



Submission to OHCHR’s compilation on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism

As the Human Rights Council has recognized, the protection and promotion of human rights is essential to the successful prevention and countering of violent extremism around the world.¹ The Global Justice Center (GJC) submits that compliance with obligations under international law and the achievement of gender equality must be at the center of any such strategies.

Legal obligations under international law, including the duty to prevent, suppress, and punish genocide, must be incorporated into PVE and CVE efforts.

The international community has increasingly focused on countering violent extremism (CVE) and preventing violent extremism (PVE) in recent years. However this focus has not included states’ obligations under international law—including international human rights treaties, international humanitarian law, the Genocide Convention, and customary international law—and these obligations must underpin and affirmatively be incorporated into any PVE and CVE strategies and actions. Of particular relevance are state obligations to prevent, suppress and punish genocide.

The 1948 Genocide Convention was passed to protect distinct values central to humanity: the right of protected groups to their existence and the right of all people to live in a world enriched by diversity and marked by tolerance. More often than not, the acts of violent extremists, whose “use of violent acts to intimidate a population as a means of achieving an ideological goal,”² are distinctly antithetical to the very values protected by the Genocide Convention. Given the potential of violent extremism to result in crimes of genocide, states must mainstream their duty to prevent, suppress, and punish genocide into PVE and CVE strategies such that they are prepared to act quickly if a risk of genocide manifests.

States have unique legal obligations to prevent, suppress, and punish genocide under the Genocide Convention and customary international law. The duty to prevent aims to preclude or stop the punishable acts listed in Article III of the Genocide Convention: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide.³ From the moment that a state knows, or should have known, of a serious risk of genocide until the genocide ends, states must “employ all means reasonably available to them, so as to prevent genocide so far as possible.”⁴ It is important to note that this “obligation in question is one of conduct and not one of result, in the sense that a State cannot be under an obligation to succeed.”⁵ The duty to punish constitutes the obligation to impose criminal sanctions on perpetrators of the punishable acts in Article III. The duty to punish does not begin after genocide ends but is ongoing once the genocide starts.

Under international law, States must prevent, suppress, and punish acts of genocide and also acts of direct and public incitement to commit genocide, among others. Such incitement is becoming

increasingly easier due to the internet and social media, which have given violent extremists platforms through which they can incite hatred and violence—and recruit members—all around the world. For example, recruitment via social media has proven highly successful for violent extremist groups such as Daesh,⁶ who also uses the promise of committing atrocity crimes, including genocidal rape, as a recruiting tool.⁷ These promises constitute direct and public incitement to commit genocide (particularly in the form of rape), which is an inchoate, punishable offense under the Genocide Convention and international criminal law. States cannot fulfill their obligations under international law unless they recognize, criminalize and prosecute such rhetoric as incitement to commit genocide. The criminalization of speech promoting or even inciting genocide crimes, including genocidal rapes, as well as the prosecution of perpetrators will stigmatize and delegitimize further propagation of the rhetoric and instances of such conduct, as well as the commission of such acts themselves.

While states have legal obligations to prevent and suppress recruitment and *terrorist acts* under international law,⁸ the majority of current international frameworks on countering violent extremism, including UN Security Council resolutions, fail to explicitly reference states' duty to prevent, suppress and punish genocide crimes.⁹ This is especially problematic in situations where violent extremists are perpetrating and inciting genocide and not just terrorist acts, as seen in Daesh's recruitment tactics, which rely on calling on potential recruits to join Daesh and commit genocidal crimes. For example, Daesh's invitation to potential new recruits to rape Yazidi women and girls likely constitutes incitement to commit rape as genocide, which is punishable under the Genocide Convention.¹⁰ Genocide is an international crime, whereas terrorism is not a distinct crime under international law; moreover, the protections against genocide are stronger than those against terrorism. Therefore, it is essential that terrorist acts are recognized and addressed as international crimes when they amount to such in order to attach legal obligations, including the duty to prevent, suppress, and punish genocide.

On the whole, accountability for genocide and other human rights violations is essential to PVE and CVE in addition to being a legal obligation. The dearth of prosecutions of violent extremists, such as members of Daesh or Boko Haram, for international crimes, including genocide, fuel a culture of impunity in which such human rights violations continue unchecked.¹¹ Prosecutions at all levels, including at the International Criminal Court (ICC), can delegitimize and stigmatize violent extremist groups and deter potential perpetrators from joining. It is thus imperative to integrate an atrocity prevention and punishment framework into CVE and PVE strategies such that, where possible, violent extremists are brought to justice for the full range of crimes they commit and not simply killed during counter-terrorism interventions.¹²

However, despite these robust obligations under international law to prevent, suppress, and punish genocide, current responses to violent extremism do not explicitly refer to legal obligations to prevent, suppress, and punish genocide or address extremist crimes as genocide crimes, where applicable. For example, while the Secretary-General's Plan of Action on Preventing Violence Extremism notes that genocide may be occurring under groups like Daesh, it fails to mention the resulting legal obligations on actors engaging in strategies to counter Daesh.¹³ Accordingly, to effectively counter violent extremists perpetrating genocide, the international legal obligations to prevent, suppress, and punish genocide must be affirmatively integrated into PVE and CVE strategies, both in general and in specific strategies against recognized genocidal organizations such as Daesh.

Specific Recommendations

- Victims of state and non-state violent extremism, including women and girl victims of sexual violence, should have access to justice, which includes seeing their abusers punished under international law for the full range of crimes against them.
- PVE and CVE strategies at all levels should note that states must fulfill their duties under the Genocide Convention when implementing PVE and CVE efforts.
- PVE and CVE strategies and efforts should consider the unique ways that violent extremism targets and impacts women and girls,¹⁴ particularly with respect to the use of sexual violence as a tactic of war, terror, and extremism.
- Speech inciting genocide, including genocidal rapes, should be criminalized. Perpetrators of promoting and inciting such crimes should be prosecuted, particularly at the international level.
- States should prevent, suppress, and punish incitement to commit terrorist acts *as incitement to commit genocide* if the incited terrorist acts are also crimes of genocide.
- States cannot simply treat international crimes, such as genocidal rapes, as only terrorist acts. They should be treated and prosecuted as international crimes in order to deter future violent extremism.
- Perpetrators of sexual and gender-based violence (SGBV) and international crimes, particularly genocide, should be prosecuted, particularly at the international level.
- UN Security Council resolutions should remind states of their obligations under the Genocide Convention and customary international law.
- The UN Security Council should refer the situation of Daesh's genocide to the ICC, urge Syria and Iraq to accept the ICC's jurisdiction, and ensure, when possible, that national prosecutions of Daesh terrorists include charges of committing and/or inciting genocide.

PVE and CVE efforts must be grounded in the promotion of gender equality.

Gender inequality is a root cause of the radicalization that yields extremism, which in turn further exacerbates gender inequality and can normalize SGBV crimes. In fact, gender equality and the empowerment of women are recognized as critical indicators of vulnerability to violent extremism: societies with higher gender equality are less susceptible to violent extremism.¹⁵

Furthermore, violent extremists frequently target women and studies have shown that they frequently use SGBV and the subjection of women and girls as strategies of terror to achieve their aims. Violent extremists rape and sexually enslave women and girls and deny them their rights to reproductive health. These crimes are committed with impunity, all in violation of international law. These acts of SGBV are both criminal and characterize many modern extremist movements today.¹⁶ As the UN Secretary-General's 2015 report on conflict-related sexual violence noted in its discussion of terrorism and violent extremism, "sexual violence is not incidental, but integrally linked with the strategic objectives, ideology and funding of extremist groups," including in order to "achieve tactical imperatives" such as recruitment, conversion and forced indoctrination, and to fundamentally change or destroy community cohesion.¹⁷ The Secretary-General goes on to assert that such actions arise as a result of discrimination, including the "subordination of women and girls" and that "common to such cases is the assault on women's rights and bodies that presages the advance of extremist groups. As these groups harbour aspirations to statehood, the control of

women's reproductive capacity is vital to nation building and to raising a generation in their own image.”¹⁸

Examples of the targeting of women and girls by violence extremists are abundant. In Nigeria, Boko Haram abducts and rapes women and girls and also targets Christian women and girls for forced conversions to Islam. By abducting and forcibly converting girl children, Boko Haram may also be committing the genocidal crime of forcibly transferring children.¹⁹ In Iraq and Syria, Daesh's ideology is based on gender inequality and dominance over women and children and their very functioning relies on the subjugation of women. Daesh rapes and sexually enslaves Yazidi women and girls, among other SGBV crimes, and Daesh's leadership venerates these rapes.²⁰ The acts of SGBV committed by Daesh have been recognized as genocide.

These actions also illustrate how seemingly non-gendered crimes, like abduction or forced conversions, are perpetrated down gender lines by violent extremists. Daesh's killing crimes of genocide include the killing of men and old women, while its non-killing crimes include the rape and sexual enslavement of Yazidi women and girls and the forcible transfer of children, by forcibly converting them to Sunni Islam and using boys as child soldiers and girls as sex slaves.²¹

Such targeting is by no means limited to the Middle East or to crimes committed by Islamic violent extremists such as Boko Haram and Daesh. For example, violent extremist anti-abortion organizations in the United States, such as the Army of God, perpetrate violence against abortion clinics and providers. Their violent extremism has also inspired acts of terror by individuals like Robert L. Dear Jr., who opened fire on an abortion clinic in November 2015, killing three and causing the clinic to shut down for nearly three months.²²

However, while these acts are frequently condemned by the international community, there is a disconnect between these condemnations and the practice of the multitude of initiatives to counter such movements, including efforts to counter violent extremism and terrorism. As the Institute for Strategic Dialogue has found, “currently there are very few initiatives that consider the gender dynamics within the [countering violent extremism] and counterterrorism sectors.”²³ Similarly, the Global Study on the 15 years of implementation of Security Council Resolution 1325 found that “even as extremist groups place the subordination of women at the forefront of their agenda, the promotion of gender equality has been an afterthought in the response of the international community. Instead, as extremist groups continue to grow in power and influence, international actors have focused on military and security solutions to stop their progress. This approach is no longer sufficient to address a problem that has changed and evolved.”²⁴

In order for these efforts to succeed, more meaningful efforts need to be made to understand the gender dynamics which underpin the ideologies and acts of violent extremists and ensure that the promotion of gender equality is at the core of any CVE and PVE efforts. This requires both the elimination of discrimination against women, as well as the achievement of substantive gender equality and the realization of women's rights—as specifically enumerated in international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which includes obligations to ensure the equal participation of women in public and political life, the right to health and the right to education.

The International Covenant on Civil and Political Rights (ICCPR) and CEDAW, guarantee the right to participate in political and public life on equal terms with men. Furthermore, Security Council

Resolutions on women, peace and security have recognized the importance of women's roles in conflict resolution, post-conflict rebuilding and in countering violent extremism. The Council has specifically called for states and UN bodies to ensure increased participation of women in developing counter-terrorism and CVE strategies,²⁵ however, women continue to be largely excluded from this realm. Furthermore, while CVE frameworks and strategies, such as the Ankara Memorandum on Good Practices, have explicitly recognized the critical role of women in local CVE efforts; many focus on women's role as identifiers of violent extremism instead of on the need for increased women's rights to prevent and counter violent extremism.²⁶ Additionally, while several countries utilize the role of women as mothers to identify early signs of risk of violent extremism in their families, this approach limits women's role in PVE and CVE while simultaneously entrenching patriarchal stereotypes of women as mothers.²⁷ CVE and PVE strategies must recognize the diverse roles that women play in societies and ensure the equal participation of women, in line with their rights under international law, at all stages.

Women and girls must also be able to enjoy their right to health, including sexual and reproductive health, as a prerequisite to exercising many other human rights, including the right to participate in political and public life. The right to health is guaranteed under CEDAW, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the international humanitarian law (IHL). This right includes the right to access safe abortions, which are a life-saving part of comprehensive reproductive health care; unsafe abortions cause 13% of maternal deaths worldwide. In particular, women and girls who become pregnant after being raped, including by violent extremists, cannot access safe abortion services to which they are entitled as part of their right to medical care under IHL. The denial of access to safe abortion services causes unimaginable suffering to rape victims, including lasting physical and psychological trauma. Women and girls raped by violent extremists are often stigmatized and rejected by their communities; for example, those raped by Boko Haram are called "Boko Haram wives."²⁸ The Secretary-General's Plan of Action to Prevent Violent Extremism recommends that states "foster non-discriminatory basic service provision [and] ensure accountability for service delivery,"²⁹ however women and girls continue to be systematically denied access to safe abortion services in humanitarian settings. When a medical service, such as abortion, that is needed by only females is excluded from the comprehensive medical care provided to the wounded and sick, it violates women and girls' right to medical care as well as the prohibition on "adverse distinction" in IHL and customary international law.³⁰ PVE and CVE strategies and response must ensure women's rights to non-discriminatory health care, including safe abortion services.

Another right that can play an important role in empowering women and girls, which is also commonly suppressed by violent extremists, is the right to education,³¹ which is guaranteed under CEDAW, the Convention on the Rights of the Child (CRC), and the ICESCR.³² Violent extremism lashes out against egalitarian ideals, such as educating women and girls. This is seen in the kidnapping of schoolgirls in Nigeria by Boko Haram and also in Daesh's denial of the right to education of Yazidi girls by forcing them into sexual slavery and of Sunni girls by forbidding them from attending school. Furthermore, unwanted pregnancies from rapes by violent extremists frequently result in girls dropping out of school. Most of the women and girls rescued from Boko Haram had become pregnant from rapes by Boko Haram fighters and lost educational opportunities as a result of the pregnancy.³³ CVE and PVE strategies must enshrine and protect the right to education for women and girls.

Specific Recommendations

- States and other stakeholders should combat often entrenched and pervasive gender inequality in order to combat radicalization and counter violent extremism.
- States and international organizations should ensure respect for IHL by providing girls with access to safe abortions, if they so desire, such that these girls can attend school and develop the skillset necessary to meaningfully contribute to PVE and CVE efforts.
- States and international organizations should ensure respect for IHL by providing girls with an education as part of the care and aid they require.³⁴ This may entail the temporary evacuation of girls to safer parts.³⁵
- States should implement their obligations under UN Security Council Resolution 1325 (2000) and its progeny in the women, peace, and security series in order to effectively engage and involve women in peace and security decision-making, including PVE and CVE strategizing.
- States should engage women at all levels, especially the highest national level, in determining priorities and strategies in CVE.³⁶ Women in power should be representative of society and not simply come, for example, from women who are already involved in politics and decision-making.
- States should take temporary special measures, such as the use of quotas, in order to ensure women's equal participation in CVE efforts. States should establish quotas of 40–60% women, including at the highest national level, in public institutions responsible for the formulation of CVE strategy and policy in order to ensure that women's voices are heard, in accordance with the CEDAW Committee's General Recommendation No. 23.³⁷
- States should implement their obligations under CEDAW.
- States that are not parties to CEDAW should ratify it as soon as possible.

Conclusion: The enforcement of international law is critical to the success of PVE and CVE strategies and efforts.

To reiterate, the Global Justice Center believes that the enforcement of international law is the best method of PVE and CVE. Specifically, the Global Justice Center has broadly recommended the following in this submission:

- (1) Legal obligations under international law, including the duty to prevent, suppress, and punish genocide, must be incorporated into PVE and CVE efforts; and
- (2) PVE and CVE efforts must be grounded in the promotion of gender equality.

The Global Justice Center believes these are important points to consider in developing best practices on how protecting and promoting human rights contribute to PVE and CVE efforts.

¹ See Human Rights Council Res. 30/15 (Human Rights and Preventing and Countering Violent Extremism), 30th Sess., Sept. 14–Oct. 2, 2015, U.N. GAOR, at 1 (Oct. 12, 2015).

² U.N. Secretary-General, *Plan of Action to Prevent Violent Extremism*, ¶ 2, U.N. Doc. A/70/674 (Dec. 24, 2015) [hereinafter *UNSG's Plan of Action*].

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- ³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Montenegro), 2007 I.C.J. 43, ¶ 166 (Feb. 26) [hereinafter Bosnian Genocide Case].
- ⁴ See also *id.*, ¶ 430.
- ⁵ *Id.*
- ⁶ UNSG's Plan of Action to Prevent Violent Extremism, *supra* note 2, ¶ 55.
- ⁷ Letter in Support of Filing OTP-CR-397/15 from the Global Justice Center to the ICC Office of the Prosecutor 2 (Dec. 17, 2015) [hereinafter GJC's Letter to the ICC OTP on Daesh's Genocide]; *The Revival of Slavery Before the Hour*, 4 Dabiq Mag. 14–17.
- ⁸ See, e.g., Sec. Res. 2178, ¶ 5, U.N. SCOR, 7272nd mtg., U.N. Doc. S/RES/2178 (Sept. 24, 2014).
- ⁹ See, e.g., *id.*, ¶ 5; Sec. Res. 1624, ¶ 1, U.N. SCOR, 5261st mtg., U.N. Doc. S/RES/1624 (Sept. 14, 2005).
- ¹⁰ See generally Prosecutor v. Nahimana et al., Case No. ICTR-99-51-T, Judgment (Dec. 3, 2003).
- ¹¹ See UNSG's Plan of Action, *supra* note 2, ¶ 20.
- ¹² See Zachary Laub, *Is Calling ISIS 'Genocidal' Meaningful?*, COUNCIL ON FOREIGN RELATIONS (Apr. 1, 2016), <http://www.cfr.org/genocide/calling-isis-genocidal-meaningful/p37725?cid=soc-twitter-in-is-calling-isis-genocidal-meaningful-040116> (interview with Naomi Kikoler of the Simon-Skjoldt Center for the Prevention of Genocide at the U.S. Holocaust Memorial Museum).
- ¹³ See UNSG's Plan of Action, *supra* note 2, ¶ 19.
- ¹⁴ See Global Counterterrorism Forum, *Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism* 7–8 (2013) [hereinafter *Ankara Memorandum*], <https://www.thegctf.org/documents/10162/88482/Final+Ankara+Memorandum.pdf> (Good Practice 14: CVE programming should place a specific emphasis on youth at risk of radicalization and recruitment).
- ¹⁵ UNSG's Plan of Action, *supra* note 2, ¶ 53.
- ¹⁶ See Human Rights Council Res. 30/15, *supra* note 1, at 2.
- ¹⁷ U.N. Secretary-General, *Conflict-Related Sexual Violence*, U.N. Doc. S/2015/203 (Mar. 23, 2015).
- ¹⁸ *Id.*
- ¹⁹ Article 15 Communication to the ICC Office of the Prosecutor Regarding Boko Haram's Targeted Abduction of Women and Children as Genocide from the Global Justice Center (Apr. 14, 2015); see also Human Rights Watch, "Those Terrible Weeks in their Camp": Boko Haram Violence against Women and Girls in Northeast Nigeria (2014), <https://www.hrw.org/sites/default/files/reports/nigeria1014web.pdf>
- ²⁰ Rukmini Callimachi, *ISIS Enshrines a Theology of Rape*, N.Y. TIMES, Aug. 13, 2015, http://www.nytimes.com/2015/08/14/world/middleeast/isis-enshrines-a-theology-of-rape.html?_r=1
- ²¹ GJC's Letter to the ICC OTP on Daesh's Genocide, *supra* note 7, at 1; "Our Generation is Gone": The Islamic State's Targeting of Iraqi Minorities in Ninewa 18–20 (2015), <https://www.ushmm.org/m/pdfs/Iraq-Bearing-Witness-Report-111215.pdf>.
- ²² Julie Turkewitz, *Colorado Planned Parenthood Clinic Reopens After Deadly Attack*, N.Y. TIMES, Feb. 15, 2016, <http://www.nytimes.com/2016/02/16/us/colorado-planned-parenthood-clinic-reopens-after-deadly-attack.html>.
- ²³ ERIN MARIE SALTMAN & MELANIE SMITH, INSTITUTE FOR STRATEGIC DIALOGUE, "TILL MARTYRDOM DO US PART": GENDER AND THE ISIS PHENOMENON (2015), http://www.strategicdialogue.org/wp-content/uploads/2016/02/Till_Martyrdom_Do_Us_Part_Gender_and_the_ISIS_Phenomenon.pdf.
- ²⁴ RADHIKA COOMARASWAMY ET AL., PREVENTING CONFLICT, TRANSFORMING JUSTICE, SECURING THE PEACE: A GLOBAL STUDY ON THE IMPLEMENTATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325 77–78 (2015) [hereinafter GLOBAL STUDY].
- ²⁵ Sec. Res. 2242, ¶ 13, U.N. SCOR, 7533rd mtg. U.N. Doc. S/RES/2242 (Oct. 13, 2015).
- ²⁶ *Ankara Memorandum*, *supra* note 14, at 8–9 (Good Practice 17: Women can be a particularly critical actor in local CVE efforts).
- ²⁷ GLOBAL STUDY, *supra* note 24, at 229.
- ²⁸ *Nigeria: Victims of Abductions Tell Their Stories*, HUMAN RIGHTS WATCH (Oct. 27, 2014), <https://www.hrw.org/news/2014/10/27/nigeria-victims-abductions-tell-their-stories>; Dionne Searcey, *Nigerian Women Freed From Boko Haram Face Rejection at Home*, N.Y. TIMES, Feb. 16, 2016, http://www.nytimes.com/2015/08/14/world/middleeast/isis-enshrines-a-theology-of-rape.html?_r=1.
- ²⁹ UNSG's Plan of Action, *supra* note 2, ¶ 50(c).
- ³⁰ GLOBAL STUDY, *supra* note 24, at 77–78.
- ³¹ Committee on Economic, Social and Cultural Rights, General Comment No. 13 on the Right to Education (Article 13 of the Covenant), ¶ 1, U.N. Doc. E/C.12/1999/10 (Dec. 8, 1999).
- ³² *Ankara Memorandum*, *supra* note 14, at 8 (Good Practice 15: Educational institutions can serve as an important platform in countering violent extremism).

³³ Morgan Winsor, *Boko Haram Rescue: Pregnant Women, Girls Among Those Found In Sambisa Forest By Nigerian Army*, INTERNATIONAL BUSINESS TIMES, May 4, 2015, <http://www.ibtimes.com/boko-haram-rescue-pregnant-women-girls-among-those-found-sambisa-forest-nigerian-army-1906965>.

³⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts art. 4, June 8, 1977, 1125 U.N.T.S. 609 [hereinafter Additional Protocol II].

³⁵ *Id.*; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War art. 24, Aug. 12, 1949, 75 U.N.T.S. 28.

³⁶ GLOBAL STUDY, *supra* note 24, at 231.

³⁷ General Recommendation No. 23 advises “the adoption of a rule that neither sex should constitute less than 40 per cent of the members of a public body.” Committee on the Elimination of All Forms of Discrimination against Women, General Recommendation No. 23: Political and Public Life, ¶ 29, U.N. Doc. A/52/38 (1997).