclusion in Article 5 of the requirement that the acts “be directed against any civilian population” ensures that what is to be alleged will not be one particular act but, instead, a course of conduct.”139 The purpose of this requirement was clearly articulated by the United Nations War Crimes Commission when it wrote that: Isolated offences did not fall within the notion of crimes against humanity.

As a rule systematic mass action, particularly if it was authoritative, was necessary to transform a common crime, punishable only under municipal law, into a crime against humanity, which thus became also the concern of international law. Only crimes which either by their magnitude and savagery or by their large number or by the fact that a similar pattern was applied at different times and places, endangered the international community or shocked the conscience of mankind, warranted intervention by States other than that on whose territory the crimes had been committed, or whose subjects had become their victims. Thus the emphasis is not on the
individual victim but rather on the collective, the individual being victimised not because of his individual attributes but rather because of his membership of a targeted civilian population. This has been interpreted to mean, as elaborated below, that the acts must occur on a widespread or systematic basis, that there must be some form of a governmental, organizational or group policy to commit these acts and that the perpetrator must know of the context within which his actions are taken, as well as the requirement imported by the Secretary-General and members of the Security Council that the actions be taken on discriminatory grounds.

The widespread or systematic occurrence of the acts

645. The Prosecution argues that the term "population" in Article 5 contemplates that by his actions the accused participated in a widespread or systematic attack against a relatively large victim group, as distinct from isolated or random acts against individuals. The Defence, while generally in agreement, argues that in order to constitute a crime against humanity the violations must be both widespread and systematic.

646. While this issue has been the subject of considerable debate, it is now well established that the requirement that the acts be directed against a civilian "population" can be fulfilled if the acts occur on either a widespread basis or in a systematic manner. Either one of these is sufficient to exclude isolated or random acts. The Report of the Secretary-General stipulates that crimes against humanity "refer to inhumane acts of a very serious nature . . . committed as part of a widespread or systematic attack against any civilian population". The Defence points to the fact that later in that same paragraph the Secretary-General states that in the conflict in the former Yugoslavia rape occurred on a "widespread and systematic" basis as support for its proposition that both widespreadness and systematicity are required. However, in the Trial Chamber's view, this passage is no more than a reflection of the situation as the Secretary-General saw it, as was the well-known finding by the Nürnberg Tribunal that "[t]he persecution of the Jews at the hands of the Nazi Government has been proved in the greatest detail before the Tribunal. It is a record of consistent and systematic inhumanity on the greatest scale."

647. In addition to the Report of the Secretary-General numerous other sources support the conclusion that widespreadness and systematicity are alternatives. For example, Trial Chamber I came to this conclusion in the Vukovar Hospital Decision143. The Report of the Ad Hoc Committee on the Establishment of a Permanent International Criminal Court provides that crimes against humanity "usually involved a widespread or systematic attack against the civilian population rather than isolated offences". Article 18 of the International Law Commission Draft Code of Crimes Against the Peace and Security of Mankind145 ("I.L.C. Draft Code") requires that the act be committed "in a systematic manner or on a large scale" and explicitly states that these are two alternative requirements. Similarly in its 1994 Report the International Law Commission stated that "the definition of crimes against humanity encompasses inhumane acts of a very serious character involving widespread or systematic violations aimed at the civilian population", although it also stated that "[t]he hallmarks of such crimes lie in their large-scale and systematic nature", and that the "particular forms of unlawful acts (murder, enslavement, deportation, torture, rape, imprisonment etc.) are less crucial to the definition [sic] the factors of scale and deliberate policy." Despite this seeming inconsistency the prevailing opinion was for alternative requirements, as is evident from the article addressing crimes against humanity in the 1991
648. It is therefore the desire to exclude isolated or random acts from the notion of crimes against humanity that led to the inclusion of the requirement that the acts must be directed against a civilian "population", and either a finding of widespreadness, which refers to the number of victims, or systematicity, indicating that a pattern or methodical plan is evident, fulfils this requirement. As explained by the commentary to the I.L.C. Draft Code:

(3) The opening clause of this definition establishes the two general conditions which must be met for one of the prohibited acts to qualify as a crime against humanity covered by the present Code. The first condition requires that the act was "committed in a systematic manner or on a large scale". This first condition consists of two alternative requirements. . .

Consequently, an act could constitute a crime against humanity if either of these conditions is met.

The commentary to the I.L.C. Draft Code further explains these requirements and their origins. It states: The first alternative requires that the inhumane acts be committed in a systematic manner meaning pursuant to a preconceived plan or policy. The implementation of this plan or policy could result in the repeated or continuous commission of inhumane acts. The thrust of this requirement is to exclude a random act that was not committed as part of a broader plan or policy. The Nürnberg Charter did not include such a requirement. None the less the Nürnberg Tribunal emphasized that the inhumane acts were committed as part of the policy of terror and were "in many cases . . . organized and systematic" in considering whether such acts constituted crimes against humanity.

(4) The second alternative requires that the inhumane acts be committed on a large scale meaning that the acts are directed against a multiplicity of victims. This requirement excludes an isolated inhumane act committed by a perpetrator acting on his own initiative and directed against a single victim. The Nürnberg Charter did not include this second requirement either. None the less the Nürnberg Tribunal further emphasized that the policy of terror was "certainly carried out on a vast scale" in its consideration of inhumane acts as possible crimes against humanity. . . . The term "large scale" in the present text . . . is sufficiently broad to cover various situations involving multiplicity of victims, for example, as a result of the cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude.

649. A related issue is whether a single act by a perpetrator can constitute a crime against humanity. A tangential issue, not at issue before this Trial Chamber, is whether a single act in and of itself can constitute a crime against humanity. This issue has been the subject of intense debate, with the jurisprudence immediately following the Second World War being mixed. The American tribunals generally supported the proposition that a massive nature was required149, while the tribunals in the British Zone came to the opposite conclusion, finding that the mass element was not essential to the definition, in respect of either the number of acts or the number of victims and that "what counted was not the mass aspect, but the link between the act and the cruel and barbarous political system, specifically, the Nazi regime". Clearly, a single act by a perpetrator taken within the context of a widespread or systematic attack against a civilian
population entails individual criminal responsibility and an individual perpetrator need not commit numerous offences to be held liable. Although it is correct that isolated, random acts should not be included in the definition of crimes against humanity, that is the purpose of requiring that the acts be directed against a civilian population and thus “[e]ven an isolated act can constitute a crime against humanity if it is the product of a political system based on terror or persecution”151. The decision of Trial Chamber I of the International Tribunal in the Vukovar Hospital Decision is a recent recognition of the fact that a single act by a perpetrator can constitute a crime against humanity. In that decision the Trial Chamber stated:

30. Crimes against humanity are to be distinguished from war crimes against individuals. In particular, they must be widespread or demonstrate a systematic character. However, as long as there is a link with the widespread or systematic attack against a civilian population, a single act could qualify as a crime against humanity. As such, an individual committing a crime against a single victim or a limited number of victims might be recognized as guilty of a crime against humanity if his acts were part of the specific context identified above. Additional support is found in national cases adjudicating crimes arising from the Second World War where individual acts by perpetrators were held to constitute crimes against humanity.

b. The necessity of discriminatory intent

650. Another related issue is whether the widespread or systematic acts must be taken on, for example, racial, religious, ethnic or political grounds, thus requiring a discriminatory intent for all crimes against humanity and not only persecution. The law in this area is quite mixed. Many commentators and national courts have found that some form of discriminatory intent is inherent in the notion of crimes against humanity, and thus required for the “inhumane acts” group, as well as persecution, because the acts are taken against the individual as a result of his membership in a group that is for some reason targeted by the perpetrator.

651. This requirement of discrimination was not contained in the Nürnberg Charter, which clearly recognized two categories of crimes against humanity: those related to inhumane acts such as murder, extermination, enslavement and deportation; and persecution on political, racial or religious grounds. Nor can support for this position be found in Control Council Law No. 10, as well as cases taken on the basis of this law, such as those concerning medical experiments where criminal medical experiments on non-German nationals, both prisoners of war and civilians, including Jews and “asocial” persons were considered war crimes and crimes against humanity, as was the program of euthanasia for “incurables” which was extended to the Jews155. Likewise, the Tokyo Charter does not contain this requirement. The analysis of the Nürnberg Charter and Judgment prepared by the United Nations shortly after the trial of the major war criminals stated: It might perhaps be argued that the phrase “on political, racial or religious grounds” refers not only to persecutions but also to the first type of crimes against humanity. The British Chief Prosecutor possibly held that opinion as he spoke of “murder, extermination, enslavement, persecution on political racial or religious grounds”. This interpretation, however, seems hardly to be warranted by the English wording and still less by the French text. . . . Moreover, in its statement with regard to von Schirach’s guilt the Court designated the crimes against humanity as “murder, extermination, enslavement, deportation, and other inhumane acts” and “persecutions on political, racial or religious grounds”.

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652. Additionally this requirement is not contained in the Article on crimes against humanity in the I.L.C. Draft Code nor does the Defence challenge its exclusion in the Prosecution’s definition of the offence. Significantly, discriminatory intent as an additional requirement for all crimes against humanity was not included in the Statute of this International Tribunal as it was in the Statute for the International Tribunal for Rwanda, the latter of which has, on this very point, recently been criticised. Nevertheless, because the requirement of discriminatory intent on national, political, ethnic, racial or religious grounds for all crimes against humanity was included in the Report of the Secretary-General, and since several Security Council members stated that they interpreted Article 5 as referring to acts taken on a discriminatory basis, the Trial Chamber adopts the requirement of discriminatory intent for all crimes against humanity under Article 5. Factually, the inclusion of this additional requirement that the inhumane acts must be taken on discriminatory grounds is satisfied by the evidence discussed above that the attack on the civilian population was conducted against only the non-Serb portion of the population because they were non-Serbs.

c. The policy element

653. As mentioned above the reason that crimes against humanity so shock the conscience of mankind and warrant intervention by the international community is because they are not isolated, random acts of individuals but rather result from a deliberate attempt to target a civilian population. Traditionally this requirement was understood to mean that there must be some form of policy to commit these acts. As explained by the Netherlands Hoge Raad in Public Prosecutor v. Menten: The concept of 'crimes against humanity' also requires - although this is not expressed in so many words in the above definition [Article 6(c) of the Nürnberg Charter] - that the crimes in question form a part of a system based on terror or constitute a link in a consciously pursued policy directed against particular groups of people. Importantly, however, such a policy need not be formalized and can be deduced from the way in which the acts occur. Notably, if the acts occur on a widespread or systematic basis that demonstrates a policy to commit those acts, whether formalized or not. Although some doubt the necessity of such a policy the evidence in this case clearly establishes the existence of a policy.

654. An additional issue concerns the nature of the entity behind the policy. The traditional conception was, in fact, not only that a policy must be present but that the policy must be that of a State, as was the case in Nazi Germany. The prevailing opinion was, as explained by one commentator, that crimes against humanity, as crimes of a collective nature, require a State policy "because their commission requires the use of the state's institutions, personnel and resources in order to commit, or refrain from preventing the commission of, the specified crimes described in Article 6(c) [of the Nürnberg Charter]". While this may have been the case during the Second World War, and thus the jurisprudence followed by courts adjudicating charges of crimes against humanity based on events alleged to have occurred during this period, this is no longer the case. As the first international tribunal to consider charges of crimes against humanity alleged to have occurred after the Second World War, the International Tribunal is not bound by past doctrine but must apply customary international law as it stood at the time of the offences. In this regard the law in relation to crimes against humanity has developed to take into account forces which, although not those of the legitimate government, have de facto control over, or are able to move freely within, defined territory.
The Prosecution in its pre-trial brief argues that under international law crimes against humanity can be committed on behalf of entities exercising de facto control over a particular territory but without international recognition or formal status of a de jure state, or by a terrorist group or organization. The Defence does not challenge this assertion, which conforms with recent statements regarding crimes against humanity.

For example, Trial Chamber I of the International Tribunal stated in relation to crimes against humanity in its Review of the Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence in Prosecutor v. Dragan Nikolić: “Although they need not be related to a policy established at State level, in the conventional sense of the term, they cannot be the work of isolated individuals alone.” The I.L.C. Draft Code is more explicit in this regard.

It contains the requirement that in order to constitute a crime against humanity the enumerated acts must be “instigated or directed by a Government or by any organization or group”. The commentary clarifies that by stating: This alternative is intended to exclude the situation in which an individual commits an inhumane act while acting on his own initiative pursuant to his own criminal plan in the absence of any encouragement or direction from either a Government or a group or organization. This type of isolated criminal conduct on the part of a single individual would not constitute a crime against humanity. . . . The instigation or direction of a Government or any organization or group, which may or may not be affiliated with a Government, gives the act its great dimension and makes it a crime against humanity imputable to private persons or agents of a State.

Thus, according to the International Law Commission, the acts do not even have to be directed or instigated by a group in permanent control of territory. It is important to keep in mind that the 1996 version of the I.L.C. Draft Code contains the final text of the article on crimes against humanity adopted by the International Law Commission166, which was established pursuant to General Assembly resolution 174 (II) and whose members are elected by the General Assembly. Importantly, the commentary to the draft articles of the Draft Code prepared by the International Law Commission in 1991, which were transmitted to Governments for their comments and observations, acknowledges that non-State actors are also possible perpetrators of crimes against humanity. It states that “[i]t is important to point out that the draft article does not confine possible perpetrators of the crimes [crimes against humanity] to public officials or representatives alone . . . the article does not rule out the possibility that private individuals with de facto power or organized in criminal gangs or groups might also commit the kind of systematic or mass violations of human rights covered by the article; in that case, their acts would come under the draft Code.

Similarly, the United States Court of Appeals for the Second Circuit recently recognized that “non-state actors” could be liable for committing genocide, the most egregious form of crimes against humanity, as well as war crimes168. Therefore, although a policy must exist to commit these acts, it need not be the policy of a State.

(c) Intent

656. As discussed above in relation to the nexus, the act must not be unrelated to the armed conflict. This contains two aspects. First, it is the occurrence of the act within the context of a
widespread or systematic attack on a civilian population that makes the act a crime against humanity as opposed to simply a war crime or crime against national penal legislation, thus adding an additional element, and therefore in addition to the intent to commit the underlying offence the perpetrator must know of the broader context in which his act occurs. Secondly, the act must not be taken for purely personal reasons unrelated to the armed conflict.

657. Regarding the first aspect, the knowledge by the accused of the wider context in which his act occurs, the approach taken by the majority in R. v. Finta 169 in Canada is instructive. In that case the majority decided that “[t]he mental element required to be proven to constitute a crime against humanity is that the accused was aware of or wilfully blind to facts or circumstances which would bring his or her acts within crimes against humanity. However, it would not be necessary to establish that the accused knew that his actions were inhumane.” While knowledge is thus required, it is examined on an objective level and factually can be implied from the circumstances. Several cases arising under German penal law following the Second World War are relevant in this regard. In a case decided by the Spruchgericht at Stade, Germany, the accused, who had been stationed near the concentration camp at Buchenwald, was assumed to have known that numerous persons were deprived of their liberty there on political grounds. In addition, it is not necessary that the perpetrator has knowledge of exactly what will happen to the victims and several German cases stressed the fact that denunciations, without more, constitute crimes against humanity172. One case in particular is relevant. In that case two accused in 1944 informed the police that the director of the company for which they both worked had criticised Hitler. After the denouncement the director was arrested, temporarily released and then arrested again and brought to a concentration camp. Both of the accused were acquitted due to a lack of “mens rea” as they had not had either a concrete idea of the consequences of their action or an “abominable attitude”. However, the Obersten Gerichtshofes (“OGH”) remanded the case to the trial court, finding that a crime against humanity does not require either a concrete idea of the consequences or an “abominable attitude”.

658. As for the second aspect, that the act cannot be taken for purely personal reasons unrelated to the armed conflict, while personal motives may be present they should not be the sole motivation for the act. Again one of the German cases arising from the Second World War is relevant. In that case the accused had denounced his wife for her pro-Jewish, anti-Nazi remarks. The OGH found it sufficient that with the purpose of separating from his wife the accused had ensured that the Gestapo knew about her anti-Nazi remarks and that the connection between the action of the accused and the “despotism of the Nazi Regime” was established because the victim was denounced for her anti-Nazi attitude. The OGH found that he had committed a crime against humanity because his behaviour fitted into the plan of persecution against Jews in Germany and that although his intent was only to harm this one individual, it was closely related to the general mass persecution of the Jews.

659. Thus if the perpetrator has knowledge, either actual or constructive, that these acts were occurring on a widespread or systematic basis and does not commit his act for purely personal motives completely unrelated to the attack on the civilian population, that is sufficient to hold him liable for crimes against humanity. Therefore, the perpetrator must know that there is an attack on the civilian population, know that his act fits in with the attack and the act must not be taken for purely personal reasons unrelated to the armed conflict.
3. Legal Findings
660. As discussed, this Trial Chamber has found that an armed conflict existed in the territory of Prijedor at the relevant time and that an aspect of this conflict was a policy to commit inhumane acts against the civilian population of the territory, in particular the non-Serb population, in the attempt to achieve the creation of a Greater Serbia. In furtherance of this policy these inhumane acts were committed against numerous victims and pursuant to a recognisable plan. As such the conditions of applicability for Article 5 are satisfied: the acts were directed against a civilian population on discriminatory grounds, they were committed on both a widespread basis and in a systematic fashion pursuant to a policy and they were committed in the context of, and related to, an armed conflict.

E. Individual Criminal Responsibility Under Article 7, Paragraph 1
661. The Report of the Secretary-General states that "all persons who participate in the planning, preparation or execution of serious violations of international humanitarian law in the former Yugoslavia contribute to the commission of the violation and are, therefore, individually responsible." Article 7 of the Statute, entitled Individual criminal responsibility incorporates this concept by providing that "[a] person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime."

662. Accordingly, the International Tribunal has jurisdiction to try a person who participates in crimes against humanity, grave breaches of the Geneva Conventions, violations of the laws or customs of war or genocide in any one of several capacities. However, this provision, which the International Tribunal has not yet interpreted, does not specify the necessary degree of participation but first the objective basis for such individual responsibility as a matter of customary international law must be determined since the International Tribunal is only empowered to apply international humanitarian law that is "beyond any doubt customary law".

1. The Customary Status of Article 7, Paragraph 1
663. Certain types of conduct during armed conflict have been criminalised by the international community since at least the fifteenth century. In more modern times, the movement to abolish war that coalesced after the First World War resulted in the determination to reform the law of war and to make war conducted in contravention of international norms an international crime with a component of individual responsibility.

After the First World War, the Preliminary Peace Conference of Paris created a Commission to investigate the responsibility for the war. On 29 March 1919 this Commission submitted its findings in a report that was unanimously adopted, although with reservations by the American and Japanese representatives. These findings included a provision addressing individual criminal responsibility for breaches of the laws and customs of war. The Commission recommended that "all persons belonging to enemy countries, however high their position may have been, without distinction of rank, including chiefs of States, who have been guilty of offences against the laws and customs of war or the laws of humanity, are liable to criminal prosecution." This position was confirmed by several countries in the 1919 Paris Peace Treaty, which formally adopted the principle that any person could be tried and punished for violations of the laws of war by military courts of the adversary.
664. The concept that an individual actor can be held personally responsible and punished for violations of international humanitarian law was first enunciated by the Nürnberg and Tokyo trials after the Second World War. Article 6 of the 1945 Nürnberg Charter called for individual responsibility for crimes against peace, violations of the laws or customs of war, and crimes against humanity.

665. Similarly, the Military Tribunals in occupied Germany enforced the Charter’s principles under the terms of Article II, 2 of Control Council Law No. 10, which states: Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (a) a principal or (b) was [sic] an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part there in or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organisation or group connected with the commission of any such crime.

Noting that the fact ”[t]hat international law imposes duties and liabilities upon individuals as well as upon States has long been recognized”, the court found punishment for individuals appropriate for violations of international law. Moreover, it is well recognized that ”the principle of individual responsibility and punishment for crimes under international law recognized at Nuremberg is the cornerstone of international criminal law. This principle is the enduring legacy of the Nuremberg Charter and Judgement which gives meaning to the prohibition of crimes under international law by ensuring that the individuals who commit such crimes incur responsibility and are liable to punishment.

666. The concept of direct individual criminal responsibility and personal culpability for assisting, aiding and abetting, or participating in, in contrast to the direct commission of, a criminal endeavour or act also has a basis in customary international law. For example, Article 4(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment uses the phrase ”complicity or participation in torture”, and Article III of the International Convention on the Suppression and Punishment of the Crime of Apartheid cites as criminally culpable those who ”participate in, directly incite, or conspire in[, or] . . . [d]irectly abet, encourage or cooperate in the commission of the crime.” The prosecutions following the Second World War confirm this, revealing that participation in this way could entail culpability.

667. For example, in the French war crimes trials after the Second World War, complicity was a basis for criminal culpability. In the Trial of Wagner and Six Others, the Acte d’Accusation and the judgment state the relevance of the French penal code to the charge and the sentence. Article 59 of the Code Pénal applicable at that time stated that ”[t]he accomplices to a crime or a delict shall be visited with the same punishment as the authors therefor, excepting where the law makes other provisions” and Article 60, defined as an accomplice: Any person who, by gifts, promises, threats, abuse of power or authority, or guilty machinations or devices, has instigated a crime or delict or given orders for the perpetration of a crime or delict; any person who has supplied the arms, tools or any other means that have been used in the commission of the crime or offence, knowing that they would be so used; or who has wittingly aided or assisted the author or authors of the crime or offence in any acts preparatory to, of facilitating its perpetration, or in its execution. With one exception, all the accused in that trial were charged with complicity as opposed to primary involvement.
Likewise, in the Trial of Martin Gottfried Weiss and 39 Others, ("Dachau case"), the accused were charged with acting in "pursuance of a common design to commit acts hereinafter alleged as members of the staff of the Dachau Concentration Camp", and the allegation was that they did "wilfully, deliberately and wrongfully aid, abet and participate in the subjection of civilian nations. . . ." Finally, the Norwegian and the Netherlands war crimes laws explicitly made punishable complicity in war crimes and the British law also had such provisions.

The foregoing establishes the basis in customary international law for both individual responsibility and of participation in the various ways provided by Article 7 of the Statute. The International Tribunal has the competence to exercise the authority granted to it by the Security Council to make findings in this case regarding the guilt of the accused, whether as a principal or an accessory or otherwise as a participant.

2. Parameters of Individual Responsibility

(a) Arguments of the parties

In the present case, the Prosecution argues that Article 7, paragraph 1, of the Statute draws the boundaries of individual responsibility very widely: The language of Article 7(1) and the Secretary-General's comments reflect the modern trend to move away from very technical definitions about the degree of culpability, and instead move us to focus on whether the accused's actions in any way incurred criminal liability . . . [T]he relative degree of culpability is a matter for sentencing should you reach findings of guilt. Citing the Mauthausen Concentration Camp Trail (Trial of Hans Alfuldisch and Six Others) ("Mauthausen case"),192 the Prosecution argues that any assistance, even as little as being involved in the operation of one of the camps, is sufficient for the Trial Chamber to find participation in a crime. The Prosecution urges the Trial Chamber to follow the example of the Australian common law, under which, the Prosecution asserts, the most marginal act of assistance or encouragement can amount to an act of complicity in the crime, and avers that "aiding and abetting includes all acts of assistance by words, by acts, by encouragement, support or again by presence". The Prosecution contends that, in regard to Count 1 charging persecution, the presence of the accused when viewed in light of the surrounding events is sufficient to find that he assisted in the various illegal acts given that "the accused's presence as a member of a group that is furthering the persecution of non-Serbs certainly assists and encourages that crime". In regard to the remaining counts, it argues that the accused is criminally responsible for the deaths of and other actions against the victims regardless of whether he directly committed any of the illegal acts or only aided and abetted, in this broad sense, their commission. The Prosecution also contends that the accused is liable if he took part in earlier acts and thereafter remained present, never withdrawing from the subsequent acts, since the continued presence of the accused gave both support and encouragement to the other members of his group and thereby aided them in the commission of the illegal acts.

The Defence argues that the term "participation" is used in the Indictment in two ways: as a basic fact, and as a qualification of the legal degree of involvement. According to the Defence, participation has not the almost unrestricted meaning given to it by the Prosecution and it is erroneous to assert that contributing "in any manner whatsoever", regardless of one's specific role, to the commission of the illegal act makes one personally responsible. Instead, the Defence argues, one is only culpable if one participates by planning, instigating, ordering, committing or
otherwise aiding and abetting in the execution. Specific to the accused in this case, the Defence asserts that physical involvement or inclusion with the Serb forces who committed crimes does not in itself establish the commission of the crime. The Defence also differentiates between the direct participation of a perpetrator and the less direct participation of an aider or abettor, stating that “furthering or facilitating a crime committed by someone else is not punishable if one does not realise that the other commits or will commit a crime, or if the [commission of the offence] was not a likely consequence of the [act] in which the accused participated”. In response to the Prosecution’s reliance on the Mauthausen case, the Defence says that because the court there held that the accused’s involvement in the camp was proof of a direct and substantial contribution to the crimes committed, that case does not set any different standard.

672. The Defence further contends that physical presence without acting in concert is not aiding and abetting, and proof of an accused’s presence near the scene of a crime without any further proof of involvement does not establish a criminal responsibility under Article 7. It notes that Australian law on aiding and abetting is not part of customary international law and that there is a definite distinction between culpability in the case of common crimes tried in national jurisdictions and culpability in an international jurisdiction for violations of international humanitarian law because such violations usually concern persons acting under abnormal circumstances such as war and in which the mere presence of an accused at the time of commission of a crime can and should be viewed differently. Accordingly, the Defence argues, presence should at least be proved to be significant to the commission of the crime, the evidence of the significance of presence should not be speculative but substantiated, and there must be a significant causal relation between the commission of the crime and the accused’s presence deriving either from a prior agreement or because of the influence of his presence. The Defence argues that the Prosecution’s position would require a finding of deliberate participation even if the only proof consisted of several sightings of an accused in the area of the commission of the crime even without any proof of involvement.

(b) Participation as a basis of liability

673. Where it is found in regard to the charges in the Indictment that the accused directly engaged in the actions alleged, the application of Article 7, paragraph 1, poses little problem. However, the Trial Chamber has found that, as to certain paragraphs of the Indictment, the accused did not directly commit some of the offences there charged but was present at the time of, or otherwise involved in, their commission. In regard to these instances, the Trial Chamber must determine whether the conduct of the accused that the Prosecution has proved beyond reasonable doubt sufficiently connects the accused to the crime such that he can be found criminally culpable pursuant to the Statute.

674. The most relevant sources for such a determination are the Nürnberg war crimes trials, which resulted in several convictions for complicitous conduct. While the judgments generally failed to discuss in detail the criteria upon which guilt was determined, a clear pattern does emerge upon an examination of the relevant cases. First, there is a requirement of intent, which involves awareness of the act of participation coupled with a conscious decision to participate by planning, instigating, ordering, committing, or otherwise aiding and abetting in the commission of a crime. Second, the prosecution must prove that there was participation in that the conduct of the accused contributed to the commission of the illegal act.
(i) Intent

675. The requirement that there be intent before being held culpable for a criminal act is supported by the case of Werner Rohde and Eight Others, in which the British Military Court held that if an accused took part with another man with the knowledge that the other man was going to kill, then he was as guilty as the one doing the actual killing. Again, in the Trial of Joseph Alstötter and Others ("Justice case"), the fact that the accused had specific knowledge was treated as essential. The judgment repeatedly confirmed this, stating that the various people charged knew or had knowledge, or must be assumed to have had knowledge, of the Nacht und Nebel plan, of Hitler and his associates' use of the German legal system, and of the plans or schemes for racial persecution. In several places, the judgment presumed knowledge on the part of an accused. Similarly, in the United States of America v. Wilhelm List ("Hostage case"), the court noted that to find the accused guilty, "we shall require proof of a causative, overt act or omission from which a guilty intent can be inferred before a verdict of guilty will be pronounced. Unless this be true, a crime could not be said to have been committed unlawfully, wilfully, and knowingly as charged in the Indictment."

676. As noted in the Justice case, knowledge and intent can be inferred from the circumstances. In the Mauthausen case, the United States Military Tribunal, after finding all 61 accused guilty, stated in its special findings that the state of the camp where detainees were murdered en masse in gas chambers "was of such a criminal nature as to cause every official, governmental, military and civil, and every employee thereof, whether he be a member of the Waffen SS, Allgemeine SS, a guard, or civilian, to be culpably and criminally responsible". This finding was based on the determination that "it was impossible for a governmental, military or civil official, a guard or a civilian employee, of the Concentration Camp Mauthausen, combined with any or all of its by-camps, to have been in control of, been employed in, or present in, or residing in, the aforesaid Concentration Camp Mauthausen, combined with any or all of its by-camps, at any time during its existence, without having acquired definite knowledge of the criminal practices and activities therein existing." Thus the court inferred knowledge on the part of the accused, and concluded that the staff of the concentration camp was guilty of the commission of a war crime based on this knowledge and their continued participation in the enterprise.

677. Although intent founded on inherent knowledge, proved or inferred, is required for a finding of guilt, the Trial Chamber need not find that there was a pre-arranged plan, to which the accused was a party, to engage in any specific conduct. In the Justice case, in regard to the defendant Joel who was not alleged to have been directly responsible for the death or illtreatment of specified persons, the prosecution sought to prove that he was related to a scheme or system which had a criminal outcome. The tribunal saw as essential proof that he had knowledge of others' acts that were done in furtherance of the Nacht und Nebel plan, as well as evidence of deliberate action199. However, it did not require proof that Joel was party to a prior arrangement or agreement to take part in any particular behaviour.

(ii) Direct contribution

678. As the Justice case reveals, intent involving requisite knowledge alone is not enough; there must also be a deliberate act if an accused is to be held criminally culpable and this deliberate act must directly affect the commission of the crime itself. In the Nürnberg Judgment on the charges
against defendant Kaltenbrunner, the court declined to find the accused guilty of the charge of crimes against peace for waging aggressive war because the evidence against him did not "show his direct participation in any plan to wage such a war." The Judge-Advocate's statement in the Trial of Franz Schonfeld and Nine Others by a British Military Court explained the law of parties being "concerned" in the commission of a crime: Those who are present at the commission of an offence, and aid and abet its commissions, are principals in the second degree. The presence of a person at the scene of the crime may be actual in the sense that he is there, or it may be constructive. It is not necessary that the party should be actually present, an eye-witness or ear-witness to the transaction; he is, in construction of law, present, aiding and abetting, with the intention of giving assistance, if he is near enough to afford it should occasion arise. . . . There must also be a participation in the act; for even if a man is present whilst a felony is committed, if he takes no part in it and does not act in concert with those who commit it, he will not be a principal in the second degree, merely because he did not endeavour to prevent the felony. It is not necessary, however, to prove that the party actually aided in the commission of the offence; if he . . . was in such a situation as to be able readily to come to their assistance, the knowledge of which was calculated to give additional confidence to his companions, he was, in contemplation of law, present aiding and abetting. It is difficult to determine whether this statement, which relies heavily on English law, was adopted by the court given that the court did not state its reasons for deciding as it did.

Despite this reliance on municipal law, the statement is instructive in this instance: "In the present state of vagueness prevailing in many branches of the law of nations, even given the fact that there are no binding precedents in International Law, such introduction therein of tested concepts from municipal systems is all to the good, provided that they are recognized to be in amplification of, and not in substitution for, rules of International Law."

679. Although the court in that case neither accepted nor rejected the Judge-Advocate's statement, other cases show that direct contribution does not necessarily require the participation in the physical commission of the illegal act. That participation in the commission of the crime does not require an actual physical presence or physical assistance appears to have been well accepted at the Nürnberg war crimes trials, as was the concept that mere presence at the scene of the crime without intent is not enough.

680. In the Trial of Burn Tesch and Two Others ("Zyklon B case"), in the British Military Court, the suppliers of poison gas, normally used to kill vermin but in fact used to kill inmates of concentration camps, were charged with a war crime. The charge stated that they "in violation of the laws and usages of war did supply poison gas used for the extermination of allied nationals interned in concentration camps well knowing that the said gas was to be so used" between 1941 and 1945. It was the prosecution's contention that the accused put the means of committing the crime of extermination in the hands of the concentration camp officials, and thus they were also war criminals. The Judge-Advocate summed up the necessary proofs as follows: "first, that Allied nationals had been gassed by means of Zyklon B; secondly, that this gas had been supplied by [the defendants]; and thirdly, that the accused knew that the gas was to be used for the purpose of killing human beings." The court ultimately sentenced the two people to death after finding that they arranged for the supply of lethal gas to concentration camps and were aware of the purpose for which it would be used. The court necessarily must have made the determination.
that without the supply of gas the exterminations would not have occurred in that manner, and therefore that the actions of the accused directly assisted in the commission of the illegal act of mass extermination. (iii) Required extent of participation

681. The remaining question for consideration is the amount of assistance that must be shown before one can be held culpable for involvement in a crime. As one commentator noted, mere presence seems not enough to constitute criminally culpable conduct, “[b]ut what further conduct would constitute aiding and abetting the commission of war crimes or some accessory responsibility is not known with sufficient exactitude for ‘line-drawing’ purposes”. Again, a review of certain post-Second World War cases is instructive despite their failure to establish specific criteria.

682. In the Dachau case before the United States Military Tribunal, wherein the accused were charged with acting in pursuance of a common design to participate in the “subjection of” the inmates to “cruelties and mistreatments”, the court noted that in order to prove the allegations against each accused, the prosecution had to prove: (1) a system of ill-treatment at the camp that included the crimes listed in the charges; (2) awareness on the part of each accused of the system; and (3) that each accused “encouraged, aided and abetted or participated” in enforcing this system. The main issue of contention was as to the third element. Noting that the evidence was such that the conditions of the concentration camp were inevitably produced by the way in which it was run and since every accused was at one time a member of its staff, the court found each of them culpable, and sentenced 36 of the 40 defendants to death and the others to varying terms of hard labour. The guilt of each accused was established either by showing that his duties in themselves were in execution or administration of the illegal system or that, although the duties in themselves were not illegal, the accused performed them in an illegal manner. Thus, in this case, the court required a finding of direct involvement in what was determined to be the illegal act of participating in the running of the camp.

683. The Mauthausen case, also before the United States Military Tribunal, involved similar facts though with much higher casualty figures given the practice of mass extermination by use of a gas chamber. There the court made the determination previously quoted regarding knowledge of criminal practices and activities, and declared: [t]hat any official, governmental, military or civil . . . or any guard or civil employee, in any way in control of or stationed at or engaged in the operation of the Concentration Camp Mauthausen, or any or all of its by-camps in any manner whatsoever, is guilty of a crime against the recognized laws, customs and practices of civilised nations and the letter and spirit of the laws and usages of war, and by reason thereof is to be punished. The court thus found all 61 defendants charged guilty. While this finding suggests that the camp personnel were found guilty based upon the presumption that they had knowledge of the abhorrent conditions at the camp, Mauthausen and Dachau do not support the Prosecution’s position. Unlike these cases, the accused has not been charged nor has the Prosecution proved, that the accused was engaged in the operation of the camps.

684. In another case focusing on poison gas, Robert Mulka, a camp commander at Auschwitz, was convicted of being an accessory in the murder of approximately 750 persons in the Auschwitz
Trials before a German court. This finding was based on the determination that he was involved in procuring Zyklon B gas, constructing gas ovens, arranging for trucks to transport inmates to the gas chambers, and alerting the camp bureaucracy as to the imminent arrival of transports. In this same trial, Karl Hocker, who succeeded Robert Mulka as adjutant camp commander, was convicted of complicity in joint murder by receiving and passing on teletypes detailing the imminent arrival of Hungarian prisoners to the camp, who were later killed there.

685. In the Trial of Otto Sandrock and Three Others ("Almelo case"), the defendants were charged with the commission of a war crime for killing a prisoner of war and a Dutch civilian. This trial, which was conducted by the British Military Court, invoked Regulation 8(ii) of the Royal Warrant of 14 June 1945 as amended by Royal Warrant of 4 August 1945, which provided:

Where there is evidence that a war crime has been the result of concerted action upon the part of a unit or group of men, then evidence given upon any charge relating to that crime against any member of such unit or group, may be received as prima facie evidence of the responsibility of each member of that unit or group for that crime.

The Judge-Advocate ruled that each of the defendants knew that they were going to the woods for the purpose of killing the victims and that "[i]f people were all present together at the same time, taking part in a common enterprise which was unlawful, each one in their own way assisting the common purpose of all, they were all equally guilty in law." Based in part on this knowledge, the court found all concerned in each shooting guilty, including the one that stayed in the car to prevent strangers from disturbing the two who were engaged in killing the victims; presence, knowledge and intent to assist was sufficient to establish guilt.

686. Other examples include the following cases. In United States v. Kurt Goebell et al ("Borkum Island case"), civilians brutalised and killed United States pilots who were paraded through the streets in 1944. Some of the members of the German guard who stood by as civilians injured and killed the pilots were convicted along with the commander who ordered the parading of the troops, the Burgomeister, and the four civilians who took part in the event. In this case, the lack of action on the part of the guards and commander amounted to a sufficient degree of participation for the purposes of criminal liability.

687. In Gustav Becker, Wilhelm Weber and 18 Others, tried before the French Permanent Military Tribunal, the two primary defendants were convicted for their conduct regarding illegal arrests and ill-treatment, and 17 of the remaining defendants were convicted as their accomplices. Each of the accused were found guilty of the death of victims on the basis of Article 309 of the French Penal Code "caus[ing] death without intent to inflict it", even though their treatment of the victims occurred in France and the ultimate deaths occurred in Germany.

The French war crimes trials contain other examples of complicity including an accused, Ferrarese, who was condemned to death on the charge of having caused the arrest, detention and torture of innocent French inhabitants by virtue of his denouncing several French citizens involved in the resistance movement whom were later arrested and tortured, and some of who were deported. Similarly, a Nazi party administrator, who created and submitted lists to arresting authorities and reported French youths who rejected his attempts to get them to join the German army and who
were then arrested, interned and forcibly drafted, with their families deported to Germany, was convicted and given five years' imprisonment for aiding and assisting in the arrest and deportation. Denunciation in and of itself was not a war crime unless, by giving information, the informant became a party to or an accomplice in the commission of a war crime: "This condition is fulfilled if circumstances constituting complicity are present, e.g. if the informer knew that his action would lead to the commission of a war crime and either intended to bring about this consequence or was recklessly indifferent with regard to it. This decision was applied by the War Crimes Commission in numerous instances." Thus not only does one not have to be present but the connection between the act contributing to the commission and the act of commission itself can be geographically and temporally distanced.
172. The Court has now to turn its attention to the question of the law applicable to the present dispute. In formulating its view on the significance of the United States multilateral treaty reservation, the Court has reached the conclusion that it must refrain from applying the multilateral treaties invoked by Nicaragua in support of its claims, without prejudice either to other treaties or to the other sources of law enumerated in Article 38 of the Statute. The first stage in its determination of the law actually to be applied to this dispute is to ascertain the consequences of the exclusion of the applicability of the multilateral treaties for the definition of the content of the customary international law which remains applicable.

173. According to the United States, these consequences are extremely wide-ranging. The United States has argued that: “Just as Nicaragua’s claims allegedly based on ‘customary and general international law’ cannot be determined without recourse to the United Nations Charter as the principal source of that law, they also cannot be determined without reference to the ‘particular international law’ established by multilateral conventions in force among the parties.” The United States contends that the only general and customary international law on which Nicaragua can base its claims is that of the Charter: in particular, the Court could not, it is said, consider the lawfulness of an alleged use of armed force without referring to the “principal source of the Nations Charter. In brief, in a more general sense “the provisions of the United Nations Charter relevant here subsume and supervene related principles of customary and general international law”. The United States concludes that “since the multilateral treaty reservation bars adjudication of claims based on those treaties, it bars all of Nicaragua’s claims”. Thus the effect of the reservation in question is not, it is said, merely to prevent the Court from deciding upon Nicaragua’s claims by applying the multilateral treaties in question; it further prevents it from applying in its decision any rule of customary international law the content of which is also the subject of a provision in those multilateral treaties.

174. In its Judgment of 26 November 1984, the Court has already commented briefly on this line of argument. Contrary to the views advanced by the United States, it affirmed that it “cannot dismiss the claims of Nicaragua under principles of customary and general international law, simply because such principles have been enshrined in the texts of the conventions relied upon by Nicaragua. The fact that the above-mentioned principles, recognized as such, have been codified or embodied in multilateral conventions does not mean that they cease to exist and to apply as principles of customary law, even as regards countries that are parties to such conventions. Principles such as those of the non-use of force, non-intervention, respect for the independence and territorial integrity of States, and the freedom of navigation, continue to be binding as part of customary international law, despite the operation of provisions of conventional law in which they have been incorporated.” (I.C.J. Reports 1984, p. 424, para. 73.) Now that the Court has reached the stage of a decision on the merits, it must develop and refine upon these initial remarks. The Court would observe that, according to the United States...
argument, it should refrain from applying the rules of customary international law because they have been "subsumed" and "supervened" by those of international treaty law, and especially those of the United Nations Charter. Thus the United States apparently takes the view that the existence of principles in the United Nations Charter precludes the possibility that similar rules might exist independently in customary international law, either because existing customary rules had been incorporated into the Charter, or because the Charter influenced the later adoption of customary rules with a corresponding content.

175. The Court does not consider that, in the areas of law relevant to the present dispute, it can be claimed that all the customary rules which may be invoked have a content exactly identical to that of the rules contained in the treaties which cannot be applied by virtue of the United States reservation. On a number of points, the areas governed by the two sources of law do not exactly overlap, and the substantive rules in which they are farmed are not identical in content. But in addition, even if a treaty norm and a customary norm relevant to the present dispute were to have exactly the same content, this would not be a reason for the Court to take the view that the operation of the treaty process must necessarily deprive the customary norm of its separate applicability. Nor can the multilateral treaty reservation be interpreted as meaning that, once applicable to a given dispute, it would exclude the application of any rule of customary international law the content of which was the same as, or analogous to, that of the treaty-law rule which had caused the reservation to become effective.

176. As regards the suggestion that the areas covered by the two sources of law are identical, the Court observes that the United Nations Charter, the convention to which most of the United States argument is directed, by no means covers the whole area of the regulation of the use of force in international relations. On one essential point, this treaty itself refers to pre-existing customary international law; this reference to customary law is contained in the actual text of Article 51, which mentions the "inherent right" (in the French text the "droit naturel") of individual or collective self-defence, which "nothing in the present Charter shall impair" and which applies in the event of an armed attack. The Court therefore finds that Article 51 of the Charter is only meaningful on the basis that there is a "natural" or "inherent" right of self-defence, and it is hard to see how this can be other than of a customary nature, even if its present content has been confirmed and influenced by the Charter. Moreover, the Charter, having itself recognized the existence of this right, does not go on to regulate directly all aspects of its content. For example, it does not contain any specific rule whereby self-defence would warrant only measures which are proportional to the armed attack and necessary to respond to it, a rule well established in customary international law. Moreover, a definition of the "armed attack" which, if found to exist, authorizes the exercise of the "inherent right" of self-defence, is not provided in the Charter, and is not part of treaty law. It cannot therefore be held that Article 51 is a provision which "subsumes and supervenes" customary international law. It rather demonstrates that in the field in question, the importance of which for the present dispute need hardly be stressed. Customary international law continues to exist alongside treaty law. The areas governed by the two sources of law thus do not overlap exactly, and the rules do not have the same content. This could also be demonstrated for other subjects, in particular for the principle of non-intervention.
177. But as observed above (paragraph 175), even if the customary norm and the treaty norm were to have exactly the same content, this would not be a reason for the Court to hold that the incorporation of the customary norm into treaty-law must deprive the customary norm of its applicability as distinct from that of the treaty norm. The existence of identical rules in international treaty law and customary law has been clearly recognized by the Court in the North Sea Continental Shelf cases. To a large extent, those cases turned on the question whether a rule enshrined in a treaty also existed as a customary rule, either because the treaty had merely codified the custom, or caused it to "crystallize", or because it had influenced its subsequent adoption. The Court found that this identity of content in treaty law and in customary international law did not exist in the case of the rule invoked, which appeared in one article of the treaty, but did not suggest that such identity was debarred as a matter of principle: on the contrary, it considered it to be clear that certain other articles of the treaty in question "were . . . regarded as reflecting, or as crystallizing, received or at least emergent rules of customary international law" (I.C.J. Reports 1969, p. 39, para. 63). More generally, there are no grounds for holding that when customary international law is comprised of rules identical to those of treaty law, the latter "supervenes" the former, so that the customary international law has no further existence of its own.

178. There are a number of reasons for considering that, even if two norms belonging to two sources of international law appear identical in content, and even if the States in question are bound by these rules both on the level of treaty-law and on that of customary international law, these norms retain a separate existence. This is so from the standpoint of their applicability. In a legal dispute affecting two States, one of them may argue that the applicability of a treaty rule to its own conduct depends on the other State's conduct in respect of the application of other rules, on other subjects, also included in the same treaty. For example, if a State exercises its right to terminate or suspend the operation of a treaty on the ground of the violation by the other party of a "provision essential to the accomplishment of the object or purpose of the treaty" (in the words of Article 60, para. 3 (b), of the Vienna Convention on the Law of Treaties), it is exempted, vis-à-vis the other State, from a rule of treaty-law because of the breach by that other State of a different rule of treaty-law. But if the two rules in question also exist as rules of customary international law, the failure of the one State to apply the one rule does not justify the other State in declining to apply the other rule. Rules which are identical in treaty law and in customary international law are also distinguishable by reference to the methods of interpretation and application. A State may accept a rule contained in a treaty not simply because it favours the application of the rule itself, but also because the treaty establishes what that State regards as desirable institutions or mechanisms to ensure implementation of the rule. Thus, if that rule parallels a rule of customary international law, two rules of the same content are subject to separate treatment as regards the organs competent to verify their implementation, depending on whether they are customary rules or treaty rules. The present dispute illustrates this point.

179. It will therefore be clear that customary international law continues to exist and to apply, separately from international treaty law, even where the two categories of law have an identical content. Consequently, in ascertaining the content of the customary international law applicable to the present dispute, the Court must satisfy itself that the Parties are bound by the customary rules in question; but the Court is in no way bound to uphold these rules only in so far as they
differ from the treaty rules which it is prevented by the United States reservation from applying in the present dispute.

180. The United States however presented a further argument, during the proceedings devoted to the question of jurisdiction and admissibility, in support of its contention that the multilateral treaty reservation debars the Court from considering the Nicaraguan claims based on customary international law. The United States observed that the multilateral treaties in question contain legal standards specifically agreed between the Parties to govern their mutual rights and obligations, and that the conduct of the Parties will continue to be governed by these treaties, irrespective of what the Court may decide on the customary law issue, because of the principle of pacta sunt servanda. Accordingly, in the contention of the United States, the Court cannot properly adjudicate the mutual rights and obligations of the two States when reference to their treaty rights and obligations is barred; the Court would be adjudicating those rights and obligations by standards other than those to which the Parties have agreed to conduct themselves in their actual international relations.

181. The question raised by this argument is whether the provisions of the multilateral treaties in question, particularly the United Nations Charter, diverge from the relevant rules of customary international law to such an extent that a judgement of the Court as to the rights and obligations of the parties under customary law, disregarding the content of the multilateral treaties binding on the parties, would be a wholly academic exercise, and not "susceptible of any compliance or execution whatever" (Northern Cameroons, I.C.J. Reports 1963, p. 37). The Court does not consider that this is the case. As already noted, on the question of the use of force, the United States itself argues for a complete identity of the relevant rules of customary international law with the provisions of the Charter. The Court has not accepted this extreme contention, having found that on a number of points the areas governed by the two sources of law do not exactly overlap, and the substantive rules in which they are framed are not identical in content (paragraph 174 above). However, so far from having constituted a marked departure from a customary international law which still exists unmodified, the Charter gave expression in this field to principles already present in customary international law, and that law has in the subsequent four decades developed under the influence of the Charter, to such an extent that a number of rules contained in the Charter have acquired a status independent of it. The essential consideration is that both the Charter and the customary international law flow from a common fundamental principle outlawing the use of force in international relations. The differences which may exist between the specific content of each are not, in the Court’s view, such as to cause a judgment confined to the field of customary international law to be ineffective or inappropriate, or a judgment not susceptible of compliance or execution.

182. The Court concludes that it should exercise the jurisdiction conferred upon it by the United States declaration of acceptance under Article 36, paragraph 2, of the Statute, to determine the claims of Nicaragua based upon customary international law notwithstanding the exclusion from its jurisdiction of disputes "arising under" the United Nations and Organization of American States Charters.

183. In view of this conclusion, the Court has next to consider what are the rules of customary international law applicable to the present dispute. For this purpose, it has to direct its attention
to the practice and opinio juris of States; as the Court recently observed, "It is of course axiomatic that the material of customary international law is to be looked for primarily in the actual practice and opinio juris of States, even though multilateral conventions may have an important role to play in recording and defining rules deriving from custom, or indeed in developing them." (Continental Shelf (Libyan Arab Jamahiriya / Malta), I. C.J. Reports 1985, pp. 29-30, para. 27.) In this respect the Court must not lose sight of the Charter of the United Nations and that of the Organization of American States, notwithstanding the operation of the multilateral treaty reservation. Although the Court has no jurisdiction to determine whether the conduct of the United States constitutes a breach of those conventions, it can and must take them into account in ascertaining the content of the customary international law which the United States is also alleged to have infringed.

184. The Court notes that there is in fact evidence, to be examined below, of a considerable degree of agreement between the Parties as to the content of the customary international law relating to the non-use of force and non-intervention. This concurrence of their views does not however dispense the Court from having itself to ascertain what rules of customary international law are applicable. The mere fact that States declare their recognition of certain rules is not sufficient for the Court to consider these as being part of customary international law, and as applicable as such to those States. Bound as it is by Article 38 of its Statute to apply, inter alia, international custom "as evidence of a general practice accepted as law", the Court may not disregard the essential role played by general practice. Where two States agree to incorporate a particular rule in a treaty, their agreement suffices to make that rule a legal one, binding upon them; but in the field of customary international law, the shared view of the Parties as to the content of what they regard as the rule is not enough. The Court must satisfy itself that the existence of the rule in the opinio juris of States is confirmed by practice.

185. In the present dispute, the Court, while exercising its jurisdiction only in respect of the application of the customary rules of non-use of force and non-intervention, cannot disregard the fact that the Parties are bound by these rules as a matter of treaty law and of customary international law. Furthermore, in the present case, apart from the treaty commitments binding the Parties to the rules in question, there are various instances of their having expressed recognition of the validity thereof as customary international law in other ways. It is therefore in the light of this "subjective element" - the expression used by the Court in its 1969 Judgment in the North Sea Continental Shelf cases (1. C.J. Reports 1969, p. 44) - that the Court has to appraise the relevant practice.

186. It is not to be expected that in the practice of States the application of the rules in question should have been perfect, in the sense that States should have refrained, with complete consistency, from the use of force or from intervention in each other's internal affairs. The Court does not consider that, for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule. In order to deduce the existence of customary rules, the Court deems it sufficient that the conduct of States should, in general, be consistent with such rules, and that instances of State conduct inconsistent with a given rule should generally have been treated as breaches of that rule, not as indications of the recognition of a new rule. If a State acts in a way prima facie incompatible with a recognized rule, but defends its conduct by appealing to exceptions or justifications contained within the rule itself, then whether
or not the State's conduct is in fact justifiable on that basis, the significance of that attitude is to confirm rather than to weaken the rule.

187. The Court must therefore determine, first, the substance of the customary rules relating to the use of force in international relations, applicable to the dispute submitted to it. The United States has argued that, on this crucial question of the lawfulness of the use of force in inter-State relations, the rules of general and customary international law, and those of the United Nations Charter, are in fact identical. In its view this identity is so complete that, as explained above (paragraph 173), it constitutes an argument to prevent the Court from applying this customary law, because it is indistinguishable from the multilateral treaty law which it may not apply. In its Counter-Memorial on jurisdiction and admissibility the United States asserts that "Article 2 (4) of the Charter is customary and general international law". It quotes with approval an observation by the International Law Commission to the effect that "the great majority of international lawyers today unhesitatingly hold that Article 2, paragraph 4, together with other provisions of the Charter, authoritatively declares the modern customary law regarding the threat or use of force" (ILC Yearbook, 1966, Vol. II, p. 247).

The United States points out that Nicaragua has endorsed this view, since one of its counsel asserted that "indeed it is generally considered by publicists that Article 2, paragraph 4, of the United Nations Charter is in this respect an embodiment of existing general principles of international law". And the United States concludes: "In sum the provisions of Article 2 (4) with respect to the lawfulness of the use of force are 'modern customary law' (International Law Commission. loc. cit.) and the 'embodiment of general principles of international law' (counsel for Nicaragua, Hearing of 25 April 1984, morning, loc. cit.). There is no other 'customary and general international law' on which Nicaragua can rest its claims." "It is, in short, inconceivable that this Court could consider the lawfulness of an alleged use of armed force without referring to the principal source of the relevant international law - Article 2 (4) of the United Nations Charter."

As for Nicaragua, the only noteworthy shade of difference in its view lies in Nicaragua's belief that "in certain cases the rule of customary law will not necessarily be identical in content and mode of application to the conventional rule".

188. The Court thus finds that both Parties take the view that the principles as to the use of force incorporated in the United Nations Charter correspond, in essentials, to those found in customary international law. The Parties thus both take the view that the fundamental principle in this area is expressed in the terms employed in Article 2, paragraph 4, of the United Nations Charter. They therefore accept a treaty-law obligation to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

The Court has however to be satisfied that there exists in customary international law an opinio juris as to the binding character of such abstention. This opinio juris may, though with all due caution, be deduced from, inter alia, the attitude of the Parties and the attitude of States towards certain General Assembly resolutions, and particularly resolution 2625 (XXV) entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations". The effect of consent to the text of such resolutions cannot be understood as merely that of a "reiteration or elucidation" of the treaty commitment undertaken in the Charter. On the contrary, it may be understood as an acceptance of the validity of the rule or set of rules declared by the resolution by themselves. The principle of
non-use of force, for example, may thus be regarded as a principle of customary international law, not as such conditioned by provisions relating to collective security, or to the facilities or armed contingents to be provided under Article 43 of the Charter. It would therefore seem apparent that the attitude referred to expresses an opinio juris respecting such rule (or set of rules), to be thenceforth treated separately from the provisions, especially those of an institutional kind, to which it is subject on the treaty-law plane of the Charter.

189. As regards the United States in particular, the weight of an expression of opinio juris can similarly be attached to its support of the resolution of the Sixth International Conference of American States condemning aggression (18 February 1928) and ratification of the Montevideo Convention on Rights and Duties of States (26 December 1933). Article 11 of which imposes the obligation not to recognize territorial acquisitions or special advantages which have been obtained by force. Also significant is United States acceptance of the principle of the prohibition of the use of force which is contained in the declaration on principles governing the mutual relations of States participating in the Conference on Security and Co-operation in Europe (Helsinki, 1 August 1975), whereby the participating States undertake to "refrain in their mutual relations, as well as in their international relations in general, "(emphasis added) from the threat or use of force. Acceptance of a text in these terms confirms the existence of an opinio juris of the participating States prohibiting the use of force in international relations.

190. A further confirmation of the validity as customary international law of the principle of the prohibition of the use of force expressed in Article 2, paragraph 4, of the Charter of the United Nations may be found in the fact that it is frequently referred to in statements by State representatives as being not only a principle of customary international law but also a fundamental or cardinal principle of such law. The International Law Commission, in the course of its work on the codification of the law of treaties, expressed the view that "the law of the Charter concerning the prohibition of the use of force in itself constitutes a conspicuous example of a rule in international law having the character of jus cogens" (paragraph (1) of the commentary of the Commission to Article 50 of its draft Articles on the Law of Treaties, ILC Yearbook, 1966-11, p. 247). Nicaragua in its Memorial on the Merits submitted in the present case States that the principle prohibiting the use of force embodied in Article 2, paragraph 4, of the Charter of the United Nations "has come to be recognized as jus cogens". The United States, in its Counter-Memorial on the questions of jurisdiction and admissibility, found it material to quote the views of scholars that this principle is a "universal norm", a "universal international law", a "universally recognized principle of international law", and a "principle of jus cogens".

191. As regards certain particular aspects of the principle in question, it will be necessary to distinguish the most grave forms of the use of force (those constituting an armed attack) from other less grave forms. In determining the legal rule which applies to these latter forms, the Court can again draw on the formulations contained in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV), referred to above). As already observed, the adoption by States of this text affords an indication of their opinio juris as to customary international law on the question. Alongside certain descriptions which may refer to aggression, this text includes others which refer only to less grave forms of the use of force. In particular, according to this resolution:
"Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States. States have a duty to refrain from acts of reprisal involving the use of force. Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of that right to self-determination and freedom and independence. Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State. Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force."

192. Moreover, in the part of this same resolution devoted to the principle of non-intervention in matters within the national jurisdiction of States, a very similar rule is found: "Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State."

In the context of the inter-American system, this approach can be traced back at least to 1928 (Convention on the Rights and Duties of States in the Event of Civil Strife, Article 1 (1)) ; it was confirmed by resolution 78 adopted by the General Assembly of the Organization of American States on 21 April 1972. The operative part of this resolution reads as follows: "The General Assembly Resolves 1. To reiterate solemnly the need for the member states of the Organization to observe strictly the principles of non-intervention and self-determination of peoples as a means of ensuring peaceful coexistence among them and to refrain from committing any direct or indirect act that might constitute a violation of those principles. 2. To reaffirm the obligation of those states to refrain from applying economic, political, or any other type of measures to coerce another state and obtain from it advantages of any kind. 3. Similarly, to reaffirm the obligation of these states to refrain from organizing, supporting, promoting, financing, instigating, or tolerating subversive, terrorist, or armed activities against another state and from intervening in a civil war in another state or in its internal struggles."

193. The general rule prohibiting force allows for certain exceptions. In view of the arguments advanced by the United States to justify the acts of which it is accused by Nicaragua, the Court must express a view on the content of the right of self-defence, and more particularly the right of collective self-defence. First, with regard to the existence of this right, it notes that in the language of Article 51 of the United Nations Charter, the inherent right (or "droit naturel") which any State possesses in the event of an armed attack, covers both collective and individual self-defence. Thus, the Charter itself testifies to the existence of the right of collective self-defence in customary international law. Moreover, just as the wording of certain General Assembly declarations adopted by States demonstrates their recognition of the principle of the prohibition of force as definitely a matter of customary international law, some of the wording in those declarations operates similarly in respect of the right of self-defence (both collective and individual). Thus, in the declaration quoted above on the Relations and Cooperation among States in accordance with the Charter of the United Nations, the reference to the prohibition of force is
followed by a paragraph stating that: "nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful".

This resolution demonstrates that the States represented in the General Assembly regard the exception to the prohibition of force constituted by the right of individual or collective self-defence as already a matter of customary international law.

194. With regard to the characteristics governing the right of self-defence, since the Parties consider the existence of this right to be established as a matter of customary international law, they have concentrated on the conditions governing its use. In view of the circumstances in which the dispute has arisen, reliance is placed by the Parties only on the right of self-defence in the case of an armed attack which has already occurred, and the issue of the lawfulness of a response to the imminent threat of armed attack has not been raised. Accordingly, the Court expresses no view on that issue. The Parties also agree in holding that whether the response to the attack is lawful depends on observance of the criteria of the necessity and the proportionality of the measures taken in self-defence. Since the existence of the right of collective self-defence is established in customary international law, the Court must define the specific conditions which may have to be met for its exercise, in addition to the conditions of necessity and proportionality to which the Parties have referred.

195. In the case of individual self-defence, the exercise of this right is subject to the State concerned having been the victim of an armed attack. Reliance on collective self-defence of course does not remove the need for this. There appears now to be general agreement on the nature of the acts which can be treated as constituting armed attacks. In particular, it may be considered to be agreed that an armed attack must be understood as including not merely action by regular armed forces across an international border, but also "the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to" (inter alia) an actual armed attack conducted by regular forces, "or its substantial involvement therein". This description, contained in Article 3, paragraph (g), of the Definition of Aggression annexed to General Assembly resolution 3314 (XXIX), may be taken to reflect customary international law. The Court sees no reason to deny that, in customary law, the prohibition of armed attacks may apply to the sending by a State of armed bands to the territory of another State, if such an operation, because of its scale and effects, would have been classified as an armed attack rather than as a mere frontier incident had it been carried out by regular armed forces. But the Court does not believe that the concept of "armed attack" includes not only acts by armed bands where such acts occur on a significant scale but also assistance to rebels in the form of the provision of weapons or logistical or other support. Such assistance may be regarded as a threat or use of force, or amount to intervention in the internal or external affairs of other States. It is also clear that it is the State which is the victim of an armed attack which must form and declare the view that it has been so attacked. There is no rule in customary international law permitting another State to exercise the right of collective self-defence on the basis of its own assessment of the situation. Where collective self-defence is invoked, it is to be expected that the State for whose benefit this right is used will have declared itself to be the victim of an armed attack.
196. The question remains whether the lawfulness of the use of collective self-defence by the third State for the benefit of the attacked State also depends on a request addressed by that State to the third State. A provision of the Charter of the Organization of American States is here in point: and while the Court has no jurisdiction to consider that instrument as applicable to the dispute, it may examine it to ascertain what light it throws on the content of customary international law. The Court notes that the Organization of American States Charter includes, in Article 3 (f), the principle that: “an act of aggression against one American State is an act of aggression against all the other American States” and a provision in Article 27 that: “Every act of aggression by a State against the territorial integrity or the inviolability of the territory or against the sovereignty or political independence of an American State shall be considered an act of aggression against the other American States.”

197. Furthermore, by Article 3, paragraph 1, of the Inter-American Treaty of Reciprocal Assistance, signed at Rio de Janeiro on 2 September 1947, the High-Contracting Parties “agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defence recognized by Article 51 of the Charter of the United Nations”; and under paragraph 2 of that Article, “On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfilment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity.” (The 1947 Rio Treaty was modified by the 1975 Protocol of San José, Costa Rica, but that Protocol is not yet in force.)

198. The Court observes that the Treaty of Rio de Janeiro provides that measures of collective self-defence taken by each State are decided “on the request of the State or States directly attacked”. It is significant that this requirement of a request on the part of the attacked State appears in the treaty particularly devoted to these matters of mutual assistance: it is not found in the more general text (the Charter of the Organization of American States), but Article 28 of that Charter provides for the application of the measures and procedures laid down in “the special treaties on the subject.”

199. At all events, the Court finds that in customary international law, whether of a general kind or that particular to the inter-American legal system, there is no rule permitting the exercise of collective self-defence in the absence of a request by the State which regards itself as the victim of an armed attack. The Court concludes that the requirement of a request by the State which is the victim of the alleged attack is additional to the requirement that such a State should have declared itself to have been attacked.

200. At this point, the Court may consider whether in customary international law there is any requirement corresponding to that found in the treaty law of the United Nations Charter, by which the State claiming to use the right of individual or collective self-defence must report to an international body, empowered to determine the conformity with international law of the measures which the State is seeking to justify on that basis. Thus Article 51 of the United Nations Charter requires that measures taken by States in exercise of this right of self-defence must be
“immediately reported” to the Security Council. As the Court has observed above (paragraphs 178 and 188), a principle enshrined in a treaty, if reflected in customary international law, may well be so unencumbered with the conditions and modalities surrounding it in the treaty. Whatever influence the Charter may have had on customary international law in these matters, it is clear that in customary international law it is not a condition of the lawfulness of the use of force in self-defence that a procedure so closely dependent on the content of a treaty commitment and of the institutions established by it, should have been followed. On the other hand, if self-defence is advanced as a justification for measures which would otherwise be in breach both of the principle of customary international law and of that contained in the Charter, it is to be expected that the conditions of the Charter should be respected. Thus for the purpose of enquiry into the customary law position, the absence of a report may be one of the factors indicating whether the State in question was itself convinced that it was acting in self-defence.

201. To justify certain activities involving the use of force, the United States has relied solely on the exercise of its right of collective self-defence. However, the Court, having regard particularly to the non-participation of the United States in the merits phase, considers that it should enquire whether customary international law, applicable to the present dispute, may contain other rules which may exclude the unlawfulness of such activities. It does not, however, see any need to reopen the question of the conditions governing the exercise of the right of individual self-defence, which have already been examined in connection with collective self-defence. On the other hand, the Court must enquire whether there is any justification for the activities in question, to be found not in the right of collective self-defence against an armed attack, but in the right to take counter-measures in response to conduct of Nicaragua which is not alleged to constitute an armed attack. It will examine this point in connection with an analysis of the principle of non-intervention in customary international law.

202. The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference; though examples of trespass against this principle are not infrequent, the Court considers that it is part and parcel of customary international law. As the Court has observed: “Between independent States, respect for territorial sovereignty is an essential foundation of international relations” (I.C.J. Reports 1949, p. 35), and international law requires political integrity also to be respected. Expressions of an opinio juris regarding the existence of the principle of non-intervention in customary international law are numerous and not difficult to find. Of course, statements whereby States avow their recognition of the principles of international law set forth in the United Nations Charter cannot strictly be interpreted as applying to the principle of non-intervention by States in the internal and external affairs of other States, since these principles not, as such, spelt out in the charter. But it was never intended that the Charter should embody written confirmation of every essential principle of international law in force. The existence in the opinio juris of States of the principle of non-intervention is backed by established and substantial practice. It has moreover been presented as a corollary of the principle of the sovereign equality of States. A particular instance of this is General Assembly resolution 2625 (XXV), the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States. In the Corfu Channel case, when a State claimed a right of intervention in order to secure evidence in the territory of another State for submission to an international tribunal (I.C.J. Reports 1949, p. 34), the Court observed that: “the alleged right of intervention as the manifestation of a policy of force, such as has, in the past, given rise to most
serious abuses and such as cannot, whatever be the present defects in international organization, find a place in international law. Intervention is perhaps still less admissible in the particular form it would take here; for, from the nature of things, it would be reserved for the most powerful States, and might easily lead to perverting the administration of international justice itself.” (I.C.J. Reports 1949, p. 35.)

203. The principle has since been reflected in numerous declarations adopted by international organizations and conferences in which the United States and Nicaragua have participated, e.g., General Assembly resolution 2131 (XX), the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty. It is true that the United States, while it voted in favour of General Assembly resolution 2131 (XX), also declared at the time of its adoption in the First Committee that it considered the declaration in that resolution to be “only a statement of political intention and not a formulation of law” (Official Records of the General Assembly, Twentieth Session, First Committee, A/C. 1 /SR. 1423, p. 436). However, the essentials of resolution 2131 (XX) are repeated in the Declaration approved by resolution 2625 (XXV), which set out principles which the General Assembly declared to be “basic principles” of international law, and on the adoption of which no analogous statement was made by the United States representative.

204. As regards inter-American relations, attention may be drawn to, for example, the United States reservation to the Montevideo Convention on Rights and Duties of States (26 December 1933), declaring the opposition of the United States Government to “interference with the freedom, the sovereignty or other internal affairs, or processes of the Governments of other nations”; or the ratification by the United States of the Additional Protocol relative to Non-Intervention (23 December 1936). Among more recent texts, mention may be made of resolutions AG/RES.78 and AG/RES. 128 of the General Assembly of the Organization of American States. In a different context, the United States expressly accepted the principles set forth in the declaration, to which reference has already been made, appearing in the Final Act of the Conference on Security and Co-operation in Europe (Helsinki, 1 August 1975), including an elaborate statement of the principle of non-intervention; while these principles were presented as applying to the mutual relations among the participating States, it can be inferred that the text testifies to the existence, and the acceptance by the United States, of a customary principle which has universal application.

205. Notwithstanding the multiplicity of declarations by States accepting the principle of non-intervention, there remain two questions: first, what is the exact content of the principle so accepted, and secondly, is the practice sufficiently in conformity with it for this to be a rule of customary international law? As regards the first problem - that of the content of the principle of non-intervention - the Court will define only those aspects of the principle which appear to be relevant to the resolution of the dispute. In this respect it notes that, in view of the generally accepted formulations, the principle forbids all States or groups of States to intervene directly or indirectly in internal or external affairs of other States. A prohibited intervention must accordingly be one bearing on matters in which each State is permitted, by the principle of State sovereignty, to decide freely. One of these is the choice of a political, economic, social and cultural system, and the formulation of foreign policy. Intervention is wrongful when it uses methods of coercion in regard to such choices, which must remain free ones. The element of coercion, which defines, and
indeed forms the very essence of, prohibited intervention, is particularly obvious in the case of an
intervention which uses force, either in the direct form of military action, or in the indirect form of
support for subversive or terrorist armed activities within another State. As noted above
(paragraph 191). General Assembly resolution 2625 (XXV) equates assistance of this kind with the
use of force by the assisting State when the acts committed in another State "involve a threat or
use of force". These forms of action are therefore wrongful in the light of both the principle of
non-use of force, and that of non-intervention. In view of the nature of Nicaragua's complaints
against the United States, and those expressed by the United States in regard to Nicaragua's
conduct towards El Salvador, it is primarily acts of intervention of this kind with which the Court is
concerned in the present case.

206. However, before reaching a conclusion on the nature of prohibited intervention, the Court
must be satisfied that State practice justifies it. There have been in recent years a number of
instances of foreign intervention for the benefit of forces opposed to the government of another
State. The Court is not here concerned with the process of decolonization; this question is not in
issue in the present case. It has to consider whether there might be indications of a practice
illustrative of belief in a kind of general right for States to intervene, directly or indirectly, with or
without armed force, in support of an internal opposition in another State, whose cause appeared
particularly worthy by reason of the political and moral values with which it was identified. For
such a general right to come into existence would involve a fundamental modification of the
customary law principle of non-intervention.

207. In considering the instances of the conduct above described, the Court has to emphasize that,
as was observed in the North Sea Continental Shelf cases, for a new customary rule to be formed,
not only must the acts concerned "amount to a settled practice", but they must be accompanied by
the opinio juris sive necessitatis. Either the States taking such action or other States in a position
to react to it, must have behaved so that their conduct is "evidence of a belief that this practice is
rendered obligatory by the existence of a rule of law requiring it. The need for such a belief, i.e.,
the existence of a subjective element, is implicit in the very notion of the opinio juris sive
necessitatis." (I.C.J. Reports 1969, p. 44, para. 77.)

The Court has no jurisdiction to rule upon the conformity with international law of any conduct of
States not parties to the present dispute, or of conduct of the Parties unconnected with the
dispute; nor has it authority to ascribe to States legal views which they do not themselves
advance. The significance for the Court of cases of State conduct prima facie inconsistent with the
principle of non-intervention lies in the nature of the ground offered as justification. Reliance by a
State on a novel right or an unprecedented exception to the principle might, if shared in principle
by other States, tend towards a modification of customary international law. In fact, however the
Court finds that States have not justified their conduct by reference to a new right of intervention
or a new exception to the principle of its prohibition. The United States authorities have on some
occasions clearly stated their grounds for intervening in the affairs of a foreign State for reasons
connected with, for example, the domestic policies of that country, its ideology, the level of its
armaments, or the direction of its foreign policy. But these were statements of international
policy, and not an assertion of rules of existing international law.

208. In particular, as regards the conduct towards Nicaragua which is the subject of the present
case, the United States has not claimed that its intervention, which it justified in this way on the
political level, was also justified on the legal level, alleging the exercise of a new right of intervention regarded by the United States as existing in such circumstances. As mentioned above, the United States has, on the legal plane, justified its intervention expressly and solely by reference to the "classic" rules involved, namely, collective self-defence against an armed attack. Nicaragua, for its part, has often expressed its solidarity and sympathy with the opposition in various States, especially in El Salvador. But Nicaragua too has not argued that this was a legal basis for an intervention, let alone an intervention involving the use of force.

209. The Court therefore finds that no such general right of intervention, in support of an opposition within another State, exists in contemporary international law. The Court concludes that acts constituting a breach of the customary principle of non-intervention will also, if they directly or indirectly involve the use of force, constitute a breach of the principle of non-use of force in international relations.

210. When dealing with the rule of the prohibition of the use of force, the Court considered the exception to it constituted by the exercise of the right of collective self-defence in the event of armed attack. Similarly, it must now consider the following question: if one State acts towards another State in breach of the principle of non-intervention, may a third State lawfully take such action by way of counter-measures against the first State as would otherwise constitute an intervention in its internal affairs.

A right to act in this way in the case of intervention would be analogous to the right of collective self-defence in the case of an armed attack, but both the act which gives rise to the reaction, and that reaction itself, would in principle be less grave. Since the Court is here dealing with a dispute in which a wrongful use of force is alleged, it has primarily to consider whether a State has a right to respond to intervention with intervention going so far as to justify a use of force in reaction to measures which do not constitute an armed attack but may nevertheless involve a use of force. The question is itself undeniably relevant from the theoretical viewpoint.

However, since the Court is bound to confine its decision to those points of law which are essential to the settlement of the dispute before it, it is not for the Court here to determine what direct reactions are lawfully open to a State which considers itself the victim of another State's acts of intervention, possibly involving the use of force. Hence it has not to determine whether, in the event of Nicaragua's having committed any such acts against El Salvador, the latter was lawfully entitled to take any particular counter-measure. It might however be suggested that, in such a situation, the United States might have been permitted to intervene in Nicaragua in the exercise of some right analogous to the right of collective self-defence, one which might be resorted to in a case of intervention short of armed attack.

211. The Court has recalled above (paragraphs 193 to 195) that for one State to use force against another, on the ground that that State has committed a wrongful act of force against a third State, is regarded as lawful, by way of exception, only when the wrongful act provoking the response was an armed attack. Thus the lawfulness of the use of force by a State in response to a wrongful act of which it has not itself been the victim is not admitted when this wrongful act is not an armed attack. In the view of the Court, under international law in force today - whether customary international law or that of the United Nations system - States do not have a right of "collective" armed response to acts which do not constitute an "armed attack". Furthermore, the Court has to recall that the United States itself is relying on the "inherent right of self-defence" (paragraph 126
above), but apparently does not claim that any such right exists as would, in respect of intervention, operate in the same way as the right of collective self-defence in respect of an armed attack. In the discharge of its duty under Article 53 of the Statute, the Court has nevertheless had to consider whether such a right might exist; but in doing so it may take note of the absence of any such claim by the United States as an indication of opinio juris.
Part 4  National Legislation
CHAPTER 1 - Fundamental rights

Article 1
All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.

Article 2
2. The admission and expulsion of aliens shall be regulated by Act of Parliament.
3. Extradition may take place only pursuant to a treaty. Further regulations concerning extradition shall be laid down by Act of Parliament.
4. Everyone shall have the right to leave the country, except in the cases laid down by Act of Parliament.

Article 3
All Dutch nationals shall be equally eligible for appointment to public service.

Article 4
Every Dutch national shall have an equal right to elect the members of the general representative bodies and to stand for election as a member of those bodies, subject to the limitations and exceptions prescribed by Act of Parliament.

Article 5
Everyone shall have the right to submit petitions in writing to the competent authorities.

Article 6
1. Everyone shall have the right to profess freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law.
2. Rules concerning the exercise of this right other than in buildings and enclosed places may be laid down by Act of Parliament for the protection of health, in the interest of traffic and to combat or prevent disorders.

Article 7
1. No one shall require prior permission to publish thoughts or opinions through the press, without prejudice to the responsibility of every person under the law.
2. Rules concerning radio and television shall be laid down by Act of Parliament. There shall be no prior supervision of the content of a radio or television broadcast.
3. No one shall be required to submit thoughts or opinions for prior approval in order to disseminate them by means other than those mentioned in the preceding paragraphs, without prejudice to the
responsibility of every person under the law. The holding of performances open to persons younger than sixteen years of age may be regulated by Act of Parliament in order to protect good morals.

4. The preceding paragraphs do not apply to commercial advertising.

Article 8
The right of association shall be recognised. This right may be restricted by Act of Parliament in the interest of public order.

Article 9
1. The right of assembly and demonstration shall be recognised, without prejudice to the responsibility of everyone under the law.
2. Rules to protect health, in the interest of traffic and to combat or prevent disorders may be laid down by Act of Parliament.

Article 10
1. Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by or pursuant to Act of Parliament.
2. Rules to protect privacy shall be laid down by Act of Parliament in connection with the recording and dissemination of personal data.
3. Rules concerning the rights of persons to be informed of data recorded concerning them and of the use that is made thereof, and to have such data corrected shall be laid down by Act of Parliament.

Article 11
Everyone shall have the right to inviolability of his person, without prejudice to restrictions laid down by or pursuant to Act of Parliament.

Article 12
1. Entry into a home against the will of the occupant shall be permitted only in the cases laid down by or pursuant to Act of Parliament, by those designated for the purpose by or pursuant to Act of Parliament.
2. Prior identification and notice of purpose shall be required in order to enter a home under the preceding paragraph, subject to the exceptions prescribed by Act of Parliament.
3. A written report of the entry shall be issued to the occupant as soon as possible. If the entry was made in the interests of state security or criminal proceedings, the issue of the report may be postponed under rules to be laid down by Act of Parliament. A report need not be issued in cases, to be determined by Act of Parliament, where such issue would never be in the interests of state security.

Article 13
1. The privacy of correspondence shall not be violated except in the cases laid down by Act of Parliament, by order of the courts.
2. The privacy of the telephone and telegraph shall not be violated except, in the cases laid down by Act of Parliament, by or with the authorisation of those designated for the purpose by Act of Parliament.

**Article 14**

1. Expropriation may take place only in the public interest and on prior assurance of full compensation, in accordance with regulations laid down by or pursuant to Act of Parliament.
2. Prior assurance of full compensation shall not be required if in an emergency immediate expropriation is called for.
3. In the cases laid down by or pursuant to Act of Parliament there shall be a right to full or partial compensation if in the public interest the competent authority destroys property or renders it unusable or restricts the exercise of the owner's rights to it.

**Article 15**

1. Other than in the cases laid down by or pursuant to Act of Parliament, no one may be deprived of his liberty.
2. Anyone who has been deprived of his liberty other than by order of a court may request a court to order his release. In such a case he shall be heard by the court within a period to be laid down by Act of Parliament. The court shall order his immediate release if it considers the deprivation of liberty to be unlawful.
3. The trial of a person who has been deprived of his liberty pending trial shall take place within a reasonable period.
4. A person who has been lawfully deprived of his liberty may be restricted in the exercise of fundamental rights in so far as the exercise of such rights is not compatible with the deprivation of liberty.

**Article 16**

No offence shall be punishable unless it was an offence under the law at the time it was committed.

**Article 17**

No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law.

**Article 18**

1. Everyone may be legally represented in legal and administrative proceedings.
2. Rules concerning the granting of legal aid to persons of limited means shall be laid down by Act of Parliament.

**Article 19**

1. It shall be the concern of the authorities to promote the provision of sufficient employment.
2. Rules concerning the legal status and protection of working persons and concerning co-determination shall be laid down by Act of Parliament.
3. The right of every Dutch national to a free choice of work shall be recognised, without prejudice to the restrictions laid down by or pursuant to Act of Parliament.
Article 20
1. It shall be the concern of the authorities to secure the means of subsistence of the population and to achieve the distribution of wealth.
2. Rules concerning entitlement to social security shall be laid down by Act of Parliament.
3. Dutch nationals resident in the Netherlands who are unable to provide for themselves shall have a right, to be regulated by Act of Parliament, to aid from the authorities.

Article 21
It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment.

Article 22
1. The authorities shall take steps to promote the health of the population.
2. It shall be the concern of the authorities to provide sufficient living accommodation.
3. The authorities shall promote social and cultural development and leisure activities.

Article 23
1. Education shall be the constant concern of the Government.
2. All persons shall be free to provide education, without prejudice to the authorities’ right of supervision and, with regard to forms of education designated by law, their right to examine the competence and moral integrity of teachers, to be regulated by Act of Parliament.
3. Education provided by public authorities shall be regulated by Act of Parliament, paying due respect to everyone’s religion or belief.
4. The authorities shall ensure that primary education is provided in a sufficient number of public-authority schools in every municipality. Deviations from this provision may be permitted under rules to be established by Act of Parliament on condition that there is opportunity to receive the said form of education, whether in a public-authority school or otherwise.
5. The standards required of schools financed either in part or in full from public funds shall be regulated by Act of Parliament, with due regard, in the case of private schools, to the freedom to provide education according to religious or other belief.
6. The requirements for primary education shall be such that the standards both of private schools fully financed from public funds and of public-authority schools are fully guaranteed. The relevant provisions shall respect in particular the freedom of private schools to choose their teaching aids and to appoint teachers as they see fit.
7. Private primary schools that satisfy the conditions laid down by Act of Parliament shall be financed from public funds according to the same standards as public-authority schools. The conditions under which private secondary education and pre-university education shall receive contributions from public funds shall be laid down by Act of Parliament.
8. The Government shall submit annual reports on the state of education to the States General.
4.2 CONSTITUTION OF THE SYRIAN ARAB REPUBLIC (2012) – SELECTED ARTICLES

Preamble

Arab civilization, which is part of human heritage, has faced through its long history great challenges aimed at breaking its will and subjecting it to colonial domination, but it has always rose through its own creative abilities to exercise its role in building human civilization.

The Syrian Arab Republic is proud of its Arab identity and the fact that its people are an integral part of the Arab nation. The Syrian Arab Republic embodies this belonging in its national and pan-Arab project and the work to support Arab cooperation in order to promote integration and achieve the unity of the Arab nation.

The Syrian Arab Republic considers international peace and security a key objective and a strategic choice, and it works on achieving both of them under the International Law and the values of right and justice.

The Syrian Arab role has increased on the regional and international levels over the past decades, which has led to achieving human and national aspirations and achievements in all fields and domains. Syria has occupied an important political position as it is the beating heart of Arabism, the forefront of confrontation with the Zionist enemy and the bedrock of resistance against colonial hegemony on the Arab world and its capabilities and wealth. The long struggle and sacrifices of our people for the sake of its independence, progress and national unity has paved the way for building the strong state and promoting cohesion between the people and their Syrian Arab army which is the main guarantor and protector of the homeland’s sovereignty, security, stability and territorial integrity; thus, forming the solid foundation of the people’s struggle for liberating all occupied territories.

The Syrian society with all its components and constituents and through its popular, political and civil institutions and organizations, has managed to accomplish achievements that demonstrated the depth of civilizational accumulation represented by the Syrian society, its unwavering will and its ability to keep pace with the changes and to create the appropriate environment to maintain its human role as a historical and effective power in the march of human civilization.

Since the beginning of the 21st century, Syria, both as people and institutions had faced the challenge of development and modernization during tough regional and international circumstances which targeted its national sovereignty. This has formed the incentive to accomplish this Constitution as the basis for strengthening the rule of law.

The completion of this Constitution is the culmination of the people’s struggle on the road to freedom and democracy. It is a real embodiment of achievements, a response to shifts and changes, an evidence of organizing the march of the state towards the future, a regulator of the movement of its institutions and a source of legislation. All of this is attainable through a system of fundamental principles that enshrines independence, sovereignty and the rule
of the people based on election, political and party pluralism and the protection of national unity, cultural diversity, public freedoms, human rights, social justice, equality, equal opportunities, citizenship and the rule of law, where the society and the citizen are the objective and purpose for which every national effort is dedicated. Preserving the dignity of the society and the citizen is an indicator of the civilization of the country and the prestige of the state.

Title I: Basic Principles

Chapter I: Political Principles

Article 1
The Syrian Arab Republic is a democratic state with full sovereignty, indivisible, and may not waive any part of its territory, and is part of the Arab homeland; The people of Syria are part of the Arab nation.

Article 2
The system of governance in the state shall be a republican system; Sovereignty is an attribute of the people; and no individual or group may claim sovereignty. Sovereignty shall be based on the principle of the rule of the people by the people and for the people; The People shall exercise their sovereignty within the aspects and limits prescribed in the Constitution.

Article 3
The religion of the President of the Republic is Islam; Islamic jurisprudence shall be a major source of legislation; The State shall respect all religions, and ensure the freedom to perform all the rituals that do not prejudice public order; The personal status of religious communities shall be protected and respected.

Article 4
The official language of the state is Arabic.

Article 8
1. The political system of the state shall be based on the principle of political pluralism, and exercising power democratically through the ballot box;
2. Licensed political parties and constituencies shall contribute to the national political life, and shall respect the principles of national sovereignty and democracy;
3. The law shall regulate the provisions and procedures related to the formation of political parties;
4. Carrying out any political activity or forming any political parties or groupings on the basis of religious, sectarian, tribal, regional, class-based, professional, or on discrimination based on gender, origin, race or color may not be undertaken;
5. Public office or public money may not be exploited for a political, electoral or party interest.

Article 9
As a national heritage that promotes national unity in the framework of territorial integrity of the Syrian Arab Republic, the Constitution shall guarantee the protection of cultural diversity of the Syrian society with all its components and the multiplicity of its tributaries.
Article 11
The army and the armed forces shall be a national institution responsible for defending the security of the homeland and its territorial integrity. This institution shall be in the service of the people’s interests and the protection of its objectives and national security.

Article 12
Democratically elected councils at the national or local level shall be institutions through which citizens exercise their role in sovereignty, state-building and leading society.

Article 14
Natural resources, facilities, institutions and public utilities shall be publicly owned, and the state shall invest and oversee their management for the benefit of all people, and the citizens’ duty is to protect them.

Article 15
Collective and individual private ownership shall be protected in accordance with the following basis:
1. General confiscation of funds shall be prohibited;
2. Private ownership shall not be removed except in the public interest by a decree and against fair compensation according to the law;
3. Confiscation of private property shall not be imposed without a final court ruling;
4. Private property may be confiscated for necessities of war and disasters by a law and against fair compensation;
5. Compensation shall be equivalent to the real value of the property.

Chapter III: Social Principles

Article 19
Society in the Syrian Arab Republic shall be based on the basis of solidarity, symbiosis and respect for the principles of social justice, freedom, equality and maintenance of human dignity of every individual.

Title II: Rights, Freedoms and the Rule of Law

Chapter I: Rights and Freedoms

Article 33
1. Freedom shall be a sacred right and the state shall guarantee the personal freedom of citizens and preserve their dignity and security;
2. Citizenship shall be a fundamental principle which involves rights and duties enjoyed by every citizen and exercised according to law;
3. Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed;
4. The state shall guarantee the principle of equal opportunities among citizens.
Article 34
Every citizen shall have the right to participate in the political, economic, social and cultural life and the law shall regulate this.

Article 35
Every citizen shall be subjected to the duty of respecting the Constitution and laws.

Article 36
1. The inviolability of private life shall be protected by the law;
2. Houses shall not be entered or inspected except by an order of the competent judicial authority in the cases prescribed by law.

Article 37
Confidentiality of postal correspondence, telecommunications and radio and other communication shall be guaranteed in accordance with the law.

Article 38
1. No citizen may be deported from the country, or prevented from returning to it;
2. No citizen may be extradited to any foreign entity;
3. Every citizen shall have the right to move in or leave the territory of the state, unless prevented by a decision from the competent court or the public prosecution office or in accordance with the laws of public health and safety.

Article 39
Political refugees shall not be extradited because of their political beliefs or for their defense of freedom.

Article 42
1. Freedom of belief shall be protected in accordance with the law;
2. Every citizen shall have the right to freely and openly express his views whether in writing or orally or by all other means of expression.

Article 43
The state shall guarantee freedom of the press, printing and publishing, the media and its independence in accordance with the law.

Article 44
Citizens shall have the right to assemble, peacefully demonstrate and to strike from work within the framework of the Constitution principles, and the law shall regulate the exercise of these rights.

Article 45
Freedom of forming associations and unions shall be based on a national basis, for lawful purposes and by peaceful means which are guaranteed in accordance with the terms and conditions prescribed by law.
Article 46
1. Compulsory military service shall be a sacred duty and is regulated by a law;
2. Defending the territorial integrity of the homeland and maintaining the secrets of state shall be a duty of every citizen.

Article 47
The state shall guarantee the protection of national unity, and the citizens’ duty is to maintain it.

Article 48
The law shall regulate the Syrian Arab citizenship.

Article 49
Election and referendum are the right and duty of the citizens and the law shall regulate their exercise.

Chapter II: The Rule of Law

Article 50
The rule of law shall be the basis of governance in the state.

Article 51
1. Punishment shall be personal; no crime and no punishment except by a law;
2. Every defendant shall be presumed innocent until convicted by a final court ruling in a fair trial;
3. The right to conduct litigation and remedies, review, and the defense before the judiciary shall be protected by the law, and the state shall guarantee legal aid to those who are incapable to do so, in accordance with the law;
4. Any provision of the law shall prohibit the immunity of any act or administrative decision from judicial review.

Article 52
Provisions of the laws shall only apply to the date of its commencement and shall not have a retroactive effect, and it may apply otherwise in matters other than criminal.

Article 53
1. No one may be investigated or arrested, except under an order or decision issued by the competent judicial authority, or if he was arrested in the case of being caught in the act, or with intent to bring him to the judicial authorities on charges of committing a felony or misdemeanor;
2. No one may be tortured or treated in a humiliating manner, and the law shall define the punishment for those who do so;
3. Any person who is arrested must be informed of the reasons for his arrest and his rights, and may not be incarcerated in front of the administrative authority except by an order of the competent judicial authority;
4. Every person sentenced by a final ruling, carried out his sentence and the ruling proved wrong shall have the right to ask the state for compensation for the damage he suffered.
Article 54
Any assault on individual freedom, on the inviolability of private life or any other rights and public freedoms guaranteed by the Constitution shall be considered a punishable crime by the law.

Title III: State Authorities
Chapter I: Legislative Authority

Article 55
The legislative authority of the state shall be assumed by the People’s Assembly in accordance with the manner prescribed in the Constitution.

Chapter Two: The Executive Authority
(1) The President of the Republic

Article 96
The President of the Republic shall insure respect for the Constitution, the regular running of public authorities, protection of national unity and survival of the state.

Article 102
The President of the Republic declares war, calls for general mobilization and concludes peace agreements after obtaining the approval of the People’s Assembly.

Article 103
The President of the Republic declares the state of emergency and repeals it in a decree taken at the Council of Ministers chaired by him with a two thirds majority, provided that the decree is presented to the People’s Assembly in its first session. The law sets out the relevant provisions.

Article 106
The President of the Republic appoints civilian and military employees and ends their services in accordance with the law.

Article 107
The President of the Republic concludes international treaties and agreements and revokes them in accordance with provisions of the Constitution and rules of international law.

Article 108
The President of the Republic grants special amnesty and might reinstate individuals.

Article 113
1. The President of the Republic assumes the authority of legislation when the People’s Assembly is not in session, or during sessions if absolute necessity requires this, or in the period during which the Assembly is dissolved.
2. These legislations shall be referred to the Assembly within 15 days of its first session;
3. The Assembly has the right to revoke such legislation or amend them in a law with a majority of two thirds of the members registered for attending the session, provided it is no less than the
absolute majority of all its members. Such amendment or revocation shall not have a retroactive effect. If they are not amended or revoked, they shall be considered approved.

**Article 114**
If a grave danger and a situation threatening national unity, the safety and integrity of the territories of the homeland occurs, or prevents state institutions from shouldering their constitutional responsibilities, the President of the Republic might take the quick measures necessitated by these circumstances to face that danger.

Chapter III: The Judicial Authority
(1) The Courts and Attorney General’s Office

**Article 132**
The judicial authority is independent; and the President of the Republic insures this independence assisted by the Supreme Judicial Council.

**Article 133**
1. The Supreme Judicial Council is headed by the President of the Republic; and the law states the way it shall be formed, its mandate and its rules of procedures;
2. The Supreme Judicial Council insures the provision of the guarantees necessary for the independence of the judiciary.

**Article 134**
1. Judges are independent and there is no authority over them except that of the law;
2. The judges’ honor, conscience and impartiality constitute the guarantees for people’s rights and freedoms.

**Title Four: The Supreme Constitutional Court**

**Article 140**
The Supreme Constitutional Court is an independent judicial body based in Damascus.

**Article 141**
The Supreme Constitutional Court consists of at least seven members, one of them shall be named president in a decree passed by the President of the Republic.

**Title Five: Amending the Constitution**

**Article 150**
1. The President of the Republic, and so does a third of the members of the People’s Assembly, might propose amending the Constitution;
2. The proposal for amending the Constitution shall state the text proposed to be amended and the reasons for making the amendment;
3. As soon as the People’s Assembly receives the proposal for amendment, it sets up a special committee to examine it.
4. The Assembly discusses the proposal for amendment. If it approved it with a three quarters majority, the amendment shall be considered final provided that it is also approved by the President of the Republic.
Title Six: General and Transitional Provisions

Article 151
The Preamble of the Constitution is considered part and parcel of the Constitution

Article 152
No person carrying another nationality, in addition to the nationality of the Syrian Arab Republic, might occupy the office of President of the Republic, Vice-president, Prime Minister, deputy prime ministers, ministers, members of the People’s Assembly or members of the Supreme Constitutional Court.
4.3 Dutch International Crimes Act, 19 June 2003

Containing rules concerning serious violations of international humanitarian law

Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.
Greetings to all who shall see or hear this! Be it known:

Whereas We have considered that it is necessary, partly in view of the Statute of the International Criminal Court, to adopt rules concerning serious violations of international humanitarian law;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

§ 1. General provisions

Section 1
1. For the purposes of this Act:
(a) 'the Geneva Conventions' mean:
(i) the Convention (I) concluded in Geneva on 12 August 1949 for the amelioration of the condition of the wounded and sick in armed forces in the field (Netherlands Treaty Series 1951, 72);
(ii) the Convention (II) concluded in Geneva on 12 August 1949 for the amelioration of the condition of wounded, sick and shipwrecked members of the armed forces at sea (Netherlands Treaty Series 1951, 73);
(iii) the Convention (III) concluded in Geneva on 12 August 1949 relative to the treatment of prisoners of war (Netherlands Treaty Series 1951, 74); and
(iv) the Convention (IV) concluded in Geneva on 12 August 1949 relative to the protection of civilian persons in time of war (Netherlands Treaty Series 1951, 75);
(b) 'superior' means:
(i) a military commander, or a person effectively acting as such, who has effective command or authority over or exercises effective control over one or more subordinates; (ii) a person who exercises effective authority, in a civilian capacity, over or exercises effective control over one or more subordinates.
(c) 'deportation or forcible transfer of the population' means the forced removal of persons by expulsion or other coercive acts from the area where they are lawfully present without the existence of any grounds that would justify this under international law;
(d) 'torture' as referred to in section 4, subsection 1 (f), section 5, subsection 1 (b) and section 6, subsection 1 (a) means the intentional infliction of severe physical or mental pain or suffering upon a person who is in the custody or under the control of the accused, subject to the proviso that the pain or suffering does not result solely from, and is not inherent in or incidental to, lawful sanctions;
(e) torture as referred to in section 8 means the torture as defined in (d) – by or on behalf of a government authority – of a person with a view to extracting information or a confession from him or from a third person, punishing him for an act he or a third person has committed or is
suspected of committing, or intimidating him or a third person, or coercing him to do or permit something, or for any reason based on discrimination on any ground whatever;

(f) 'forced pregnancy' means the unlawful imprisonment of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other serious violations of international law;

(g) 'the crime of apartheid' means inhumane acts of a character similar to the acts referred to in section 4, subsection 1, committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

2. The term 'public servant' shall have the same meaning in this Act as in the Criminal Code, subject to the proviso that for the purposes of Dutch criminal law the term includes a person who holds a public office in the service of a foreign State.

3. The terms 'conspiracy' and 'serious bodily injury' shall have the same meaning in this Act as in the Criminal Code.

Section 2

1. Without prejudice to the relevant provisions of the Criminal Code and the Code of Military Law, Dutch criminal law shall apply to:

(a) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the suspect is present in the Netherlands;

(b) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the crime is committed against a Dutch national;

(c) a Dutch national who commits any of the crimes defined in this Act outside the Netherlands.

2. The expression 'any of the crimes defined in this Act' as referred to in subsection 1 shall be equated with the crimes defined in Articles 131-134, 140, 189, 416-417bis and 420bis-420quater of the Criminal Code, if the offence or crime referred to in such articles is a crime defined in this Act.

3. Prosecution on the basis of subsection 1 (c) may also take place if the suspect becomes a Dutch national only after committing the crime.

§ 2. Crimes

Section 3

1. Anyone who: with intent to wholly or partly destroy, , any national, ethnic or religious group or a group belonging to a particular race, as such:

(a) kills members of the group;

(b) causes serious bodily or mental harm to members of the group;

(c) deliberately inflicts upon the group conditions of life calculated to bring about the physical destruction of the group, in whole or in part;

(d) imposes measures intended to prevent births within the group; or

(e) forcibly transfers children of the group to another group, shall be guilty of genocide and liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine.

2. Conspiracy and incitement to commit genocide which occur in public, either orally or in writing or by means of images, shall carry the same penalties as prescribed for attempted genocide.
Section 4
1. Anyone who commits one of the following acts shall be guilty of a crime against humanity and liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine, if such acts are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) intentional killing; (b) extermination; (c) enslavement; (d) deportation or forcible transfer of population; (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) torture (as defined in section 1(1) (d)); (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this subsection or any other crime as referred to in this Act; (i) enforced disappearance of persons; (j) the crime of apartheid; (k) other inhumane acts of a similar character which intentionally cause great suffering or serious injury to body or to mental or physical health.

2. For the purposes of this section:
(a) ‘attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts referred to in subsection 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack;
(b) ‘enslavement’ means the exercise of any or all of the powers attaching to the right of ownership over a person, including the exercise of such power in the course of trafficking in persons, in particular women and children;
(c) ‘persecution’ means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
(d) ‘enforced disappearance of persons’ means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of a State or a political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. For the purpose of this section, ‘extermination’ includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.

Section 5
1. Anyone who commits, in the case of an international armed conflict, one of the grave breaches of the Geneva Conventions, namely the following acts if committed against persons protected by the said Conventions:
(a) intentional killing;
(b) torture (as defined in section 1 (1)(d)) or inhuman treatment, including biological experiments;
(c) intentionally causing great suffering or serious injury to body or health;
(d) extensive intentional and unlawful destruction and appropriation of goods without military necessity;
(e) compelling a prisoner of war or other protected person to serve in the armed forces of a hostile power;
(f) intentionally depriving a prisoner of war or other protected person of the right to a fair and regular trial;
(g) unlawful deportation or transfer or unlawful confinement; or
(h) the taking of hostages;
shall be liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine.

2. Anyone who commits, in the case of an international armed conflict, one of the grave breaches of the Additional Protocol (I), concluded in Bern on 12 December 1977, to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts (Netherlands Treaty Series 1980, 87), namely:
(a) the acts referred to in subsection 1, if committed against a person protected by the Additional Protocol (I);
(b) any intentional act or omission which jeopardises the health of anyone who is in the power of a party other than the party to which he or she belongs, and which:
   (i) entails any medical treatment which is not necessary as a consequence of the state of health of the person concerned and is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the party responsible for the acts and who are in no way deprived of their liberty;
   (ii) entails the carrying out on the person concerned, even with his consent, of physical mutilations;
   (iii) entails the carrying out on the person concerned, even with his consent, of medical or scientific experiments; or
   (iv) entails removing from the person concerned, even with his consent, tissue or organs for transplantation;
(c) the following acts, when they are committed intentionally and in violation of the relevant provisions of Additional Protocol (I) and cause death or serious injury to body or health:
   (i) making the civilian population or individual citizens the object of attack;
   (ii) launching an indiscriminate attack affecting the civilian population or civilian objects, in the knowledge that such an attack will cause excessive loss of life, injury to civilians or damage to civilian objects;
   (iii) launching an attack against works or installations containing dangerous forces, in the knowledge that such an attack will cause excessive loss of life, injury to civilians or damage to civilian objects;
   (iv) making non-defended localities or demilitarised zones the object of attack;
   (v) making a person the object of attack in the knowledge that he is hors de combat; or (vi) the perfidious use, in violation of article 37 of Additional Protocol (I), of the distinctive emblem of the red cross or red crescent or of other protective emblems recognised by the Geneva Conventions or Additional Protocol (I); or
   (d) the following acts if committed intentionally and in violation of the Geneva Conventions and Additional Protocol (I):
(i) the transfer by the occupying Power of parts of its own civilian population into the
territory it occupies or the transfer of all or part of the population of the occupied territory
within or outside this territory in violation of article 49 of the Fourth Geneva Convention;
(ii) unjustifiable delay in the repatriation of prisoners of war or civilians;
(iii) practices of apartheid and other inhuman and degrading practices involving outrages
upon personal dignity, based on racial discrimination;
(iv) making clearly recognised historic monuments, works of art or places of worship which
constitute the cultural or spiritual heritage of peoples and to which special protection has
been given by special arrangement, for example within the framework of a competent
international organisation, the object of attack, causing as a result extensive destruction
thereof, where there is no evidence of the violation by the adverse Party of Article 53,
subparagraph (b), of Additional Protocol (I) and when such historic monuments, works of
art and places of worship are not located in the immediate proximity of military
objectives; or
(v) depriving a person protected by the Geneva Conventions or Article 85, paragraph 2, of
Additional Protocol (I) of the right to a fair and regular trialshall be liable to life
imprisonment or a term of imprisonment not exceeding thirty years or a sixth category
fine.

3. Anyone who commits, in the case of an international armed conflict, one of the following acts:
   (a) rape, sexual slavery, enforced prostitution, enforced sterilisation or any other form of sexual
       violence which can be deemed to be of a gravity comparable to a grave breach of the Geneva
       Conventions;
   (b) forced pregnancy;
   (c) subjecting persons who are in the power of an adverse party to the conflict to physical
       mutilation or medical or scientific experiments of any kind, which are neither justified by the
       medical, dental or hospital treatment of the person concerned nor carried out in his or her
       interest, and which cause death to or seriously endanger the health of such persons or persons;
   (d) treacherously killing or wounding individuals belonging to the hostile nation or army; (e)
       killing or wounding a combatant who is in the power of the adverse party, who has clearly
       indicated he wishes to surrender, or who is unconscious or otherwise hors de combat as a result of
       wounds or sickness and is therefore unable to defend himself, provided that he refrains in all
       these cases from any hostile act and does not attempt to escape; or
   (f) making improper use of a flag of truce, of the flag or of the military insignia and uniform of the
       enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions,
       resulting in death or serious personal injury;
   shall be liable to life imprisonment or a term of imprisonment not exceeding thirty years or a
sixth category fine.

4. Anyone who, in the case of an international armed conflict, intentionally and unlawfully
   commits one of the following acts shall be liable to a term of imprisonment not exceeding fifteen
   years or a fifth category fine:
   (a) making the object of attack cultural property that is under enhanced protection as referred to
       in articles 10 and 11 of the Second Protocol, concluded in The Hague on 26 March 1999, to The
       (Netherlands Treaty Series 1999, 107);
(b) using cultural property that is under enhanced protection as referred to in (a) or the immediate vicinity of such property in support of military action;
(c) destroying or appropriating on a large scale cultural property that is under the protection of the Convention, concluded in The Hague on 14 May 1954, for the Protection of Cultural Property in the Event of Armed Conflict (Netherlands Treaty Series 1955, 47) or the Second Protocol thereto;
(d) making cultural property that is under protection as referred to in (c) the object of attack; or
(e) theft, pillaging or appropriation of – or acts of vandalism directed against – cultural property under the protection of the Convention referred to in (c).

5. Anyone who, in the case of an international armed conflict, commits one of the following acts:
(a) intentionally directing attacks against civilian objects, that is, objects that are not military objectives;
(b) intentionally launching an attack in the knowledge that such an attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated; (c) attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
(d) the transfer, directly or indirectly, by the occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or part of the population of the occupied territory within or outside this territory;
(e) declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
(f) compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent’s service before the commencement of the war;
(g) employing poison or poisoned weapons;
(h) employing asphyxiating, poisonous or other gases and all analogous liquids, materials or devices;
(i) employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions; (j) committing outrages upon personal dignity, in particular humiliating and degrading treatment;
(k) utilising the presence of a civilian or other protected person to render certain points, areas, or military forces immune from military operations;
(l) intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
(m) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
(n) intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
(o) intentionally directing attacks against personnel, installations, material, units or vehicles involved in humanitarian assistance or peace missions in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
(p) 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;
(q) pillaging a town or place, even when taken by assault;
(r) enlisting children under the age of fifteen years into the national armed forces or armed groups or using them to participate actively in hostilities;
(s) declaring that no quarter will be given; or
(t) destroying or seizing property of the adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
shall be liable to a term of imprisonment not exceeding fifteen years or a fifth category fine.
6. If an act as referred to in subsection 4 or 5:
(a) results in the death of or serious bodily injury to another person or involves rape;
(b) involves violence, committed in association, against one or more persons or violence against a dead, sick or wounded person;
(c) involves destroying, damaging, rendering unusable or removing, in association with others, any property which belongs wholly or partly to another;
(d) involves compelling, in association with others, another person to do, refrain from doing or permit something;
(e) involves pillaging, in association with others, a town or place, even when taken by assault;
(f) involves breaking a promise or breaching an agreement concluded with the adverse party as such; or
(g) involves making improper use of a by the laws and customs protected flag or emblem or of the military insignia and uniform of the enemy,
the perpetrator shall be liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine.
7. Subsection 2 (b) (iv) shall not apply if the act described therein:
(a) is consistent with the generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the party responsible for the acts and who are in no way deprived of their liberty; or
(b) concerns a case in which blood is donated for transfusion or skin for transplantation, provided that this occurs voluntarily and without compulsion or insistence and only for therapeutic purposes, in circumstances that are in keeping with generally accepted medical standards and supervisory measures intended to protect the interests of both donor and recipient.
Section 6
1. Anyone who, in the case of an armed conflict not of an international character, commits a violation of article 3 common to all of the Geneva Conventions, namely the commission against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those who are placed hors de combat by sickness, wounds, detention, or any other cause, of one of the following acts:
(a) violence to life and person, in particular killing of all kinds, mutilation, cruel treatment and torture (as defined in section 1 (1) (d));
(b) the taking of hostages;
(c) outrages upon personal dignity, in particular humiliating and degrading treatment; or (d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are generally

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recognised as indispensable; shall be liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine.

2. Anyone who, in the case of an armed conflict not of an international character, commits one of the following acts:
   a) rape, sexual slavery, enforced prostitution, enforced sterilisation or any other form of sexual violence which can be deemed to be of any gravity comparable to a grave breach of the Geneva Conventions;
   (b) forced pregnancy;
   (c) subjecting persons in the power of another party to the conflict to physical mutilation or medical or scientific experiments of any nature whatever, which are neither justified by medical, dental or hospital treatment of the person concerned nor carried out in his or her interest and which cause death to or can seriously endanger the health of such persons or persons; or
   (d) treacherously killing or wounding individuals belonging to the hostile nation or army; shall be liable to life imprisonment or a term of imprisonment not exceeding thirty years or a sixth category fine.

3. Anyone who, in the case of an armed conflict not of an international character, commits one of the following acts:
   (a) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
   (b) intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
   (c) intentionally directing attacks against personnel, installations, material, units or vehicles involved in humanitarian assistance or peace missions in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
   (d) 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;
   (e) pillaging a town or place, even when taken by assault;
   (f) conscripting or enlisting children under the age of fifteen years into the national armed forces or armed groups or using them to participate actively in hostilities;
   (g) declaring that no quarter will be given; or
   (h) destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the circumstances of the conflict; or
   (i) giving instructions for the transfer of the civilian population for reasons connected with the conflict, other than on account of the safety of the citizens or where imperatively demanded by the circumstances of the conflict;

   shall be liable to a term of imprisonment not exceeding fifteen years or a fifth category fine.

4. Section 5, subsection 6, shall apply mutatis mutandis to an act as referred to in subsection 3.

Section 7
1. Anyone who, in the case of an international or non-international armed conflict, commits a violation of the laws and customs of war other than as referred to in sections 5 or 6 shall be liable to a term of imprisonment not exceeding ten years or a fifth category fine.
2. A term of imprisonment not exceeding fifteen years or a fifth category fine shall be imposed:
(a) if an act as referred to in subsection 1 is likely to result in the death of or serious bodily injury to another person;
(b) if an act as referred to in subsection 1 involves one or more outrages committed upon personal dignity, in particular humiliating and degrading treatment;
(c) if an act as referred to in subsection 1 involves compelling another person to do, refrain from doing or permit something, or
(d) if an act as referred to in subsection 1 involves pillaging a city or place, even when taken by assault.
3. Section 5, subsection 6, shall apply mutatis mutandis to an act as referred to in subsection 1.

Section 8
1. Torture committed by a public servant or other person working in the service of the authorities in the course of his duties shall carry a sentence of life imprisonment or a term of imprisonment not exceeding twenty years or a fifth category fine.
2. The following shall be liable to similar sentences:
(a) a public servant or other person working in the service of the authorities who, in the course of his duties and by one of the means referred to in Article 47, paragraph 1 (ii), of the Criminal Code, solicits the commission of torture or intentionally permits another person to commit torture;
(b) a person who commits torture, if this has been solicited or intentionally permitted by a public servant or another person working in the service of the authorities, in the course of his duties and by one of the means referred to in Article 47, paragraph 1 (ii), of the Criminal Code.

§ 3. Extension of criminal responsibility

Section 9
1. A superior shall be liable to the penalties prescribed for the offences referred to in § 2 if he:
(a) intentionally permits the commission of such an offence by a subordinate;
(b) intentionally fails to take measures, in so far as these are necessary and can be expected of him, if one of his subordinates has committed or intends to commit such an offence.
2. Anyone who culpably neglects to take measures, in so far as these are necessary and can be expected of him, where he has reasonable grounds for suspecting that a subordinate has committed or intends to commit such an offence, shall be liable to no more than two-thirds of the maximum of the principal sentences prescribed for the offences referred to in § 2.
3. If, in the circumstances referred to in subsection 2, the maximum sentence prescribed for the offence is life imprisonment, the term of imprisonment imposed shall not exceed fifteen years.

§ 4. General provisions of criminal law and criminal procedure Section 10
The offences referred to in this Act are crimes.

Section 11
1. The fact that a crime as defined in this Act was committed pursuant to a regulation issued by the legal power of a State or pursuant to an order of a superior does not make that act lawful.
2. A subordinate who commits a crime referred to in this Act in pursuance of an order by a superior shall not be criminally responsible if the order was believed by the subordinate in good
faith to have been given lawfully and the execution of the order came within the scope of his competence as a subordinate.

3. For the purposes of subsection 2, an order to commit genocide or a crime against humanity is deemed to be manifestly unlawful.

Section 12
The crimes defined in this Act shall be deemed not to be offences of a political nature for the purposes of the Extradition Act (Uitleveringswet) or the Surrender of War Crime Suspects Act (Wet overlevering inzake oorlogsmisdrijven).

Section 13
Articles 70 and 76 of the Criminal Code shall not apply to the crimes defined in this Act, with the exception of the offences referred to in section 7, subsection 1, and, in so far as connected with such offences, the offences referred to in section 9.

Section 14
Where a sentence of imprisonment of at least one year is imposed for one of the crimes defined in this Act, an order may also be made depriving the person concerned of the rights referred to in Article 28 (1) (iii) of the Criminal Code.

Section 15
The Hague District Court shall take cognizance of the crimes defined in this Act, subject to the provisions of the Military Justice Administration Act (Wet militaire strafrechtspraak).

Section 16
Criminal prosecution for one of the crimes referred to in this Act is excluded with respect to:
(a) foreign heads of state, heads of government and ministers of foreign affairs, as long as they are in office, and other persons in so far as their immunity is recognised under customary international law;
(b) persons who have immunity under any Convention applicable within the Kingdom of the Netherlands.

§ 5. Amendment of other Acts

Section 17
The Wartime Offences Act (Wet Oorlogsstrafrecht) is amended as follows:
A. Section 1 is amended as follows:
1. In subsection 1 parts (iii)-(v) are replaced by a part (iii) which reads: 'sections 4-7 of this Act'.
2. In subsection 1, part (vi) is renumbered as (iv).
3. In subsection 2, the words 'sections 4-9' are replaced by 'sections 4-7'.
B. Section 3 is amended as follows:
1. Part (i) is deleted and parts (ii)-(iv) are renumbered as parts (i)-(iii).
2. In part (i) (new) the words 'or in sections 1 and 2 of the Genocide Convention Implementation Act' are deleted.
3. In part (ii) (new) the words 'and (ii)' are deleted.
C. Sections 8-10 are deleted.
D. In sections 10a and 11, the words ‘sections 4-9’ are in each case replaced by ‘sections 4-7’.

E. A sentence reading ‘It may also be provided that the special courts may also take cognizance of crimes defined in the International Crimes Act’ shall be added to section 12, subsection 3.

Section 18
A. The part of the sentence before the comma in Article 5, paragraph 2, of the Criminal Code shall read: ‘Prosecution may also take place in the cases referred to in paragraph 1 (ii)’.
B. Article 364a, paragraphs 1 and 2 of the Criminal Code shall read:

Article 364a
1. With respect to articles 361, 362 and 363, ‘public servants’ shall include persons in the public service of a foreign state or an international organisation.
2. With respect to article 362 (2o and 4o) and article 363 (2o and 4o), ‘public servants’ shall include former public servants.

Section 18a
In section 1 of the Surrender of War Crime Suspects Act, ‘one of the crimes referred to in sections 8 and 9 of the Wartime Offences Act, sections 1 and 2 of the Genocide Convention Implementation Act or sections 1 and 2 of the Torture Convention Implementation Act,’ shall be replaced by:

one of the crimes defined in sections 3, 5 to 8 and, in so far as it is connected with the offences referred to in those sections, section 9 of the International Crimes Act.

§ 6. Final provisions

Section 19
The Genocide Convention Implementation Act (Uitvoeringswet genocideverdrag) is repealed.

Section 20
The Torture Convention Implementation Act (Uitvoeringswet folteringverdrag) is repealed.

Section 21
1. If, at the time when this Act enters into force, a prosecution in respect of genocide, torture (as defined in section 1(1)(e)) or a crime that corresponds to a crime referred to in sections 5, 6 or 7 of this Act has already been instituted in accordance with the old law before a court other than as referred to in section 15 of this Act, the case shall be continued before that court.
2. Section 13 shall also apply to offences punishable under the Torture Convention Implementation Act which were committed before the entry into force of this Act.

Section 22
This Act shall enter into force on a date to be determined by Royal Decree.

Section 23
This Act may be cited as the International Crimes Act.
We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.
Done at The Hague, 19 June 2003
Beatrix
The Minister of Justice, The Minister of Defence, The Minister of Foreign Affairs.

Disclaimer
This is the English translation of the Wet van 19 juni 2003, houdende regels met betrekking tot ernstige schendingen van het internationaal humanitair recht (Wet internationale misdrijven) [2003 International Crimes Act]. Please note that this English translation is not legally binding. It is the Dutch-language text of the Act that is legally binding.

Source: UNESCO Cultural Heritage Laws Database as the source (© UNESCO).
5.1 Security Council Resolution 1378 (2001), on the Situation in Afghanistan, 14 November 2001

The Security Council,


Supporting international efforts to root out terrorism, in keeping with the Charter of the United Nations, and reaffirming also its resolutions 1368 (2001) of 12 September 2001 and 1373 (2001) of 28 September 2001,

Recognizing the urgency of the security and political situation in Afghanistan in light of the most recent developments, particularly in Kabul,

Condemning the Taliban for allowing Afghanistan to be used as a base for the export of terrorism by the Al-Qaida network and other terrorist groups and for providing safe haven to Usama Bin Laden, Al-Qaida and others associated with them, and in this context supporting the efforts of the Afghan people to replace the Taliban regime,

Welcoming the intention of the Special Representative to convene an urgent meeting of the various Afghan processes at an appropriate venue and calling on the United Front and all Afghans represented in those processes to accept his invitation to that meeting without delay, in good faith and without preconditions,

Welcoming the Declaration on the Situation in Afghanistan by the Foreign Ministers and other Senior Representatives of the Six plus Two of 12 November 2001, as well as the support being offered by other international groups,

Taking note of the views expressed at the meeting of the Security Council on the situation in Afghanistan on 13 November 2001,

Endorsing the approach outlined by the Special Representative of the Secretary-General at the meeting of the Security Council on 13 November 2001,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan,

Deeply concerned by the grave humanitarian situation and the continuing serious violations by the Taliban of human rights and international humanitarian law,

1. Expresses its strong support for the efforts of the Afghan people to establish a new and transitional administration leading to the formation of a government, both of which should be broad-based, multi-ethnic and fully representative of all the Afghan people and
committed to peace with Afghanistan’s neighbours should respect the human rights of all Afghan people, regardless of gender, ethnicity or religion, should respect Afghanistan’s international obligations, including by cooperating fully in international efforts to combat terrorism and illicit drug trafficking within and from Afghanistan, and should facilitate the urgent delivery of humanitarian assistance and the orderly return of refugees and internally displaced persons, when the situation permits;

2. **Calls** on all Afghan forces to refrain from acts of reprisal, to adhere strictly to their obligations under human rights and international humanitarian law, and to ensure the safety and security and freedom of movement of United Nations and associated personnel, as well as personnel of humanitarian organizations;

3. **Affirms** that the United Nations should play a central role in supporting the efforts of the Afghan people to establish urgently such a new and transitional administration leading to the formation of a new government and **expresses** its full support for the Secretary-General’s Special Representative in the accomplishment of his mandate, and calls on Afghans, both within Afghanistan and among the Afghan diaspora, and Member States to cooperate with him;

4. **Calls** on Member States to provide: support for such an administration and government, including through the implementation of quick-impact projects, urgent humanitarian assistance to alleviate the suffering of Afghan people both inside Afghanistan and Afghan refugees, including in demining, and long-term assistance for the social and economic reconstruction and rehabilitation of Afghanistan and welcomes initiatives towards this end;

5. **Encourages** Member States to support efforts to ensure the safety and security of areas of Afghanistan no longer under Taliban control, and in particular to ensure respect for Kabul as the capital for all the Afghan people, and especially to protect civilians, transitional authorities, United Nations and associated personnel, as well as personnel of humanitarian organizations;

6. **Decides** to remain actively seized of the matter.
The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999 and 1373 (2001) of 28 September 2001 as well as its other resolutions concerning threats to international peace and security caused by terrorism,

Recalling in this regard its resolution 1540 (2004) of 28 April 2004,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law,

Deeply concerned by the increasing number of victims, including children, caused by acts of terrorism motivated by intolerance or extremism in various regions of the world,

Calling upon States to cooperate fully with the Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001), including the recently established Counter-Terrorism Committee Executive Directorate (CTED), the “Al-Qaida/Taliban Sanctions Committee” established pursuant to resolution 1267 (1999) and its Analytical Support and Sanctions Monitoring Team, and the Committee established pursuant to resolution 1540 (2004), and further calling upon such bodies to enhance cooperation with each other,

Reminding States that they must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security,

Considering that acts of terrorism seriously impair the enjoyment of human rights and threaten the social and economic development of all States and undermine global stability and prosperity,

Emphasizing that enhancing dialogue and broadening the understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation, which by itself is necessary to sustain the broadest possible fight against terrorism,

Reaffirming its profound solidarity with victims of terrorism and their families,

Acting under Chapter VII of the Charter of the United Nations,
1. **Condemns** in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security;

2. **Calls upon** States to cooperate fully in the fight against terrorism, especially with those States where or against whose citizens terrorist acts are committed, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle to extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens;

3. **Recalls** that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and **calls upon** all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature;

4. **Calls upon** all States to become party, as a matter of urgency, to the relevant international conventions and protocols whether or not they are a party to regional conventions on the matter;

5. **Calls upon** Member States to cooperate fully on an expedited basis in resolving all outstanding issues with a view to adopting by consensus the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism;

6. **Calls upon** relevant international, regional and subregional organizations to strengthen international cooperation in the fight against terrorism and to intensify their interaction with the United Nations and, in particular, the CTC with a view to facilitating full and timely implementation of resolution 1373 (2001);

7. **Requests** the CTC in consultation with relevant international, regional and subregional organizations and the United Nations bodies to develop a set of best practices to assist States in implementing the provisions of resolution 1373 (2001) related to the financing of terrorism;

8. **Directs** the CTC, as a matter of priority and, when appropriate, in close cooperation with relevant international, regional and subregional organizations to start visits to States, with the consent of the States concerned, in order to enhance the monitoring of the implementation of resolution 1373 (2001) and facilitate the provision of technical and other assistance for such implementation;

9. **Decides** to establish a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee, including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement
through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures;

10. Requests further the working group, established under paragraph 9 to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsors, and submit its recommendations to the Council;

11. Requests the Secretary-General to take, as a matter of urgency, appropriate steps to make the CTED fully operational and to inform the Council by 15 November 2004;

12. Decides to remain actively seized of the matter.
5.3 **Security Council Resolution 2118 (2013), on Required Destruction of Syria’s Chemical Weapons, 27 September 2013**

*The Security Council,*


Reaffirming its strong commitment to the sovereignty, independence and territorial integrity of the Syrian Arab Republic,

Reaffirming that the proliferation of chemical weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Recalling that the Syrian Arab Republic on 22 November 1968 acceded to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925,

Noting that on 14 September 2013, the Syrian Arab Republic deposited with the Secretary-General its instrument of accession to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Convention) and declared that it shall comply with its stipulations and observe them faithfully and sincerely, applying the Convention provisionally pending its entry into force for the Syrian Arab Republic,

Welcoming the establishment by the Secretary-General of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic (the Mission) pursuant to General Assembly resolution 42/37 C (1987) of 30 November 1987, and reaffirmed by resolution 620 (1988) of 26 August 1988, and expressing appreciation for the work of the Mission,

Acknowledging the report of 16 September 2013 (S/2013/553) by the Mission, underscoring the need for the Mission to fulfil its mandate, and emphasizing that future credible allegations of chemical weapons use in the Syrian Arab Republic should be investigated,

Deeply outraged by the use of chemical weapons on 21 August 2013 in Rif Damascus, as concluded in the Mission’s report, condemning the killing of civilians that resulted from it, affirming that the use of chemical weapons constitutes a S/RES/2118 (2013) 2/13 13-48923 serious violation of international law, and stressing that those responsible for any use of chemical weapons must be held accountable,

Recalling the obligation under resolution 1540 (2004) that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use weapons of mass destruction, including chemical weapons, and their means of delivery,
Welcoming the Framework for Elimination of Syrian Chemical Weapons dated 14 September 2013, in Geneva, between the Russian Federation and the United States of America (S/2013/565), with a view to ensuring the destruction of the Syrian Arab Republic’s chemical weapons program in the soonest and safest manner, and expressing its commitment to the immediate international control over chemical weapons and their components in the Syrian Arab Republic,

Welcoming the decision of the Executive Council of the Organization for the Prohibition of Chemical Weapons (OPCW) of 27 September 2013 establishing special procedures for the expeditious destruction of the Syrian Arab Republic’s chemical weapons program and stringent verification thereof, and expressing its determination to ensure the destruction of the Syrian Arab Republic’s chemical weapons program according to the timetable contained in the OPCW Executive Council decision of 27 September 2013,

Stressing that the only solution to the current crisis in the Syrian Arab Republic is through an inclusive and Syrian-led political process based on the Geneva Communiqué of 30 June 2012, and emphasising the need to convene the international conference on Syria as soon as possible,

Determining that the use of chemical weapons in the Syrian Arab Republic constitutes a threat to international peace and security,

Underscoring that Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council’s decisions,

1. Determines that the use of chemical weapons anywhere constitutes a threat to international peace and security;
2. Condemns in the strongest terms any use of chemical weapons in the Syrian Arab Republic, in particular the attack on 21 August 2013, in violation of international law;
3. Endorses the decision of the OPCW Executive Council 27 September 2013, which contains special procedures for the expeditious destruction of the Syrian Arab Republic’s chemical weapons program and stringent verification thereof and calls for its full implementation in the most expedient and safest manner;
4. Decides that the Syrian Arab Republic shall not use, develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to other States or non-State actors;
5. Underscores that no party in Syria should use, develop, produce, acquire, stockpile, retain, or transfer chemical weapons;
6. Decides that the Syrian Arab Republic shall comply with all aspects of the decision of the OPCW Executive Council of 27 September 2013 (Annex I);
7. Decides that the Syrian Arab Republic shall cooperate fully with the OPCW and the United Nations, including by complying with their relevant recommendations, by accepting personnel designated by the OPCW or the United Nations, by providing for and ensuring the security of activities undertaken by these personnel, by providing these personnel with immediate and unfettered access to and the right to inspect, in discharging their functions, any and all sites, and by allowing immediate and unfettered access to individuals that the OPCW has grounds to believe to be of importance for the purpose of its mandate, and decides that all parties in Syria shall cooperate fully in this regard;
8. **Decides** to authorize an advance team of United Nations personnel to provide early assistance to OPCW activities in Syria, requests the Director-General of the OPCW and the Secretary-General to closely cooperate in the implementation of the Executive Council decision of 27 September 2013 and this resolution, including through their operational activities on the ground, and further requests the Secretary-General, in consultation with the Director-General of the OPCW and, where appropriate, the Director-General of the World Health Organization, to submit to the Council within 10 days of the adoption of this resolution recommendations regarding the role of the United Nations in eliminating the Syrian Arab Republic’s chemical weapons program;

9. **Notes** that the Syrian Arab Republic is a party to the Convention on the Privileges and Immunities of the United Nations, decides that OPCW-designated personnel undertaking activities provided for in this resolution or the decision of the OPCW Executive Council of 27 September 2013 shall enjoy the privileges and immunities contained in the Verification Annex, Part II(B) of the Chemical Weapons Convention, and calls on the Syrian Arab Republic to conclude modalities agreements with the United Nations and the OPCW;

10. **Encourages** Member States to provide support, including personnel, technical expertise, information, equipment, and financial and other resources and assistance, in coordination with the Director-General of the OPCW and the Secretary-General, to enable the OPCW and the United Nations to implement the elimination of the Syrian Arab Republic’s chemical weapons program, and decides to authorize Member States to acquire, control, transport, transfer and destroy chemical weapons identified by the Director-General of the OPCW, consistent with the objective of the Chemical Weapons Convention, to ensure the elimination of the Syrian Arab Republic’s chemical weapons program in the soonest and safest manner;

11. **Urges** all Syrian parties and interested Member States with relevant capabilities to work closely together and with the OPCW and the United Nations to arrange for the security of the monitoring and destruction mission, recognizing the primary responsibility of the Syrian government in this regard;

12. **Decides** to review on a regular basis the implementation in the Syrian Arab Republic of the decision of the OPCW Executive Council of 27 September 2013 and this resolution, and requests the Director-General of the OPCW to report to the Security Council, through the Secretary-General, who shall include relevant information on United Nations activities related to the implementation of this resolution, within 30 days and every month thereafter, and requests further the Director-General of the OPCW and the Secretary-General to report in a coordinated manner, as needed, to the Security Council, non-compliance with this resolution or the OPCW Executive Council decision of 27 September 2013;

13. **Reaffirms** its readiness to consider promptly any reports of the OPCW under Article VIII of the Chemical Weapons Convention, which provides for the referral of cases of non-compliance to the United Nations Security Council;

14. **Decides** that Member States shall inform immediately the Security Council of any violation of resolution 1540 (2004), including acquisition by non-State actors of chemical weapons, their means of delivery and related materials in order to take necessary measures therefore;

15. **Expresses** its strong conviction that those individuals responsible for the use of chemical weapons in the Syrian Arab Republic should be held accountable;
16. **Endorses** fully the Geneva Communiqué of 30 June 2012 (Annex II), which sets out a number of key steps beginning with the establishment of a transitional governing body exercising full executive powers, which could include members of the present Government and the opposition and other groups and shall be formed on the basis of mutual consent;

17. **Calls** for the convening, as soon as possible, of an international conference on Syria to implement the Geneva Communiqué, and calls upon all Syrian parties to engage seriously and constructively at the Geneva Conference on Syria, and underscores that they should be fully representative of the Syrian people and committed to the implementation of the Geneva Communiqué and to the achievement of stability and reconciliation;

18. **Reaffirms** that all Member States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, and calls upon all Member States, in particular Member States neighbouring the Syrian Arab Republic, to report any violations of this paragraph to the Security Council immediately;

19. **Demands** that non-State actors not develop, acquire, manufacture, possess, transport, transfer, or use nuclear, chemical or biological weapons and their means of delivery, and calls upon all Member States, in particular Member States neighbouring the Syrian Arab Republic, to report any actions inconsistent with this paragraph to the Security Council immediately;

20. **Decides** that all Member States shall prohibit the procurement of chemical weapons, related equipment, goods and technology or assistance from the Syrian Arab Republic by their nationals, or using their flagged vessels or aircraft, whether or not originating in the territory of the Syrian Arab Republic;

21. **Decides**, in the event of non-compliance with this resolution, including unauthorized transfer of chemical weapons, or any use of chemical weapons by anyone in the Syrian Arab Republic, to impose measures under Chapter VII of the United Nations Charter;

22. **Decides** to remain actively seized of the matter.

**Annex I OPCW Executive Council Decision**

**Decision on destruction of Syrian chemical weapons**

The Executive Council,

*Recalling* that following its Thirty-Second Meeting, 27 March 2013, the Chairperson of the Executive Council (hereinafter "the Council") issued a statement (EC-M-32/2/Rev. 1, dated 27 March 2013) expressing "deep concern that chemical weapons may have been used in the Syrian Arab Republic," and underlining that "the use of chemical weapons by anyone under any circumstances would be reprehensible and completely contrary to the legal norms and standards of the international community";

*Recalling* also that the Third Review Conference (RC-3/3*, 19 April 2013) expressed "deep concern that chemical weapons may have been used in the Syrian Arab Republic and underlined that use of chemical weapons by anyone under any circumstances would be reprehensible and completely contrary to the legal norms and standards of the international community";
Noting the "Report on the Alleged Use of Chemical Weapons in the Ghouta area of Damascus on 21 August 2013," (S/2013/553, dated 16 September 2013) prepared by the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic, dated 16 September 2013, which concludes that "chemical weapons have been used in the ongoing conflict between the parties in the Syrian Arab Republic, also against civilians, including children, on a relatively large scale";

Condemning in the strongest possible terms the use of chemical weapons;

Welcoming the Framework for Elimination of Syrian Chemical Weapons agreed upon by the United States and the Russian Federation on 14 September 2013

(EC-M-33/NAT.1, dated 17 September 2013);

Noting also that on 12 September 2013, in its communication to the Secretary-General of the United Nations, the Syrian Arab Republic notified its intention to apply the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction (hereinafter "the Convention") provisionally;

Noting further that on 14 September 2013, the Syrian Arab Republic deposited with the Secretary-General of the United Nations its instrument of accession to the Convention and declared that it shall comply with its stipulations and observe them faithfully and sincerely, applying the Convention provisionally pending its entry into force for the Syrian Arab Republic, which was notified to all States Parties by the depositary on the same date (C.N.592.2013.TREATIES-XXVI.3), and taking into account that the depositary received no communications to the contrary from the States Parties with regard to this declaration;

Noting further that the Convention enters into force for the Syrian Arab Republic on 14 October 2013;

Recognising the extraordinary character of the situation posed by Syrian chemical weapons and determined to ensure that the activities necessary for the destruction of the Syrian chemical weapons programme start immediately pending the formal entry into force of the Convention with respect to the Syrian Arab Republic, and are conducted in the most rapid and safe manner;

Recognising also the invitation of the Government of the Syrian Arab Republic to receive immediately a technical delegation from the OPCW and to cooperate with the OPCW in accordance with the provisional application of the Convention prior to its entry into force for the Syrian Arab Republic, and noting the designation by the Syrian Arab Republic to the Technical Secretariat (hereinafter "the Secretariat") of its National Authority;

Emphasising that the provisional application of the Convention gives immediate effect to its provisions with respect to the Syrian Arab Republic;
Noting further that the Syrian Arab Republic submitted on 19 September 2013 the detailed information, including names, types, and quantities of its chemical weapons agents, types of munitions, and location and form of storage, production, and research and development facilities;

Noting further that pursuant to paragraph 36 of Article VIII of the Convention, the Council, following its consideration of doubts or concerns regarding compliance and cases of non-compliance, shall, in cases of particular gravity and urgency, bring the issue or matter, including relevant information and conclusions, directly to the attention of the United Nations General Assembly and the United Nations Security Council;

Taking into account the Agreement Concerning the Relationship between the United Nations and the Organisation for the Prohibition of Chemical Weapons of 17 October 2000;

Strongly urging all remaining States not Party to the Convention to ratify or accede to it as a matter of urgency and without preconditions, in the interests of enhancing their own national security as well as contributing to global peace and security;

and Recalling that, pursuant to paragraph 8 of Article IV and paragraph 10 of Article V of the Convention, a State acceding to the Convention after 2007 shall destroy its chemical weapons and its chemical weapons production facilities as soon as possible, and the Council shall determine the “order of destruction and procedures for stringent verification” of such destruction;

Hereby:

1. Decides that the Syrian Arab Republic shall:
   a. not later than 7 days after the adoption of this decision, submit to the Secretariat further information, to supplement that provided on 19 September 2013, on the chemical weapons as defined in paragraph 1 of Article II of the Convention that the Syrian Arab Republic owns or possesses, or has under its jurisdiction or control, in particular:
      i. the chemical name and military designator of each chemical in its chemical weapons stockpile, including precursors and toxins, and quantities thereof; S/RES/2118 (2013) 13-48923 7/13
      ii. the specific type of munitions, sub-munitions and devices in its chemical weapons stockpile, including specific quantities of each type that are filled and unfilled; and
      iii. the location of all of its chemical weapons, chemical weapons storage facilities, chemical weapons production facilities, including mixing and filling facilities, and chemical weapons research and development facilities, providing specific geographic coordinates;
   b. not later than 30 days after the adoption of this decision, submit to the Secretariat the declaration required by Article III of the Convention;
   c. complete the elimination of all chemical weapons material and equipment in the first half of 2014, subject to the detailed requirements, including intermediate destruction milestones, to be decided by the Council not later than 15 November 2013;
d. complete as soon as possible and in any case not later than 1 November 2013, the destruction of chemical weapons production and mixing/filling equipment;

e. cooperate fully with all aspects of the implementation of this decision, including by providing the OPCW personnel with the immediate and unfettered right to inspect any and all sites in the Syrian Arab Republic;

f. designate an official as the main point of contact for the Secretariat and provide him or her with the authority necessary to ensure that this decision is fully implemented.

2. Decides further that the Secretariat shall:

a. make available to all States Parties, within five days of its receipt, any information or declaration referred to in this decision, which shall be handled in accordance with the Annex to the Convention on the Protection of Confidential Information;

b. as soon as possible and in any case not later than 1 October 2013, initiate inspections in the Syrian Arab Republic pursuant to this decision;

c. inspect not later than 30 days after the adoption of this decision, all facilities contained in the list referred to in paragraph 1 (a) above;

d. inspect as soon as possible any other site identified by a State Party as having been involved in the Syrian chemical weapons programme, unless deemed unwarranted by the Director-General, or the matter resolved through the process of consultations and cooperation;

e. be authorised to hire, on a short-term basis, qualified inspectors and other technical experts and to rehire, on a short-term basis, inspectors, other technical experts, and such other personnel as may be required whose term of service has recently expired, in order to ensure efficient and effective implementation of this decision in accordance with paragraph 44 of Article VIII of the Convention;

f. report to the Council on a monthly basis on implementation of this decision including progress achieved by the Syrian Arab Republic in meeting the requirements of this decision and the Convention, activities carried out by S/RES/2118 (2013) 8/13 48923 the Secretariat with respect to the Syrian Arab Republic, and its needs for any supplementary resources, particularly technical and personnel resources.

3. Decides further:

a. to consider, on an urgent basis, the funding mechanisms for activities carried out by the Secretariat with respect to the Syrian Arab Republic, and to call upon all States Parties in a position to do so to provide voluntary contributions for activities carried out in the implementation of this decision;

b. to meet within 24 hours if the Director-General reports delay by the Syrian Arab Republic in meeting the requirements of this decision or the Convention, including, inter alia, the cases referred to in paragraph 7 of Part II of the Annex to the Convention on Implementation and Verification, or a lack of cooperation in the Syrian Arab Republic or another problem that has arisen with regard to the implementation of this decision and at that meeting to consider whether to bring the matter, including relevant information and conclusions, to the attention of the
United Nations Security Council in accordance with paragraph 36 of Article VIII of the Convention;
c. to remain seized of the matter and (d) to recognise that this decision is made due to the extraordinary character of the situation posed by Syrian chemical weapons and does not create any precedent for the future.

*The Council then unanimously adopted resolution 2043 (2012), which reads as follows:*
Security Council Resolution 2043 (2012), on UN Supervision Mission in Syria, with 300 Observers to Monitor Cessation of Violence, Implementation of Special Envoy’s Plan

The Security Council,

Recalling its Resolution 2042 (2012), as well as its presidential statements of 3 August 2011, 21 March 2012 and 5 April 2012, and also recalling all relevant resolutions of the General Assembly,

Reaffirming its support to the Joint Special Envoy for the United Nations and the League of Arab States, Kofi Annan, and his work, following General Assembly resolution A/RES/66/253 of 16 February 2012 and relevant resolutions of the League of Arab States,

Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of Syria, and to the purposes and principles of the Charter,

Condemning the widespread violations of human rights by the Syrian authorities, as well as any human rights abuses by armed groups, recalling that those responsible shall be held accountable, and expressing its profound regret at the death of many thousands of people in Syria,

Expressing its appreciation of the significant efforts that have been made by the States bordering Syria to assist Syrians who have fled across Syria’s borders as a consequence of the violence, and requesting UNHCR to provide assistance as requested by member states receiving these displaced persons,

Expressing also its appreciation of the humanitarian assistance that has been provided to Syria by other States,

Noting the Syrian government’s commitment on 25 March 2012 to implement the six-point proposal of the Joint Special Envoy of the United Nations and the League of Arab States, and to implement urgently and visibly its commitments, as it agreed to do in its communication to the Envoy of 1 April 2012, to (a) cease troop movements towards population centres, (b) cease all use of heavy weapons in such centres, and (c) begin pullback of military concentrations in and around population centres, and to implement these in their entirety by no later than 10 April 2012, and noting also the Syrian opposition’s expressed commitment to respect the cessation of violence, provided the government does so,

Expressing concern over ongoing violence and reports of casualties which have escalated again in recent days, following the Envoy’s assessment of 12 April 2012 that the parties appeared to be observing a cessation of fire and that the Syrian government had started to implement its commitments, and noting that the cessation of armed violence in all its forms is therefore clearly incomplete,
Supporting the Envoy’s call for an immediate and visible implementation by the Syrian government of all elements of the Envoy’s six-point proposal in their entirety to achieve a sustained cessation of armed violence in all its forms by all parties,

Taking note of the assessment by the Secretary-General that a United Nations monitoring mission deployed quickly when the conditions are conducive with a clear mandate, the requisite capacities, and the appropriate conditions of operation would greatly contribute to observing and upholding the commitment of the parties to a cessation of armed violence in all its forms and to supporting the implementation of the six-point plan,

Noting the 19 April 2012 Preliminary Understanding (S/2012/250) agreed between the Syrian Arab Republic and the United Nations which provides a basis for a protocol governing the Advance Team and, upon its deployment, the UN supervision mechanism,

Having considered the Secretary-General’s letter addressed to the President of Security Council (S/2012/238),

1. Reaffirms its full support for and calls for the urgent, comprehensive, and immediate implementation of all elements of the Envoy’s six-point proposal as annexed to resolution 2042 (2012) aimed at bringing an immediate end to all violence and human rights violations, securing humanitarian access and facilitating a Syrian-led political transition leading to a democratic, plural political system, in which citizens are equal regardless of their affiliations, ethnicities or beliefs, including through commencing a comprehensive political dialogue between the Syrian government and the whole spectrum of the Syrian opposition.

2. Calls upon the Syrian government to implement visibly its commitments in their entirety, as it agreed to do in the Preliminary Understanding and as stipulated in resolution 2042 (2012), to (a) cease troop movements towards population centres, (b) cease all use of heavy weapons in such centres, (c) complete pullback of military concentrations in and around population centres, as well as to withdraw its troops and heavy weapons from population centres to their barracks or temporary deployment places to facilitate a sustained cessation of violence;

3. Calls upon all parties in Syria, including the opposition, immediately to cease all armed violence in all its forms;

4. Calls upon the Syrian armed opposition groups and relevant elements to respect relevant provisions of the Preliminary Understanding;

5. Decides to establish for an initial period of 90 days a United Nations Supervision Mission in Syria (UNSMIS) under the command of a Chief Military Observer, comprising an initial deployment of up to 300 unarmed military observers as well as an appropriate civilian component as required by the Mission to fulfil its mandate, and decides further that the Mission shall be deployed expeditiously subject to assessment by the Secretary-General of relevant developments on the ground, including the consolidation of the cessation of violence;

6. Decides also that the mandate of the Mission shall be to monitor a cessation of armed violence in all its forms by all parties and to monitor and support the full implementation of the Envoy’s six-point proposal;
7. **Requests** that the Secretary-General and the Syrian government without delay conclude a Status of Mission Agreement (SOMA), taking into consideration General Assembly resolution 58/82 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, and **notes** the agreement between the Syrian government and the United Nations that, pending the conclusion of such an agreement, the model SOFA agreement of 9 October 1990 (A/45/594) shall apply provisionally;

8. **Calls upon** the Syrian government to ensure the effective operation of UNSMIS by: facilitating the expeditious and unhindered deployment of its personnel and capabilities as required to fulfil its mandate; ensuring its full, unimpeded, and immediate freedom of movement and access as necessary to fulfil its mandate, underlining in this regard the need for the Syrian government and the United Nations to agree rapidly on appropriate air transportation assets for UNSMIS; allowing its unobstructed communications; and allowing it to freely and privately communicate with individuals throughout Syria without retaliation against any person as a result of interaction with UNSMIS;

9. **Calls upon** the parties to guarantee the safety of UNSMIS personnel without prejudice to its freedom of movement and access, and **stresses** that the primary responsibility in this regard lies with the Syrian authorities;

10. **Requests** the Secretary-General to report immediately to the Security Council any obstructions to the effective operation of UNSMIS by any party;

11. **Reiterates** its call for the Syrian authorities to allow immediate, full and unimpeded access of humanitarian personnel to all populations in need of assistance, in accordance with international law and guiding principles of humanitarian assistance and calls upon all parties in Syria, in particular the Syrian authorities, to cooperate fully with the United Nations and relevant humanitarian organizations to facilitate the provision of humanitarian assistance;

12. **Invites** all Member States to consider making appropriate contributions to UNSMIS as requested by the Secretary-General;

13. **Requests** the Secretary-General to report to the Council on the implementation of this resolution within 15 days of its adoption and every 15 days thereafter, and also to submit, as necessary, to the Council proposals for possible adjustments to the UNSMIS mandate;

14. **Expresses** its intention to assess the implementation of this resolution and to consider further steps as appropriate;

15. **Decides** to remain seized of the matter.
The Security Council,


Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of Syria, and to the purposes and principles of the Charter of the United Nations,

Being appalled at the unacceptable and escalating level of violence and the death of more than 150,000 people, including well over 10,000 children, as a result of the Syrian conflict as reported by the Special Representative of the Secretary-General for Children and Armed Conflict,

Expressing grave alarm at the significant and rapid deterioration of the humanitarian situation in Syria, at the fact that the number of people in need of assistance has grown to over 10 million, including 6.4 million internally displaced persons and over 4.5 million living in hard-to-reach areas, and that over 240,000 are trapped in besieged areas, as reported by the United Nations Secretary-General,

Deploring the fact that the demands in its resolution 2139 (2014) and the provisions of its Presidential Statement of 2 October 2013 (S/PRST/2013/15) have not been heeded by the Syrian parties to the conflict as stated in the United Nations Secretary-General’s reports of 22 May 2014 (S/2014/365) and 20 June 2014 (S/2014/427), and recognizing that, while some steps have been undertaken by the Syrian parties, they have not had the necessary impact on the delivery of humanitarian assistance to all people in need throughout Syria,

Commending the indispensable and ongoing efforts of the United Nations, its specialized agencies and all humanitarian and medical personnel in Syria and in neighbouring countries to alleviate the impact of the conflict on the Syrian people,

Reiterating its appreciation for the significant and admirable efforts that have been made by the countries of the region, notably Lebanon, Jordan, Turkey, Iraq and Egypt, to accommodate the more than 2.8 million refugees who have fled Syria as a result of ongoing violence including the approximately 300,000 refugees who have fled since the adoption of resolution 2139 (2014), and urging again all Member States, based on burden-sharing principles, to support these neighbouring host countries to enable them to respond to the growing humanitarian needs, including by providing direct support,

Strongly condemning the continuing widespread violations of human rights and international humanitarian law by the Syrian authorities, as well as the human rights abuses and violations of international humanitarian law by armed groups,
Stressing the need to end impunity for violations of international humanitarian law and violations and abuses of human rights, and reaffirming that those who have committed or are otherwise responsible for such violations and abuses in Syria must be brought to justice,

Expressing grave alarm in particular at the continuing indiscriminate attacks in populated areas, including an intensified campaign of aerial bombings and the use of barrel bombs in Aleppo and other areas, artillery, shelling and air strikes, and the widespread use of torture, ill-treatment, sexual and gender-based violence as well as all grave violations and abuses committed against children, and reiterating that some of these violations may amount to war crimes and crimes against humanity,

Reiterating its demand that all parties demilitarize medical facilities, schools and other civilian facilities and avoid establishing military positions in populated areas and desist from attacks directed against civilian objects,

Reaffirming the primary responsibility of the Syrian authorities to protect the population in Syria and reiterating that parties to armed conflict bear the primary responsibility to take all feasible steps to ensure the protection of civilians, and recalling in this regard its demand that all parties to armed conflict comply fully with the obligations applicable to them under international law related to the protection of civilians in armed conflict, including journalists, media professionals and associated personnel,

Recalling the need for all parties to respect the relevant provisions of international humanitarian law and the United Nations guiding principles of humanitarian emergency assistance,

Expressing grave alarm at the spread of extremism and extremist groups, the targeting of civilians based on their ethnicity, religion and/or confessional affiliations, expressing further grave alarm at the increased attacks resulting in numerous casualties and destruction, indiscriminate shelling by mortars, car bombs, suicide attacks, tunnel bombs as well as hostage taking, kidnappings, and attacks against civilian infrastructure including deliberate interruptions of water supply, condemning terrorism in all its forms and manifestations and recalling in this regard its resolutions 1373 (2001), 1624 (2005), 2129 (2013) and 2133 (2014).

Deeply disturbed by the continued, arbitrary and unjustified withholding of consent to relief operations and the persistence of conditions that impede the delivery of humanitarian supplies to destinations within Syria, in particular to besieged and hard-to-reach areas, and noting the United Nations Secretary-General’s view that arbitrarily withholding consent for the opening of all relevant border crossings is a violation of international humanitarian law and an act of non-compliance with resolution 2139 (2014).

Emphasizing that the humanitarian situation will continue to deteriorate further in the absence of a political solution to the crisis, reiterating its endorsement of the Geneva Communiqué of 30 June 2012 (Annex II of resolution 2118 (2013)) and demanding that all parties work towards the immediate and comprehensive implementation of the Geneva Communiqué aimed at bringing an immediate end to all violence, violations and abuses of human rights and violations of international law, and facilitating the Syrian-led process launched in Montreux on 22 January
2014, leading to a transition that meets the legitimate aspirations of the Syrian people and enables them independently and democratically to determine their own future,

Recalling its intent, expressed in its resolution 2139 (2014), to take further steps in the case of non-compliance with the resolution,

Determining that the deteriorating humanitarian situation in Syria constitutes a threat to peace and security in the region,

Underscoring that Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council’s decisions,

1. Reiterates that all parties to the conflict, in particular the Syrian authorities, must comply with their obligations under international humanitarian law and international human rights law and must fully and immediately implement the provisions of its resolution 2139 (2014) and its Presidential Statement of 2 October 2013 (S/PRST/2013/15);

2. Decides that the United Nations humanitarian agencies and their implementing partners are authorized to use routes across conflict lines and the border crossings of Bab al-Salam, Bab al-Hawa, Al Yarubiyah and Al-Ramtha, in addition to those already in use, in order to ensure that humanitarian assistance, including medical and surgical supplies, reaches people in need throughout Syria through the most direct routes, with notification to the Syrian authorities, and to this end stresses the need for all border crossings to be used efficiently for United Nations humanitarian operations;

3. Decides to establish a monitoring mechanism, under the authority of the United Nations Secretary-General, to monitor, with the consent of the relevant neighbouring countries of Syria, the loading of all humanitarian relief consignments of the United Nations humanitarian agencies and their implementing partners at the relevant United Nations facilities, and any subsequent opening of the consignments by the customs authorities of the relevant neighbouring countries, for passage into Syria across the border crossings of Bab al-Salam, Bab al-Hawa, Al Yarubiyah and Al-Ramtha, and with notification by the United Nations to the Syrian authorities, in order to confirm the humanitarian nature of these relief consignments;

4. Decides that the United Nations monitoring mechanism shall be deployed expeditiously;

5. Further decides that the decisions contained in operative paragraphs two and three of this resolution shall expire 180 days from the adoption of this resolution, and shall be subject to review by the Security Council;

6. Also decides that all Syrian parties to the conflict shall enable the immediate and unhindered delivery of humanitarian assistance directly to people throughout Syria, by the United Nations humanitarian agencies and their implementing partners, on the basis of United Nations assessments of need and devoid of any political prejudices and aims, including by immediately removing all impediments to the provision of humanitarian assistance;

7. Notes in this regard the role that ceasefire agreements that are consistent with humanitarian principles and international humanitarian law could play to facilitate the delivery of humanitarian assistance in order to help save civilian lives, and further
underscores the need for the parties to agree on humanitarian pauses, days of tranquillity, localized ceasefires and truces to allow humanitarian agencies safe and unhindered access to all affected areas in Syria in accordance with international humanitarian law, and recalls that starvation of civilians as a method of combat is prohibited by international humanitarian law;

8. **Decides** that all Syrian parties to the conflict shall take all appropriate steps to ensure the safety and security of United Nations and associated personnel, those of its specialized agencies, and all other personnel engaged in humanitarian relief activities as required by international humanitarian law, without prejudice to their freedom of movement and access, stresses the need not to impede or hinder these efforts, and recalls that attacks on humanitarian workers may amount to war crimes;

9. **Reiterates** that the only sustainable solution to the current crisis in Syria is through an inclusive and Syrian-led political process with a view to full implementation of the Geneva Communiqué of 30 June 2012 endorsed as Annex II of its resolution 2118 (2013), pays tribute to the efforts of Mr. Lakhdar Brahimi, and welcomes the appointment of the Special Envoy of the United Nations Secretary-General for Syria Mr. Staffan de Mistura;

10. **Requests** the Secretary-General to report to the Council on the implementation of this resolution, and on compliance with it by all Syrian parties to the conflict, within the framework of its reporting on resolution 2139 (2014);

11. **Affirms** that it will take further measures in the event of non-compliance with this resolution or resolution 2139 (2014) by any Syrian party;

12. **Decides** to remain actively seized of the matter.
The Security Council,

Reaffirming that terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed, and remaining determined to contribute further to enhancing the effectiveness of the overall effort to fight this scourge on a global level,

Noting with concern that the terrorism threat has become more diffuse, with an increase, in various regions of the world, of terrorist acts including those motivated by intolerance or extremism, and expressing its determination to combat this threat,

Bearing in mind the need to address the conditions conducive to the spread of terrorism, and affirming Member States' determination to continue to do all they can to resolve conflict and to deny terrorist groups the ability to put down roots and establish safe havens to address better the growing threat posed by terrorism,

Emphasizing that terrorism cannot and should not be associated with any religion, nationality or civilization,

Recognizing that international cooperation and any measures taken by Member States to prevent and combat terrorism must comply fully with the Charter of the United Nations,

Reaffirming its respect for the sovereignty, territorial integrity and political independence of all States in accordance with the Charter,

Reaffirming that Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law, underscoring that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort and notes the importance of respect for the rule of law so as to effectively prevent and combat terrorism, and noting that failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization and fosters a sense of impunity,

Expressing grave concern over the acute and growing threat posed by foreign terrorist fighters, namely individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the
providing or receiving of terrorist training, including in connection with armed conflict, and resolving to address this threat,

Expressing grave concern about those who attempt to travel to become foreign terrorist fighters,

Concerned that foreign terrorist fighters increase the intensity, duration and intractability of conflicts, and also may pose a serious threat to their States of origin, the States they transit and the States to which they travel, as well as States neighbouring zones of armed conflict in which foreign terrorist fighters are active and that are affected by serious security burdens, and noting that the threat of foreign terrorist fighters may affect all regions and Member States, even those far from conflict zones, and expressing grave concern that foreign terrorist fighters are using their extremist ideology to promote terrorism,

Expressing concern that international networks have been established by terrorists and terrorist entities among States of origin, transit and destination through which foreign terrorist fighters and the resources to support them have been channelled back and forth,

Expressing particular concern that foreign terrorist fighters are being recruited by and are joining entities such as the Islamic State in Iraq and the Levant (ISIL), the Al-Nusrah Front (ANF) and other cells, affiliates, splinter groups or derivatives of Al-Qaida, as designated by the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011), recognizing that the foreign terrorist fighter threat includes, among others, individuals supporting acts or activities of Al-Qaida and its cells, affiliates, splinter groups, and derivative entities, including by recruiting for or otherwise supporting acts or activities of such entities, and stressing the urgent need to address this particular threat,

Recognizing that addressing the threat posed by foreign terrorist fighters requires comprehensively addressing underlying factors, including by preventing radicalization to terrorism, stemming recruitment, inhibiting foreign terrorist fighter travel, disrupting financial support to foreign terrorist fighters, countering violent extremism, which can be conducive to terrorism, countering incitement to terrorist acts motivated by extremism or intolerance, promoting political and religious tolerance, economic development and social cohesion and inclusiveness, ending and resolving armed conflicts, and facilitating reintegration and rehabilitation,

Recognizing also that terrorism will not be defeated by military force, law enforcement measures, and intelligence operations alone, and underlining the need to address the conditions conducive to the spread of terrorism, as outlined in Pillar I of the United Nations Global Counter-Terrorism Strategy (A/RES/60/288),

Expressing concern over the increased use by terrorists and their supporters of communications technology for the purpose of radicalizing to terrorism, recruiting and inciting others to commit terrorist acts, including through the internet, and financing and facilitating the travel and subsequent activities of foreign terrorist fighters, and underlining the need for Member States to act cooperatively to prevent terrorists from exploiting technology, communications and resources
to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law,

**Noting** with appreciation the activities undertaken in the area of capacity building by United Nations entities, in particular entities of the Counter-Terrorism Implementation Task Force (CTITF), including the United Nations Office of Drugs and Crime (UNODC) and the United Nations Centre for Counter-Terrorism (UNCCT), and also the efforts of the Counter Terrorism Committee Executive Directorate (CTED) to facilitate technical assistance, specifically by promoting engagement between providers of capacity-building assistance and recipients, in coordination with other relevant international, regional and subregional organizations, to assist Member States, upon their request, in implementation of the United Nations Global Counter-Terrorism Strategy,

**Noting** recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, and **noting** the work of the Global Counterterrorism Forum (GCTF), in particular its recent adoption of a comprehensive set of good practices to address the foreign terrorist fighter phenomenon, and its publication of several other framework documents and good practices, including in the areas of countering violent extremism, criminal justice, prisons, kidnapping for ransom, providing support to victims of terrorism, and community-oriented policing, to assist interested States with the practical implementation of the United Nations counter-terrorism legal and policy framework and to complement the work of the relevant United Nations counter-terrorism entities in these areas,

**Noting** with appreciation the efforts of INTERPOL to address the threat posed by foreign terrorist fighters, including through global law enforcement information sharing enabled by the use of its secure communications network, databases, and system of advisory notices, procedures to track stolen, forged identity papers and travel documents, and INTERPOL’s counter-terrorism fora and foreign terrorist fighter programme,

**Having regard to and highlighting** the situation of individuals of more than one nationality who travel to their states of nationality for the purpose of the perpetration, planning, preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and **urging** States to take action, as appropriate, in compliance with their obligations under their domestic law and international law, including international human rights law,

**Calling** upon States to ensure, in conformity with international law, in particular international human rights law and international refugee law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, including by foreign terrorist fighters,

**Reaffirming** its call upon all States to become party to the international counter-terrorism conventions and protocols as soon as possible, whether or not they are a party to regional conventions on the matter, and to fully implement their obligations under those to which they are a party,

**Noting** the continued threat to international peace and security posed by terrorism, and **affirming** the need to combat by all means, in accordance with the Charter of the United Nations, threats to
international peace and security caused by terrorist acts, including those perpetrated by foreign terrorist fighters,

*Acting under Chapter VII of the Charter of the United Nations,*

1. **Condemns** the violent extremism, which can be conducive to terrorism, sectarian violence, and the commission of terrorist acts by foreign terrorist fighters, and **demands** that all foreign terrorist fighters disarm and cease all terrorist acts and participation in armed conflict;

2. **Reaffirms** that all States shall prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents, **underscores**, in this regard, the importance of addressing, in accordance with their relevant international obligations, the threat posed by foreign terrorist fighters, and **encourages** Member States to employ evidence-based traveller risk assessment and screening procedures including collection and analysis of travel data, without resorting to profiling based on stereotypes founded on grounds of discrimination prohibited by international law;

3. **Urges** Member States, in accordance with domestic and international law, to intensify and accelerate the exchange of operational information regarding actions or movements of terrorists or terrorist networks, including foreign terrorist fighters, especially with their States of residence or nationality, through bilateral or multilateral mechanisms, in particular the United Nations;

4. **Calls upon** all Member States, in accordance with their obligations under international law, to cooperate in efforts to address the threat posed by foreign terrorist fighters, including by preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children, preventing foreign terrorist fighters from crossing their borders, disrupting and preventing financial support to foreign terrorist fighters, and developing and implementing prosecution, rehabilitation and reintegration strategies for returning foreign terrorist fighters;

5. **Decides** that Member States shall, consistent with international human rights law, international refugee law, and international humanitarian law, prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and the financing of their travel and of their activities;

6. **Recalls** its decision, in resolution 1373 (2001), that all Member States shall ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice, and **decides** that all States shall ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense:

   i. their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to travel from their territories to a State other than
their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training;

ii. the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training; and,

iii. the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training;

7. Expresses its strong determination to consider listing pursuant to resolution 2161 (2014) individuals, groups, undertakings and entities associated with Al-Qaida who are financing, arming, planning, or recruiting for them, or otherwise supporting their acts or activities, including through information and communications technologies, such as the internet, social media, or any other means;

8. Decides that, without prejudice to entry or transit necessary in the furtherance of a judicial process, including in furtherance of such a process related to arrest or detention of a foreign terrorist fighter, Member States shall prevent the entry into or transit through their territories of any individual about whom that State has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory for the purpose of participating in the acts described in paragraph 6, including any acts or activities indicating that an individual, group, undertaking or entity is associated with Al-Qaida, as set out in paragraph 2 of resolution 2161 (2014), provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals or permanent residents;

9. Calls upon Member States to require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from their territories, or attempted entry into or transit through their territories, by means of civil aircraft, of individuals designated by the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) (“the Committee”), and further calls upon Member States to report any such departure from their territories, or such attempted entry into or transit through their territories, of such individuals to the Committee, as well as sharing this information with the State of residence or nationality, as appropriate and in accordance with domestic law and international obligations;

10. Stresses the urgent need to implement fully and immediately this resolution with respect to foreign terrorist fighters, underscores the particular and urgent need to implement this resolution with respect to those foreign terrorist fighters who are associated with ISIL, ANF and other cells, affiliates, splinter groups or derivatives of
Al-Qaida, as designated by the Committee, and expresses its readiness to consider designating, under resolution 2161 (2014), individuals associated with Al-Qaida who commit the acts specified in paragraph 6 above;

**International Cooperation**

11. *Calls upon* Member States to improve international, regional, and subregional cooperation, if appropriate through bilateral agreements, to prevent the travel of foreign terrorist fighters from or through their territories, including through increased sharing of information for the purpose of identifying foreign terrorist fighters, the sharing and adoption of best practices, and improved understanding of the patterns of travel by foreign terrorist fighters, and for Member States to act cooperatively when taking national measures to prevent terrorists from exploiting technology, communications and resources to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law;

12. *Recalls* its decision in resolution 1373 (2001) that Member States shall afford one another the greatest measure of assistance in connection with criminal investigations or proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings, and *underlines* the importance of fulfilling this obligation with respect to such investigations or proceedings involving foreign terrorist fighters;

13. *Encourages* Interpol to intensify its efforts with respect to the foreign terrorist fighter threat and to recommend or put in place additional resources to support and encourage national, regional and international measures to monitor and prevent the transit of foreign terrorist fighters, such as expanding the use of INTERPOL Special Notices to include foreign terrorist fighters;

14. *Calls upon* States to help build the capacity of States to address the threat posed by foreign terrorist fighters, including to prevent and interdict foreign terrorist fighter travel across land and maritime borders, in particular the States neighbouring zones of armed conflict where there are foreign terrorist fighters, and *welcomes* and *encourages* bilateral assistance by Member States to help build such national capacity;

**Countering Violent Extremism in Order to Prevent Terrorism**

15. *Underscores* that countering violent extremism, which can be conducive to terrorism, including preventing radicalization, recruitment, and mobilization of individuals into terrorist groups and becoming foreign terrorist fighters is an essential element of addressing the threat to international peace and security posed by foreign terrorist fighters, and *calls upon* Member States to enhance efforts to counter this kind of violent extremism;

16. *Encourages* Member States to engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts, address the conditions conducive to the spread of violent extremism, which can be conducive to terrorism, including by
empowering youth, families, women, religious, cultural and education leaders, and all other concerned groups of civil society and adopt tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion;

17. *Recalls* its decision in paragraph 14 of resolution **2161 (2014)** with respect to improvised explosive devices (IEDs) and individuals, groups, undertakings and entities associated with Al-Qaida, and *urges* Member States, in this context, to act cooperatively when taking national measures to prevent terrorists from exploiting technology, communications and resources, including audio and video, to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law;

18. *Calls upon* Member States to cooperate and consistently support each other’s efforts to counter violent extremism, which can be conducive to terrorism, including through capacity building, coordination of plans and efforts, and sharing lessons learned;

19. *Emphasizes* in this regard the importance of Member States’ efforts to develop non-violent alternative avenues for conflict prevention and resolution by affected individuals and local communities to decrease the risk of radicalization to terrorism, and of efforts to promote peaceful alternatives to violent narratives espoused by foreign terrorist fighters, and *underscores* the role education can play in countering terrorist narratives;

**United Nations Engagement on the Foreign Terrorist Fighter Threat**

20. *Notes* that foreign terrorist fighters and those who finance or otherwise facilitate their travel and subsequent activities may be eligible for inclusion on the Al-Qaida Sanctions List maintained by the Committee pursuant to resolutions **1267 (1999) and 1989 (2011)** where they participate in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of, Al-Qaida, supplying, selling or transferring arms and related materiel to, or recruiting for, or otherwise supporting acts or activities of Al-Qaida or any cell, affiliate, splinter group or derivative thereof, and *calls upon* States to propose such foreign terrorist fighters and those who facilitate or finance their travel and subsequent activities for possible designation;

21. *Directs* the Committee established pursuant to resolution **1267 (1999) and 1989 (2011)** and the Analytical Support and Sanctions Monitoring Team, in close cooperation with all relevant United Nations counter-terrorism bodies, in particular CTED, to devote special focus to the threat posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida;

22. *Encourages* the Analytical Support and Sanctions Monitoring Team to coordinate its efforts to monitor and respond to the threat posed by foreign terrorist fighters with other United Nations counter-terrorism bodies, in particular the CTITF;

23. *Requests* the Analytical Support and Sanctions Monitoring Team, in close cooperation with other United Nations counter-terrorism bodies, to report to the Committee established pursuant to resolutions **1267 (1999) and 1989 (2011)** within 180 days, and provide a preliminary oral update to the Committee within 60 days, on the threat
posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida, including: a comprehensive assessment of the threat posed by these foreign terrorist fighters, including their facilitators, the most affected regions and trends in radicalization to terrorism, facilitation, recruitment, demographics, and financing; and recommendations for actions that can be taken to enhance the response to the threat posed by these foreign terrorist fighters;

24. Requests the Counter-Terrorism Committee, within its existing mandate and with the support of CTED, to identify principal gaps in Member States’ capacities to implement Security Council resolutions 1373 (2001) and 1624 (2005) that may hinder States’ abilities to stem the flow of foreign terrorist fighters, as well as to identify good practices to stem the flow of foreign terrorist fighters in the implementation of resolutions 1373 (2001) and 1624 (2005), and to facilitate technical assistance, specifically by promoting engagement between providers of capacity-building assistance and recipients, especially those in the most affected regions, including through the development, upon their request, of comprehensive counter-terrorism strategies that encompass countering violent radicalization and the flow of foreign terrorist fighters, recalling the roles of other relevant actors, for example the Global Counterterrorism Forum;

25. Underlines that the increasing threat posed by foreign terrorist fighters is part of the emerging issues, trends and developments related to resolutions 1373 (2001) and 1624 (2005), that, in paragraph 5 of resolution 2129 (2013), the Security Council directed CTED to identify, and therefore merits close attention by the Counter-Terrorism Committee, consistent with its mandate;

26. Requests the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) and the Counter-Terrorism Committee to update the Security Council on their respective efforts pursuant to this resolution;

27. Decides to remain seized of the matter.
The Security Council,

Recalling the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), and the Council's resolutions 1540 (2004), 2118 (2013) and 2209 (2015),

Recalling that the Syrian Arab Republic acceded to the CWC, noting that the use of any toxic chemical, such as chlorine, as a chemical weapon in the Syrian Arab Republic is a violation of resolution 2118, and further noting that any such use by the Syrian Arab Republic would constitute a violation of the CWC,

Condemning in the strongest terms any use of any toxic chemical as a weapon in the Syrian Arab Republic and noting with outrage that civilians continue to be killed and injured by toxic chemicals as weapons in the Syrian Arab Republic,

Reaffirming that the use of chemical weapons constitutes a serious violation of international law, and stressing again that those individuals responsible for any use of chemical weapons must be held accountable,

Recalling its request to the Director-General of the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Secretary-General to report in a coordinated manner on non-compliance with resolution 2118,

Noting the letter of the Secretary-General to the President of the Security Council of 25 February 2015 (S/2015/138), transmitting the note of the Director General of the OPCW, discussing the decision of the OPCW Executive Council of 4 February 2015 that expressed serious concern regarding the findings of the Fact Finding Mission (FFM) made with a high degree of confidence that chlorine has been used repeatedly and systematically as a weapon in the Syrian Arab Republic,

Noting that toxic chemicals as weapons have allegedly been used subsequent to the adoption on March 6 of Security Council resolution 2209 (2015),

Recognizing that the OPCW FFM is not mandated to reach conclusions about attributing responsibility for chemical weapons use, S/RES/2235 (2015) 2/3 15-13352 Recalling that, in its
resolution 2118, it decided that the Syrian Arab Republic and all parties in Syria shall cooperate fully with the OPCW and the United Nations,

1. *Reiterates* its condemnation in the strongest terms of any use of any toxic chemical, such as chlorine, as a weapon in the Syrian Arab Republic;
2. *Recalls* its decision that the Syrian Arab Republic shall not use, develop, produce, otherwise acquire, stockpile or retain chemical weapons, or, transfer, directly or indirectly, chemical weapons to other States or non-State actors;
3. *Reiterates* that no party in Syria should use, develop, produce, acquire, stockpile, retain, or transfer chemical weapons;
4. *Expresses* its determination to identify those responsible for these acts and reiterates that those individuals, entities, groups, or governments responsible for any use of chemicals as weapons, including chlorine or any other toxic chemical, must be held accountable, and calls on all parties in the Syrian Arab Republic to extend their full cooperation in this regard;
5. *Requests* the UN Secretary-General, in coordination with the OPCW Director-General, to submit to the Security Council, for its authorisation, within 20 days of the adoption of this resolution, recommendations, including elements of Terms of Reference, regarding the establishment and operation of an OPCW-United Nations Joint Investigative Mechanism to identify to the greatest extent feasible individuals, entities, groups, or governments who were perpetrators, organisers, sponsors or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic where the OPCW FFM determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons, including chlorine or any other toxic chemical, and expresses its intent to respond to the recommendations, including elements of Terms of Reference, within five days of receipt;
6. *Requests* further that after the Security Council has authorised the Joint Investigative Mechanism that the United Nations Secretary-General, in coordination with the OPCW Director-General, undertake without delay the steps, measures, and arrangements necessary for the speedy establishment and full functioning of the Joint Investigative Mechanism, including recruiting impartial and experienced staff with relevant skills and expertise in accordance with Terms of Reference and notes due regard should be paid to the importance of recruiting the staff on as wide of a geographical basis as is practicable;
7. *Recalls* that in its resolution 2118, it decided that the Syrian Arab Republic and all parties in Syria shall cooperate fully with the OPCW and the United Nations and stresses that this includes an obligation to cooperate with the OPCW Director-General and its FFM and the United Nations Secretary-General and the Joint Investigative Mechanism, that such cooperation includes full access to all locations, individuals, and materials in the Syrian Arab Republic that the Joint Investigative Mechanism deems relevant to its investigation and where it determines there are reasonable grounds to believe access is justified based on its assessment of the facts and circumstances known to it at the time, including in areas within the Syrian territory but outside of the control of the Syrian Arab Republic, and that such cooperation also includes the ability of the Joint Investigative Mechanism to examine additional information and evidence
that was not obtained or prepared by S/RES/2235 (2015) 15-13352 3/3 the FFM but that is related to the mandate of the Joint Investigative Mechanism as set forth in paragraph 5;

8. **Calls** on all other States to cooperate fully with the Joint Investigative Mechanism and in particular to provide it and the OPCW FFM with any relevant information they may possess pertaining to individuals, entities, groups, or governments who were perpetrators, organisers, sponsors or otherwise involved in use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic;

9. **Requests** the FFM to collaborate with the Joint Investigative Mechanism from the commencement of the Joint Investigative Mechanism's work to provide full access to all of the information and evidence obtained or prepared by the FFM including but not limited to, medical records, interview tapes and transcripts, and documentary material, and requests the Joint Investigative Mechanism, with respect to allegations that are subject to investigation by the FFM, to work in coordination with the FFM to fulfil its mandate;

10. **Requests** the United Nations Secretary-General, in coordination with the OPCW Director-General, to present a report to the United Nations Security Council and inform the OPCW Executive Council as of the date the Joint Investigative Mechanism begins its full operations and every 30 days thereafter on the progress made;

11. **Requests** the Joint Investigative Mechanism to complete its first report within 90 days of the date on which it commences its full operations, as notified by the United Nations Secretary-General, and complete subsequent reports as appropriate thereafter and requests the Joint Investigative Mechanism to present the report, or reports, to the United Nations Security Council and inform the OPCW Executive Council;

12. **Requests** the Joint Investigative Mechanism to retain any evidence related to possible uses of chemical weapons in the Syrian Arab Republic other than those cases in which the FFM determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons, including chlorine or any other toxic chemical, and to transmit that evidence to the FFM through the Director-General of the OPCW and to the Secretary-General as soon as practicable;

13. **Affirms** that action by the Security Council consistent with paragraph 5 is sufficient for the establishment of the Joint Investigative Mechanism;

14. **Decides** to establish the Joint Investigative Mechanism for a period of one year with a possibility of future extension by the Security Council, if it deems it necessary;

15. **Reaffirms** its decision in response to violations of resolution 2118 to impose measures under Chapter VII of the United Nations Charter;

16. **Decides** to remain actively seized of the matter.
5.8 **SECURITY COUNCIL RESOLUTION 2268 (2016), UNSC ENDORES SYRIA CESSATION OF HOSTILITIES ACCORD, 26 FEBRUARY 2016**

The Security Council,


"Reaffirming" its strong commitment to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic, and to the purposes and principles of the Charter of the United Nations,

"Recognizing" the efforts of the Secretary-General in implementing resolution 2254 (2015) and noting, through his good offices and by his Special Envoy for Syria, the launch of the formal negotiations on a political transition process, consistent with paragraph 2 of resolution 2254 (2015), on 29 January 2016,

"Commending" the commitment of the International Syria Support Group (ISSG) to ensure a Syrian-led and Syrian-owned political transition based on the Geneva communiqué of 30 June 2012 in its entirety and to immediately facilitate the full implementation of resolution 2254 (2015), and emphasizing the urgency for all parties in Syria to work diligently and constructively towards this goal,

"Welcoming" the ISSG statement of 11 February 2016, including the establishment of an ISSG humanitarian task force and an ISSG ceasefire task force,

1. **Endorses** in full the Joint Statement of the United States and the Russian Federation, as Co-Chairs of the ISSG, on Cessation of Hostilities in Syria of 22 February 2016 and the Terms for the Cessation of Hostilities in Syria (hereafter referred to as 'the Annex') attached to the Statement, and demands the cessation of hostilities to begin at 00:00 (Damascus time) on 27 February 2016;

2. **Demands** the full and immediate implementation of resolution 2254 (2015) to facilitate a Syrian-led and Syrian-owned political transition, in accordance with the Geneva communiqué as set forth in the ISSG Statements, in order to end the conflict in Syria, and stresses again that the Syrian people will decide the future of Syria;

3. **Demands** that all parties to whom the cessation of hostilities applies as set forth in the Annex (hereafter referred to as the "parties to the cessation of hostilities") fulfil their commitments laid out in the Annex, and urges all Member States, especially ISSG members, to use their influence with the parties to the cessation of hostilities to ensure fulfilment of those commitments and to support efforts to create conditions for a durable and lasting ceasefire;

4. **Recognizes** the efforts of the Russian Federation and the United States to reach understanding on the Terms of the Cessation of Hostilities, and acknowledges and
welcomes that the forces of the Syrian Government and those supporting it, as communicated to the Russian Federation, and the Syrian armed opposition groups, as communicated to the Russian Federation or the United States, have accepted and committed to abide by the Terms of the Cessation of Hostilities, and as such are now parties to it;

5. Reiterates its call on the parties to immediately allow humanitarian agencies rapid, safe and unhindered access throughout Syria by most direct routes, allow immediate, humanitarian assistance to reach all people in need, in particular in all besieged and hard-to-reach areas, and immediately comply with their obligations under international law, including international humanitarian law and international human rights law as applicable;

6. Expresses support for the ISSG initiative, coordinated through the ISSG humanitarian working group, to accelerate the urgent delivery of humanitarian aid, with the view towards the full, sustained, and unimpeded access throughout the country, including to Deir ez Zor, Foah, Kafraya, Az-Zabadani, Madaya/Bqin, Darayya, Madamiyet Elsham, Duma, East Harasta, Arbin, Zamalka, Kafr Batna, Ein Terma, Hammuria, Jisrein, Saqba, Zabadin, Yarmuk, eastern and western rural Aleppo, Azaz, Afrin, At Tall, Rastan, Talbiseh, Al Houle, Tier Malah/Al Gantho/Der Kabira, Al Waer, Yalda, Babila and Beit Saham;

7. Reaffirms its support for a Syrian-led political process facilitated by the United Nations, requests the Secretary-General, through his good offices and the efforts of his Special Envoy for Syria, to resume the formal negotiations between the representatives of the Syrian government and the opposition, under the auspices of the United Nations, as soon as possible, and urges the representatives of the Syrian Government and the Syrian opposition to engage in good faith in these negotiations;

8. Welcomes the cessation of hostilities as a step towards a lasting ceasefire and reaffirms the close linkage between a ceasefire and a parallel political process, pursuant to the 2012 Geneva communiqué, and that both initiatives should move ahead expeditiously as expressed in resolution 2254 (2015);

9. Calls on all states to use their influence with the Government of Syria and the Syrian opposition to advance the peace process, confidence-building measures, including the early release of any arbitrarily detained persons, particularly women and children, and implementation of the cessation of hostilities;

10. Requests the Secretary-General to report to the Council on the implementation of this resolution, including by drawing on information provided by the ISSG ceasefire taskforce, and on resolution 2254 (2015), within 15 days of the adoption of this resolution and every 30 days thereafter;

11. Decides to remain actively seized of the matter."
5.9 **Security Council Resolution 2328 (2016) on UN access to monitor evacuations from Aleppo, 19 December 2016**

*The Security Council,*


Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic,

*Alarmed* by the continued deterioration of the devastating humanitarian situation in Aleppo and by the fact that urgent humanitarian evacuations and assistance are now needed by a large number of Aleppo inhabitants,

*Recalling* the need for all parties to respect the relevant provisions of international humanitarian law and the United Nations guiding principles of humanitarian emergency assistance,

1. *Takes note* of the efforts to carry out evacuations of civilians and fighters from the districts of the city of Aleppo affected by the conflict;
2. *Stresses* that these evacuations must be conducted in accordance with international humanitarian law and principles and emphasizes that the evacuations of civilians must be voluntary and to final destinations of their choice, and protection must be provided to all civilians who choose or who have been forced to be evacuated and those who opt to remain in their homes;
3. *Requests* the United Nations and other relevant institutions to carry out adequate, neutral monitoring and direct observation on evacuations from the eastern districts of Aleppo and other districts of the city, and to report as appropriate thereon, to ensure further deployment of staff for these purposes as needed and demands all parties to provide these monitors with safe, immediate and unimpeded access;
4. *Stresses* the importance to ensure the voluntary, safe and dignified passage of all civilians from the eastern districts of Aleppo or other areas, under the monitoring of and coordination by the United Nations and other relevant institutions, to a destination of their choice;
5. *Stresses* that in such circumstances, S/RES/2328 (2016) 2/2 16-22417 priority should be given to the most seriously wounded people and the most vulnerable and calls on all the parties to cooperate with the United Nations in this regard;
6. *Demands* that all parties allow complete, immediate, unconditional, safe and unhindered access for the United Nations and its implementing partners, in order to ensure that humanitarian assistance reaches people through the most direct route in order to meet basic needs, including the provision of medical care, consistent with the provisions of its resolution 2258 (2015) for the whole of Syria and respect and protect all civilians across Aleppo and throughout Syria;
7. *Stresses* that all parties must respect their obligations under international humanitarian law and, in particular, to respect and protect civilians and civilian objects; *Calls on all parties to respect and protect all medical and humanitarian personnel, their means of transport and*
equipment, as well as hospitals and other medical facilities throughout the country, consistent with its resolution 2286 (2016);

8. Requests the Secretary General to take urgent steps to make arrangements, including security arrangements in consultation with interested parties, to allow the observation by the United Nations and other relevant institutions of the well-being of civilians, as well as the full respect of international humanitarian law, inside the eastern districts of the city of Aleppo; notify the Security Council about these arrangements and to carry out the above mentioned activity immediately thereupon;

9. Further requests the Secretary General to report to the Security Council on the implementation of this resolution, including by the parties on the ground, within 5 days of adoption of this resolution;

10. Decides to remain actively seized of the matter.
5.10 **GENERAL ASSEMBLY RESOLUTION 3314 (XXIX) ON THE DEFINITION OF AGGRESSION, 14 DECEMBER 1974**

*The General Assembly,*

Having considered the report of the Special Committee on the Question of Defining Aggression, established pursuant to its resolution 2330(XXII) of 18 December 1967, covering the work of its seventh session held from 11 March to 12 April 1974, including the draft Definition of Aggression adopted by the Special Committee by consensus and recommended for adoption by the General Assembly, [FN1]

Deeply, convinced that the adoption of the Definition of Aggression would contribute to the strengthening of international peace and security,

1. Approves the Definition of Aggression, the text of which is annexed to the present resolution;
2. Expresses its appreciation to the Special Committee on the Question of Defining Aggression for its work which resulted in the elaboration of the Definition of Aggression;
3. Calls upon all States to refrain from all acts of aggression and other uses of force contrary to the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations; [FN2]
4. Calls the attention of the Security Council to the Definition of Aggression, as set out below, and recommends that it should, as appropriate, take account of that Definition as guidance in determination, in accordance with the Charter, the existence of an act of aggression.

14 December 1974

**Annex**

**Definition of Aggression**

*The General Assembly,*

*Basing itself on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,*

*Recalling* that the Security Council, in accordance with Article 39 of the Charter of the United Nations, shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security,

*Recalling* also the duty of States under the Charter to settle their international disputes by peaceful means in order not to endanger international peace, security and justice,
Bearing in mind that nothing in this Definition shall be interpreted as in any way affecting the scope of the provisions of the Charter with respect to the functions and powers of the organs of the United Nations,

Considering also that, since aggression is the most serious and dangerous form of the illegal use of force, being fraught, in the conditions created by the existence of all types of weapons of mass destruction, with the possible threat of a world conflict and all its catastrophic consequences, aggression should be defined at the present stage,

Reaffirming the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence, or to disrupt territorial Integrity,

Reaffirming also that the territory of a State shall not be violated by being the object, even temporarily, of military occupation or of other measures of force taken by another State in contravention of the Charter, and that it shall not be the object of acquisition by another State resulting from such measures or the threat thereof,

Reaffirming also the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Convinced that the adoption of a definition of aggression ought to have the effect of deterring a potential aggressor, would simplify the determination of acts of aggression and the implementation of measures to suppress them and would also facilitate the protection of the rights and lawful interests of, and the rendering of assistance to, the victim,

Believing that, although the question whether an act of aggression has been committed must be considered in the light of all the circumstances of each particular case, it is nevertheless desirable to formulate basic principles as guidance for such determination,

Adopts the following Definition of Aggression:

Article 1
Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.

Explanatory note: In this Definition the term "State":
 a) Is used without prejudice to questions of recognition or to whether a State is a member of the United Nations;
 b) Includes the concept of a "group of States" where appropriate.

Article 2
The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not
be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.

Article 3
Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,
b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
c) The blockade of the ports or coasts of a State by the armed forces of another State;
d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Article 4
The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.

Article 5
1. No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression.
2. A war of aggression is a crime against international peace. Aggression gives rise to international responsibility.
3. No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Article 6
Nothing in this Definition shall be construed as in any way enlarging or diminishing the scope of the Charter, including its provisions concerning cases in which the use of force is lawful.

Article 7
Nothing in this Definition, and in particular article 3, could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of
the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination: nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration.

**Article 8**

In their interpretation and application the above provisions are interrelated and each provision should be construed in the context of the other provisions.
5.11 **GENERAL ASSEMBLY RESOLUTION A/60/L, ON RESPONSIBILITY TO PROTECT POPULATIONS FROM GENOCIDE, WAR CRIMES, ETHNIC CLEANSING AND CRIMES AGAINST HUMANITY, 15 SEPTEMBER 2005**

Items 48 and 121 of the provisional agenda*

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields. Follow-up to the outcome of the Millennium Summit

Draft resolution referred to the High-level Plenary Meeting of the General Assembly by the General Assembly at its fifty-ninth session 2005 World Summit Outcome

The General Assembly

Adopts the following 2005 World Summit Outcome:

**2005 World Summit Outcome**

[......]

**Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity**

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and
crimes against humanity and to assisting those which are under stress before crises and conflicts break out.
5.12 GENERAL ASSEMBLY RESOLUTION A/63/308, INTERNATIONAL ASSISTANCE AND THE RESPONSIBILITY TO PROTECT, 7 OCTOBER 2009

Agenda items 44 and 107

Resolution adopted by the General Assembly

[without reference to a Main Committee (A/63/L.80/Rev.1 and Add.1)]

The General Assembly,

Reaffirming its respect for the principles and purposes of the Charter of the United Nations,

Recalling the 2005 World Summit Outcome, especially paragraphs 138 and 139 thereof,

Takes note of the report of the Secretary-General and of the timely and productive debate organized by the President of the General Assembly on the responsibility to protect, held on 21, 23, 24 and 28 July 2009, with full participation by Member States;

Decides to continue its consideration of the responsibility to protect.

The General Assembly,

Guided by the Charter of the United Nations,

Reaffirming its commitment to the sovereignty of the Syrian Arab Republic,

Recalling the relevant resolutions of the General Assembly, the Security Council and the Human Rights Council, in particular Human Rights Council resolution S-17/1 of 23 August 2011 that established the Independent International Commission of Inquiry on the Syrian Arab Republic, ¹

Welcoming the ongoing work carried out by the Commission of Inquiry, and recalling its reports and the recommendations contained therein, ²

Expressing its appreciation for the work carried out by the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism, and recalling its reports and the conclusions contained therein, ³

Recognizing the work of Syrian and international civil society actors in documenting violations of international humanitarian law and violations and abuses of human rights law in the Syrian Arab Republic during the conflict,

Noting with concern the impunity for serious violations of international humanitarian law and violations and abuses of human rights law committed during the conflict in the Syrian Arab Republic, which has provided a fertile ground for further violations and abuses,

Recalling the statements made by the Secretary-General, the United Nations High Commissioner for Human Rights and the special procedures of the Human Rights Council that crimes against humanity and war crimes are likely to have been committed in the Syrian Arab Republic,

Noting the repeated encouragement by the Secretary-General and the High Commissioner for Human Rights for the Security Council to refer the situation in the Syrian Arab Republic to the International Criminal Court,

1. Emphasizes the need to ensure accountability for crimes involving violations of international law, in particular of international humanitarian law and international human rights law, some of which may constitute war crimes or crimes against humanity, committed in the Syrian Arab Republic since March 2011 through appropriate, fair and

independent investigations and prosecutions at the domestic or international level, and stresses the need to pursue practical steps towards this goal to ensure justice for all victims and to contribute to the prevention of future violations;

2. Stresses the need for any political process aimed at resolving the crisis in the Syrian Arab Republic to ensure credible and comprehensive accountability for violations of international humanitarian law and human rights violations and abuses committed in the country in order to bring about reconciliation and sustainable peace;

3. Welcomes the efforts by States to investigate and prosecute crimes within their jurisdiction committed in the Syrian Arab Republic, in accordance with their national legislation and international law, and encourages other States to consider doing the same and to share relevant information to that end with other States;

4. Decides to establish the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 under the auspices of the United Nations to closely cooperate with the Independent International Commission of Inquiry on the Syrian Arab Republic to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law;

5. Requests the Secretary-General, in this regard, to develop, within 20 working days of the adoption of the present resolution, the terms of reference of the International, Impartial and Independent Mechanism, with the support of the Office of the United Nations High Commissioner for Human Rights, and also requests that the Secretary-General undertake, without delay, the steps, measures and arrangements necessary for the speedy establishment and full functioning of the International, Impartial and Independent Mechanism, initially funded by voluntary contributions, in coordination with the Independent International Commission of Inquiry on the Syrian Arab Republic and building on existing capacities, including recruiting or allocating impartial and experienced staff with relevant skills and expertise in accordance with the terms of reference;

6. Calls upon all States, all parties to the conflict as well as civil society to cooperate fully with the International, Impartial and Independent Mechanism and the Independent International Commission of Inquiry on the Syrian Arab Republic to effectively fulfil their respective mandates and, in particular, to provide them with any information and documentation they may possess, as well as any other forms of assistance pertaining to their respective mandates;

7. Requests the United Nations system as a whole to fully cooperate with the International, Impartial and Independent Mechanism and to promptly respond to any request, including access to all information and documentation, and decides that the Mechanism shall closely cooperate with the Independent International Commission of Inquiry on the Syrian Arab Republic in all aspects of its work;

8. Requests the Secretary-General to report on the implementation of the present resolution within 45 days of its adoption, and decides to revisit the question of funding of the International, Impartial and Independent Mechanism as soon as possible.
5.14 Vetoed Security Council resolution, on the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 11 April 2017

France, United Kingdom of Great Britain and Northern Ireland and United States of America

The Security Council,


Expressing its horror at the reported use of chemical weapons in the Khan Shaykhun area of southern Idlib in the Syrian Arab Republic on 4 April 2017 causing large-scale loss of life and injuries, affirming that the use of chemical weapons constitutes a serious violation of international law, and stressing that those responsible for any use of chemical weapons must be held accountable,

Noting the Organisation for the Prohibition of Chemical Weapons (OPCW) has announced, in addition to its ongoing investigation, that its Fact Finding Mission (FFM) is in the process of gathering and analysing information on this incident from all available sources and will report to the OPCW Executive Council,

Recalling that in resolution 2118 (2013) the Council decided that the Syrian Arab Republic shall not use, develop, produce, otherwise acquire, stockpile or retain chemical weapons or transfer, directly or indirectly, chemical weapons, to other States or non-State actors and underscored that no party in Syria should use, develop produce acquire, stockpile, retain or transfer chemical weapons,

Recalling the report by the Director-General of the OPCW (EC-82/DG18 dated 6 July 2016) that the OPCW Technical Secretariat is not able to resolve all identified gaps, inconsistencies and discrepancies in Syria's declaration, and therefore cannot fully verify that Syria has submitted a declaration that can be considered accurate and complete in accordance with the CWC or OPCW Executive decision EC-M-33/DEC.1 dated 27 December 2013 or resolution 2118 (2013),

Recalling its determination that the use of chemical weapons in the Syrian Arab Republic represents a threat to international peace and security,

1. Condemns in the strongest terms the reported use of chemical weapons in the Syrian Arab Republic, in particular the attack on Khan Shaykhun reported on 4 April 2017, expresses its
outrage that individuals continue to be killed and injured by chemical weapons in the Syrian Arab Republic, and expresses its determination that those responsible must be held accountable;

2. Expresses its full support to the OPCW FFM, demands that all parties provide delay-free and safe access to any sites deemed relevant by the OPCW FFM, and, as applicable, by the OPCW-United Nations Joint Investigative Mechanism (JIM), to the reported incident in Khan Shaykhun, including the site of the reported incident on 4 April, in accordance with resolution 2118 (2013), and requests that the FFM report the results of its investigation as soon as possible;

3. Requests that the Secretary-General make the necessary arrangements for the JIM to liaise closely with the FFM to expeditiously investigate any incident the FFM determines involved or likely involved the use of chemicals as weapons in order to identify those involved in accordance with the provisions of paragraph 5 of its resolution 2235 (2015);

4. Recalls that in its resolutions 2118 (2013) and 2235 (2015) it decided that the Syrian Arab Republic and all parties in Syria shall cooperate fully with the OPCW including the FFM and the United Nations including the JIM;

5. Emphasises that this includes the obligation upon the Syrian Arab Republic of complying with the relevant recommendations of the OPCW and the United Nations, including the FFM and the JIM, by accepting personnel designated by the OPCW or the United Nations, by providing for and ensuring the security of activities undertaken by these personnel, by providing these personnel with immediate and unfettered access to and the right to inspect, in discharging their functions, any and all sites, and by allowing immediate and unfettered access to individuals whom the OPCW or the United Nations, including the JIM, has grounds to believe to be of importance for the purpose of its mandate, and specifically that this includes the obligations upon the Syrian Arab Republic to provide the JIM and FFM with the following and take the following steps:

- (a) flight plans, flight logs, and any other information on air operations, including all flight plans or flight logs filed on 4 April 2017;
- (b) names of all individuals in command of any aircraft;
- (c) arrange meetings requested including with generals or other officers, within no more than five days of the date on which such meeting is requested;
- (d) immediately provide access to relevant air bases from which the JIM or the FFM believe attacks involving chemicals as weapons may have been launched;

6. Requests the Secretary-General to report on whether the information and access described in paragraph 5 has been provided in his reports to the Security Council every 30 days pursuant to paragraph 12 of resolution 2118 (2013);

7. Recalls its decision in response to violations of resolution 2118 to impose measures under Chapter VII of the Charter of the United Nations;

8. Decides to remain actively seized of this matter.
5.15 **Vetoed Security Council resolution, on the referral of the situation in the Syrian Arab Republic described in paragraph 1 above since March 2011 to the Prosecutor of the International Criminal Court, 22 May 2014**

Albania, Andorra, Australia, Austria, Belgium, Botswana, Bulgaria, Canada, Central African Republic, Chile, Côte d’Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America

The Security Council,


*Reaffirming* its strong commitment to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic, and to the purposes and principles of the Charter of the United Nations,

*Recalling* its full endorsement of the Geneva Communiqué of 30 June 2012 which states that accountability for acts committed during the present conflict in the Syrian Arab Republic must be addressed,

*Taking note* of the reports of the independent international commission of inquiry on the Syrian Arab Republic, mandated by the Human Rights Council to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable,

*Recalling* the statements made by the Secretary-General and the United Nations High Commissioner for Human Rights that crimes against humanity and war crimes are likely to have been committed in the Syrian Arab Republic,

*Noting* the repeated encouragement by the United Nations High Commissioner for Human Rights for the Security Council to refer the situation to the International Criminal Court,

*Determining* that the situation in the Syrian Arab Republic constitutes a threat to international peace and security,

*Acting* under Chapter VII of the Charter of the United Nations,

1. *Reaffirms* its strong condemnation of the widespread violations of human rights and international humanitarian law by the Syrian authorities and
pro-government militias, as well as the human rights abuses and violations of international humanitarian law by non-State armed groups, all committed in the course of the ongoing conflict in the Syrian Arab Republic since March 2011;

2. **Decides** to refer the situation in the Syrian Arab Republic described in paragraph 1 above since March 2011 to the Prosecutor of the International Criminal Court;

3. **Decides** also that the Government of the Syrian Arab Republic shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor, including by implementing fully the Agreement on the Privileges and Immunities of the International Criminal Court, pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, strongly urges all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor;

4. **Demands** that non-State armed groups in the Syrian Arab Republic also cooperate fully with and provide any necessary assistance to the Court and the Prosecutor in connection with investigations and prosecutions undertaken pursuant to this resolution;

5. **Expresses** its commitment to an effective follow-up of the present resolution;

6. Recalls the guidance issued by the Secretary-General on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court;

7. **Decides** that nationals, current or former officials or personnel from a State outside the Syrian Arab Republic which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the Syrian Arab Republic established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State;

8. **Recognizes** that none of the expenses incurred in connection with the referral, including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily and encourages States to make such contributions, noting the need for funding of expenses related to investigations or prosecutions of the International Criminal Court, including in connection with situations referred to the Court by the Security Council, as stated in General Assembly resolution 67/295;

9. **Invites** the Prosecutor to address the Council within two months of the date of adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution and requests the Secretary-General to circulate the report of the Prosecutor as a document of the Council, in advance of such briefings;

10. **Decides** to remain seized of the matter.