



**UNITED NATIONS
INSTRUMENTS ON THE
RIGHTS OF VICTIMS OF
HUMAN RIGHTS
VIOLATIONS**



United Nations
Human Rights

OFFICE OF THE HIGH COMMISSIONER
Cambodia



Free Publication Not for Sale



**UNIVERSAL
DECLARATION
OF HUMAN
RIGHTS**

Dignity and justice for all of us

This publication is produced by the Office of the United Nations High Commissioner for Human Rights on the occasion of the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights in 1948 and the fifteenth anniversary of the adoption of the Constitution of the Kingdom of Cambodia in 1993.



United Nations
Human Rights

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

**United Nations Instruments on the
Rights of Victims of
Human Rights Violations**

*Declaration of Basic Principles of
Justice for Victims of
Crime and Abuse of Power 1985*

*Basic Principles and Guidelines
on the Right to a Remedy and
Reparation for Victims of Gross
Violations of International Human
Rights Law and Serious Violations of
International Humanitarian Law 2006*

Published by the
Office of the United Nations
High Commissioner for Human Rights
Cambodia Country Office, July 2008

United Nations Instruments on the Rights of Victims of Human Rights Violations

Preface

The Universal Declaration of Human Rights enshrines in article 8 the right to an effective remedy for victims of human rights abuses as a fundamental human right. This right was subsequently included in the International Covenant on Civil and Political Rights and other international human rights treaties. These treaties are incorporated into Cambodian law by virtue of article 31 of the Constitution.

In many countries, a violation of human rights will constitute a crime under national law and therefore the victims of a violation will be entitled to justice through the prosecution of the perpetrator by the criminal justice system and eventually to compensation. Yet, millions of people throughout the world suffer harm as a result of crime and the abuse of power and their rights as victims are often not adequately recognized. In 1985, the United Nations General Assembly adopted the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. The Declaration establishes basic principles aimed at assisting Governments and the

international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power by ensuring that they have access to justice and to restitution and compensation. It extends to victims both of crime and of abuse of power defined as “acts or omissions that do not yet constitute violations of national criminal laws but [that do] of internationally recognized norms relating to human rights”.

When adopting the Declaration, the General Assembly called upon States also to implement:

- social, health (including mental health), educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress;
- community efforts and public participation in crime prevention;
- periodic review of existing legislation and practices to ensure responsiveness to changing circumstances;
- enactment and enforcement of legislation proscribing acts that violate internationally-recognized norms relating to human rights, corporate conduct, and other abuses of power;
- establishment and strengthening of the means of detecting, prosecuting and sentencing those guilty of crimes;

- disclosure of information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns; observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises;
- prohibition of practices and procedures conducive to abuse, such as secret places of detention and incommunicado detention;
- co-operation with other States, through mutual judicial and administrative assistance, in such matters as detection and pursuit of offenders, extradition and seizure of assets, to be used for restitution to the victims.

In the light of tragic events in countries like Rwanda and Bosnia-Herzegovina, the international community has redoubled efforts to ensure that the perpetrators of violations of international human rights and humanitarian law cannot to escape justice with impunity. A prime focus has been strengthening international criminal law to ensure that the victims of violations have an effective remedy and some form of reparation.

In 2006, the United Nations General Assembly endorsed the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. These Basic Principles seek to keep faith with victims, survivors and future human generations by ensuring victims' right to benefit from remedies and reparation in a systematic and thorough way, at both the national and international levels.

The Basic Principles do not create new international or domestic legal obligations but identify ways for States to implement their existing legal obligations under international law. They are directed at gross violations of international human rights law and serious violations of international humanitarian law which, by their very grave nature, constitute an affront to human dignity.

The Basic Principles reaffirm each State's **obligation to respect, ensure respect for and implement international human rights law and international humanitarian law** in accordance with its treaty obligations, international customary law and national law. Accordingly, States are required to pass laws to incorporate international

norms and have a duty:

- to **prevent** violations;
- to **investigate** violations effectively, promptly, thoroughly and impartially and **prosecute** the perpetrators;
- to provide alleged victims with **equal and effective access to justice**; and
- to provide **effective remedies**, including reparation, for victims.

The Basic Principles require States to **cooperate** with one another and assist international judicial organs in prosecuting violations that constitute international crimes and oblige States to adopt measures to facilitate such prosecutions through the establishment of **universal jurisdiction** and **extradition** agreements.

The Basic Principles assert that there shall be **no statute of limitations** for gross violations of human rights law and serious violations of humanitarian law.

The Basic Principles adopt a perspective which places the *victim* to the fore. After providing a definition of victims, they assert that **victims should be treated with humanity and respect for their dignity and human rights** and should receive appropriate **protection**.

Victims' right to remedies includes the following elements:

Equal and effective access to justice

Victims must have equal access to an effective judicial remedy as well as other remedies provided for under international and domestic law. States are required to ensure that victims have access to information about the remedies available to them, assist them in seeking remedies and ensure that they and their families as well as witnesses are adequately protected before during and after any proceedings.

It is recognized that groups, as well as individuals, can be targeted in violations and are entitled to seek reparation collectively.

Adequate, effective and prompt reparation for harm suffered

The Basic Principles set out in detail how victims should receive adequate, effective and prompt reparation in proportion to the gravity of the violations and the harm suffered. Full and effective reparation may take any of the following forms:

- *Restitution*—aimed, if possible, at restoring the victim to his or her original situation before the violation occurred;

- *Compensation*—for economically-assessable damage such as physical or mental harm, lost opportunities, material as well as moral damage and costs;
- *Rehabilitation*—including medical and psychological care and legal and social services;
- *Satisfaction*—including measures to stop continuing violations, to verify and publicly disclose the facts, to search for disappeared persons and recover bodies and to impose judicial and administrative sanctions against perpetrators. Satisfaction may also take the form of public apologies, official rehabilitation of damaged reputations, commemorations and tributes and inclusion of accurate factual accounts in educational materials.

In addition, States should provide *guarantees of non-repetition* including concrete measures to prevent the violations happening again. The suggested measures constitute a comprehensive government programme for strengthening the protection of human rights under the rule of law and include:

- ensuring effective civil control of military and security forces;
- guaranteeing due process, fairness and impartiality in all civilian and military proceedings;

- strengthening independence of the judiciary;
- protecting lawyers, doctors and nurses, journalists and human rights defenders;
- providing continuing human rights and humanitarian law education, especially for law enforcement and military officers;
- promoting codes of conduct and ethical standards for all public servants;
- preventing and monitoring social conflicts;
- reforming laws that contribute to violations.

Access to relevant information concerning violations and reparations mechanisms

States should ensure that victims and the general public are aware of the rights and remedies in the Basic Principles and victims should have access to information on why they were victimized.

Remedies for violations in Cambodia

During the Cambodia conflict, and especially under Khmer Rouge rule, the Cambodian people suffered gross human rights violations while basic humanitarian standards were disregarded with impunity. To address these violations and provide the victims of the Khmer Rouge with some remedy for their suffering, the Royal Government of Cambodia and the United Nations agreed in 2003 to conduct trials within the Cambodian court

system in order to bring to justice senior Khmer Rouge leaders and those most responsible for violations. After much delay, the Extraordinary Chambers in the Courts of Cambodia (ECCC) began proceedings in July 2007.

The ECCC Internal Rules provide for victims to play a central role in the proceedings: in accordance with Cambodian penal procedure, victims can be joined to the proceedings as a formal civil party and may be entitled to claim some form of compensation. The ECCC has set up a Victims Support Unit to assist victims in participating in the process.

However, the ECCC will provide at best only a partial remedy for the victims of the Cambodia Conflict. The best and most effective remedy is to ensure that violations of human rights and humanitarian law cannot occur in Cambodia today. The 1991 Paris Peace Accords recognized this central truth by declaring that “Cambodia’s tragic recent history requires special measures to assure protection of human rights, and the non-return to the policies and practices of the past.” As a result, the Cambodian Constitution was drafted to include a declaration of human rights which incorporates directly into Cambodian law international human rights treaty norms.

Article 39 of the Constitution gives citizens the right to denounce and file claims against any breach of the law by State institutions or officials through the courts. The Penal Procedure Code, which entered into force in 2007, contains provisions allowing victims to claim compensation as part of the criminal prosecution process (articles 13-26). The Civil Code, which was promulgated in 2007, establishes the basic right to individuals whose personal rights have been or may be violated to (1) have an injunction issued against the violator to stop the violation (article 11); (2) to demand a restitution order to eliminate the continuing effects of the violation, if any (article 12); and (3) to demand damages for any harm suffered (article 13). Personal rights are defined in article 10 as rights related to the persons, including the right to life, liberty, health, reputation, etc.

Since 1993, with the full agreement of the Royal Government of Cambodia, the United Nations High Commissioner for Human Rights has maintained an Office in Cambodia with a mandate to assist the Government and civil society to ensure effective protection and promotion of human rights in Cambodia.

OHCHR Cambodia, July 2008

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

*Adopted by the General Assembly
in resolution 40/34 of 29 November 1985*

A. Victims of crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.
2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.
3. The provisions contained herein shall be applicable to all, without distinction of any kind,

such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair

restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the

victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant

assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of abuse of power

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

United Nations
Basic Principles and Guidelines
on the Right to a Remedy and Reparation
for Victims of Gross Violations of
International Human Rights Law and
Serious Violations of International
Humanitarian Law

*Adopted by the General Assembly in resolution 60/147
of 21 March 2006*

Preamble

The General Assembly,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights law found in numerous international instruments, in particular article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 39 of the Convention on the Rights of the Child, and of international

humanitarian law as found in article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), article 91 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) of 8 June 1977, and articles 68 and 75 of the Rome Statute of the International Criminal Court,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights found in regional conventions, in particular article 7 of the African Charter on Human and Peoples' Rights, article 25 of the American Convention on Human Rights, and article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms,

Recalling the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanating from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and General Assembly resolution 40/34 of 29 November 1985 by which the Assembly adopted the text recommended by the Congress,

Reaffirming the principles enunciated in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, including that victims should be treated with compassion and respect for their dignity, have their right to access to justice and redress mechanisms fully respected, and that the establishment, strengthening and expansion of national funds for compensation to victims should be encouraged, together with the expeditious development of appropriate rights and remedies for victims,

Noting that the Rome Statute of the International Criminal Court requires the establishment of “principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation”, requires the Assembly of States Parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, and mandates the Court “to protect the safety, physical and psychological well-being, dignity and privacy of victims” and to permit the participation of victims at all “stages of the proceedings determined to be appropriate by the Court”,

Affirming that the Basic Principles and Guidelines contained herein are directed at

gross violations of international human rights law and serious violations of international humanitarian law which, by their very grave nature, constitute an affront to human dignity,

Emphasizing that the Basic Principles and Guidelines contained herein do not entail new international or domestic legal obligations but identify mechanisms, modalities, procedures and methods for the implementation of existing legal obligations under international human rights law and international humanitarian law which are complementary though different as to their norms,

Recalling that international law contains the obligation to prosecute perpetrators of certain international crimes in accordance with international obligations of States and the requirements of national law or as provided for in the applicable statutes of international judicial organs, and that the duty to prosecute reinforces the international legal obligations to be carried out in accordance with national legal requirements and procedures and supports the concept of complementarity,

Noting that contemporary forms of victimization, while essentially directed against persons, may nevertheless also be

directed against groups of persons who are targeted collectively,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms the international legal principles of accountability, justice and the rule of law,

Convinced that, in adopting a victim-oriented perspective, the international community affirms its human solidarity with victims of violations of international law, including violations of international human rights law and international humanitarian law, as well as with humanity at large, in accordance with the following Basic Principles and Guidelines,

Adopts the following Basic Principles and Guidelines:

I. Obligation to respect, ensure respect for and implement international human rights law and international humanitarian law

1. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law emanates from:

- (a) Treaties to which a State is a party;
- (b) Customary international law;
- (c) The domestic law of each State.

2. If they have not already done so, States shall, as required under international law, ensure that their domestic law is consistent with their international legal obligations by:

(a) Incorporating norms of international human rights law and international humanitarian law into their domestic law, or otherwise implementing them in their domestic legal system;

(b) Adopting appropriate and effective legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice;

(c) Making available adequate, effective, prompt and appropriate remedies, including reparation, as defined below;

(d) Ensuring that their domestic law provides at least the same level of protection for victims as that required by their international obligations.

II. Scope of the obligation

3. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to:

(a) Take appropriate legislative and administrative and other appropriate measures to prevent violations;

(b) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;

(c) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and

(d) Provide effective remedies to victims, including reparation, as described below.

III. Gross violations of international human rights law and serious violations of international humanitarian law that constitute crimes under international law

4. In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

5. To that end, where so provided in an applicable treaty or under other international law obligations, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction. Moreover, where it is so provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to

other States and to appropriate international judicial bodies and provide judicial assistance and other forms of cooperation in the pursuit of international justice, including assistance to, and protection of, victims and witnesses, consistent with international human rights legal standards and subject to international legal requirements such as those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.

IV. Statutes of limitations

6. Where so provided for in an applicable treaty or contained in other international legal obligations, statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.

7. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive.

V. Victims of gross violations of international human rights law and serious violations of international humanitarian law

8. For purposes of the present document, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

9. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.

VI. Treatment of victims

10. Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to

ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.

VII. Victims' right to remedies

11. Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law:

(a) Equal and effective access to justice;

(b) Adequate, effective and prompt reparation for harm suffered;

(c) Access to relevant information concerning violations and reparation mechanisms.

VIII. Access to justice

12. A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law

shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

(a) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;

(b) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;

(c) Provide proper assistance to victims seeking access to justice;

(d) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

13. In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

14. An adequate, effective and prompt remedy for gross violations of international human rights law or serious violations of international humanitarian law should include all available and appropriate international processes in which a person may have legal standing and should be without prejudice to any other domestic remedies.

IX. Reparation for harm suffered

15. Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal

obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

16. States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.

17. States shall, with respect to claims by victims, enforce domestic judgements for reparation against individuals or entities liable for the harm suffered and endeavour to enforce valid foreign legal judgements for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the enforcement of reparation judgements.

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross

violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

19. *Restitution* should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

20. *Compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

(a) Physical or mental harm;

(b) Lost opportunities, including employment, education and social benefits;

(c) Material damages and loss of earnings, including loss of earning potential;

(d) Moral damage;

(e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

21. *Rehabilitation* should include medical and psychological care as well as legal and social services.

22. *Satisfaction* should include, where applicable, any or all of the following:

(a) Effective measures aimed at the cessation of continuing violations;

(b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;

(c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification

and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;

(d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;

(e) Public apology, including acknowledgement of the facts and acceptance of responsibility;

(f) Judicial and administrative sanctions against persons liable for the violations;

(g) Commemorations and tributes to the victims;

(h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

23. *Guarantees of non-repetition* should include, where applicable, any or all of the following measures, which will also contribute to prevention:

(a) Ensuring effective civilian control of military and security forces;

(b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;

(c) Strengthening the independence of the judiciary;

(d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders;

(e) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces;

(f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;

(g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution;

(h) Reviewing and reforming laws contributing to or allowing gross violations of

international human rights law and serious violations of international humanitarian law.

X. Access to relevant information concerning violations and reparation mechanisms

24. States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access. Moreover, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.

XI. Non-discrimination

25. The application and interpretation of these Basic Principles and Guidelines must be consistent with international human rights law

and international humanitarian law and be without any discrimination of any kind or on any ground, without exception.

XII. Non-derogation

26. Nothing in these Basic Principles and Guidelines shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law. In particular, it is understood that the present Basic Principles and Guidelines are without prejudice to the right to a remedy and reparation for victims of all violations of international human rights law and international humanitarian law. It is further understood that these Basic Principles and Guidelines are without prejudice to special rules of international law.

XIII. Rights of others

27. Nothing in this document is to be construed as derogating from internationally or nationally protected rights of others, in particular the right of an accused person to benefit from applicable standards of due process.

- - - -