

DECLARATION OF INTERNATIONAL LAW SCHOLARS

ON FORCED RELOCATION¹

INTRODUCTION

The prohibition against forced relocation is well-established under international law.² Accordingly, the notion that states can forcibly remove individuals from their homes or compel their relocation to other specified areas in complete disregard of fundamental human rights has been firmly rejected by the international community. Such action is not justifiable under the broad principles of sovereignty possessed by the modern state. Indeed, the forcible transfer of civilian populations from their homes is a particularly troubling phenomenon because it calls to mind some of the most disturbing aspects of the Second World War, including the establishment of the Jewish ghettos at Warsaw and the relocation centers for Japanese-Americans at Manzanar.

While states maintain certain police powers as an incident of sovereignty, such powers are not absolute. For example, states cannot justify acts of discrimination, arbitrary detention, torture, or summary execution by merely arguing that these are valid exercises of their inherent police power. Government intervention must always comply with basic human rights. This is one of the

¹ Affiliations and qualifications of international law scholars are attached to this declaration as Appendix 1.

² Forced relocation is also referred to as forced eviction, forced displacement, internal displacement, population transfer, and involuntary resettlement.

most important principles of international law to have emerged from the twentieth century.

Claims of forced relocation can be divided into two categories. First, forced relocation can occur if individuals are forcibly removed from their homes or habitual places of residence. Second, forced relocation can occur if individuals are compelled to move to government specified areas. In the absence of additional elements, these actions do not automatically constitute a violation of international law.

In determining whether state action constitutes forced relocation in violation of international law, several elements must be considered. First, the displacement of individuals from their homes is unlawful if minimum procedural guarantees are not provided prior to relocation. For example, displacement efforts must be conducted with public consultation or endorsement and must always seek the consent of those affected whenever possible. They can never be discriminatory in nature nor be undertaken for the purpose of facilitating the use of forced labor. Second, the manner in which relocation is carried out cannot violate international law. For example, torture, summary execution, or other violent methods can never be used to displace individuals from their homes. Third, the effects of forced relocation may have a negative impact on the enjoyment of other human rights and, therefore, may violate international law.

Any individual violation, or combination thereof, can give rise to a claim of forced relocation.

Forced relocation is a particularly egregious violation of international law because it implicates a variety of fundamental human rights including the right to liberty and security of the person, the right to be free from arbitrary detention or exile, the right to be free from arbitrary interference with one's privacy, family and home, the right to freedom of movement and residence, and the right to human dignity. While loss of property is not an element of forced relocation claims, it is an unfortunate and inevitable consequence of such acts.

This declaration examines the definable, universal, and obligatory norm prohibiting forced relocation. It reviews multilateral and regional instruments as well as customary international law, which clearly set forth the prohibition against forced relocation. It also reviews international criminal law, which establishes individual liability for acts of forced relocation.

Throughout this analysis, it is essential to distinguish between acts of government intervention that acknowledge and protect the full panoply of human rights, with acts that disregard the most basic and fundamental rights of mankind. Thus, forced relocation, undertaken absent even minimal procedural safeguards, and amid threats and use of deadly force, is inconsistent with international law.

It is not necessary that the IDPs lost property so they need not be made free Strangers in their land

The prohibition against forced relocation is a definable, universal, and obligatory norm.

I. FORCED RELOCATION IS A VIOLATION OF INTERNATIONAL LAW

The prohibition against forced relocation has been set forth in numerous multilateral and regional instruments. It has also been established as a norm of customary international law. Accordingly, it is a definable, universal, and obligatory norm that binds all states.

A. THE PROHIBITION AGAINST FORCED RELOCATION IS

RECOGNIZED IN MULTILATERAL INSTRUMENTS.

The Universal Declaration of Human Rights is the most well-recognized and respected elaboration of international human rights norms. Universal Declaration of Human Rights, adopted Dec. 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948). While the Universal Declaration of Human Rights is not a treaty obligation, it is recognized to embody the rules of international law in the realm of human rights. See generally Ian Brownlie, Principles of Public International Law 574-575 (5th ed. 1998); Oppenheim's International Law 1001-1005 (Sir Robert Jennings and Sir Arthur Watts eds., 9th ed., 1996); Jordan Paust, International Law as Law in the United States 181, 191, 198-200 (1996). Forced relocation violates numerous provisions of this seminal document. For example, Article 1 recognizes that "[a]ll human beings are born free and equal in dignity

and rights.” Article 3 guarantees the right to “life, liberty and the security of the person.” Article 9 provides that “[n]o one shall be subjected to arbitrary arrest, detention or exile.” Article 12 grants every individual the right to be free from “arbitrary interference with his privacy, family, home or correspondence” Article 13(1) provides that “[e]veryone has the right to freedom of movement and residence within the borders of each state.” Finally, Article 25 affirms that “[e]veryone 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”

Is US a signatory?

The International Covenant on Civil and Political Rights (hereinafter “ICCPR”) was adopted in 1966 and formally codifies many of the rights set forth in the Universal Declaration of Human Rights.³ International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, entered into force March 23, 1976, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171. Forced relocation violates several provisions of the ICCPR. Article 9(1) affirms that “[e]veryone has the right to liberty and security of person” and that “[n]o one shall be subjected to arbitrary arrest or detention.” Article 12(1) recognizes that “[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and the freedom to choose his residence.” Article 12(3) notes that these rights “shall not be

³ As of January 1, 2000, there are 144 State Parties to the ICCPR.

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.” Finally, Article 17(1) states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence” Article 17(2) adds that “[e]veryone has the right to the protection of the law against such interference or attacks.”

The Human Rights Committee was established to monitor compliance with the ICCPR. On several occasions, the Committee has condemned acts of forced relocation. For example, the Committee criticized Iraq in 1997 for its policy of establishing restrictions on the right to freedom of movement within Iraq, which was a clear breach of Iraq’s obligations under Article 12 of the ICCPR. Human Rights Committee, Concluding Observations: Iraq, U.N. Doc. CCPR/C/79/Add.84 (1997). In addition to its observations concerning Article 12, the Committee has clarified its interpretation of Article 17. Specifically, the Committee has indicated that “no interference can take place except in cases envisaged by the law. Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.” Human Rights Committee, General Comment 16, U.N. Doc. HR/GEN/1/Rev.1 at 21 (1994). Significantly, arbitrary interference can also extend to interference provided for under the law. “The introduction of the

concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.”

The International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”) also codifies many of the rights set forth in the Universal Declaration of Human Rights.⁴ International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, entered into force Jan. 3, 1976, 993 U.N.T.S. 3. Under Article 11, member states “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

The Committee on Economic, Social and Cultural Rights was established to promote compliance with the provisions of the ICESCR. The Committee has repeatedly condemned the forcible removal of individuals and families from their homes. In 1990, for example, the Committee stated that international agencies should “scrupulously avoid involvement in projects which involve large scale evictions or displacement of persons without the provision of all appropriate protection and compensation.” Committee on Economic, Social and Cultural

⁴ As of January 1, 2000, there are 142 State Parties to the ICESCR.

Rights, General Comment No. 2, U.N. Doc. E/1990/23/annex III (1990). In 1991, the Committee pronounced “that instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.” Committee on Economic, Social and Cultural Rights, General Comment No. 4, U.N. Doc. HRI/GEN/1/Rev.3 (1994). In 1997, the Committee reiterated this position by condemning acts of forced eviction. Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/C.12/1997/4 (1997). Furthermore, the Committee recognized the profound implications of forced relocation. It noted that “[a]ppropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights.” Specifically, the Committee noted “the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.” Applying these principles, the Committee noted in a case of forced relocation in the Dominican Republic:

The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be

considered that the guarantee in article 11 of the Covenant had not been respected.

{DATE|September 18,2000}

U.N. ESCOR, Supp. (No. 3), at 64, para. 249 , U.N. Doc. E/C.12/1990/8 (1991). See also U.N. Docs. E/C.12/1994/15; E/C.12/1995/7.

The Convention Concerning Indigenous and Tribal Peoples in Independent Countries (hereinafter "ILO Convention") affirms the prohibition against forced relocation in the context of indigenous peoples. Convention Concerning Indigenous and Tribal Peoples in Independent Countries, ILO Convention 169, adopted June 27, 1989, LXXII ILO Off. Bull., Ser. A no. 2, at 63 (1989). Article 14 recognizes that "[t]he rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized." To protect these rights, the ILO Convention places restrictions on the relocation of indigenous peoples. Article 16 is particularly significant in this regard.

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.
2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.
3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.
4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the

lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be compensated for any resulting loss or injury.

See also Report of the Working Group on Indigenous Populations, U.N. Doc. E/CN.4/Sub.2/1993/29.

B. THE PROHIBITION AGAINST FORCED RELOCATION IS

RECOGNIZED IN REGIONAL INSTRUMENTS.

In addition to being recognized in multilateral instruments, the prohibition against forced relocation is well-recognized in numerous regional instruments.

The European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "European Convention") is perhaps the most well-regarded regional human rights agreement.⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms, signed Nov. 4, 1950, entered into force Sept. 3, 1953, 213 U.N.T.S. 222, E.T.S. No.5. Article 3 affirms that "[n]o one shall be subjected to torture or to inhuman or degrading treatment or punishment." Article 5 recognizes that "[e]veryone has the right to liberty and security of the person." Article 8(1) establishes "[e]veryone has the right to respect for private and family life, his home and correspondence." Article 8(2) adds that "[t]here shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a

⁵ As of January 1, 2000, there are 41 States Parties to the European Convention.

democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.” In addition, Protocol No. 1 to the European Convention provides that “[e]very natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.” Protocol (No. 1) to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed March 20, 1952, entered into force May 18, 1954, E.T.S. No. 9., 213 U.N.T.S. 262. Similarly, Protocol No. 4 to the European Convention provides that “[e]veryone lawfully within the territory of a State shall, within that territory have the right to liberty of movement and freedom to choose his residence.” Protocol (No. 4) to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed Sept. 16, 1963, entered into force May 2, 1968, E.T.S. No. 46.

The European Commission of Human Rights (hereinafter “European Commission”), which was charged with overseeing compliance with the European Convention, recognized that acts of forced relocation violate numerous provisions of the European Convention. In Cyprus v. Turkey, 4 E.H.R.R. 482, (1982), the European Commission considered whether forcible eviction constituted a violation of the European Convention. The European Commission

determined that the eviction of persons from their homes, the refusal to let them return, and the separation of families constituted a violation of Article 8 of the Convention. In addition, the confinement of persons in detention centers and under similar circumstances was a deprivation of liberty under Article 5(1). In Cyprus v. Turkey, 15 E.H.R.R. 509 (1993), the European Commission affirmed that forced relocation of civilians, including the separation of families, constituted clear violations of Article 8(1). While the European Commission acknowledged that Article 8(2) allowed for derogations from this provision in limited circumstances, such right of derogation could never justify such forced displacement of civilians. The European Court of Human Rights (hereinafter "European Court") has also affirmed the prohibition against forced relocation as set forth in the European Convention. See also Mentes and Others v. Turkey, 26 E.H.R.R. 595 (1997); Akdivar and Others v. Turkey, 23 E.H.R.R. 143 (1996). In Selçuk and Asker v. Turkey, 26 E.H.R.R. 477 (1998), for example, the European Court found that military personnel burned down the houses of the applicants and forced them to leave their village. The European Court found that such conduct constituted multiple violations of the European Convention. In particular, the European Court noted that such conduct constituted particularly grave and unjustified interferences with the applicants' rights to respect for their private and family lives and homes within the meaning of Article 8 and Protocol No. 1. The European Court also found that such acts constituted a violation of the prohibition against inhuman or degrading treatment. "Bearing in mind in particular the

manner in which the applicants' homes were destroyed and their personal circumstances, it is clear that they must have been caused suffering of sufficient severity for the acts of the security forces to be categorised as inhuman treatment within the meaning of Article 3." Id. at 516. The European Court awarded compensation for both pecuniary and non-pecuniary damages.

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The American Convention on Human Rights (hereinafter "American Convention") also prohibits forced relocation.⁶ American Convention on Human Rights, signed Nov. 22, 1969, entered into force July 18, 1978, O.A.S. Treaty Series No. 36, at 1, O.A.S. Off.Rec. OEA/Ser.L/V/II.23 doc.rev.2. Article 5(1) states that "[e]very person has the right to have his physical, mental, and moral integrity respected." Article 7(1) provides that "[e]very person has the right to personal liberty and security." Article 11(2) recognizes that "[n]o one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence" Article 11(3) adds that "[e]veryone has the right to the protection of the law against such interference or attacks." Article 22(1) affirms that "[e]very person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law."

The Inter-American Commission on Human Rights (hereinafter "Inter-American Commission"), which is charged with overseeing compliance with the

⁶ As of January 1, 2000, there are 26 States Parties to the American Convention.

American Convention, has recognized that forced relocation violates numerous provisions of the American Convention. In Maria Mejia v. Guatemala, Case 10.533, Report No. 32/96, Inter-Am.C.H.R.,OAE/Ser.L/V/II.95 Doc.7 rev. at 370 (1997), approximately 40 people were forced to leave their homes and take refuge outside of their communities in order to escape threats and attacks from military personnel. The Inter-American Commission found the forced displacement of these individuals and the government's refusal to allow them to return to their communities violated the right of freedom of movement and the right to choose one's residence as set forth in Article 22(1). The Commission also determined that the threats which forced these individuals to leave and prevented their return were violations of Article 5(1). See also Inter-American Commission on Human Rights, Third Report on the Situation of Human Rights in Colombia (1999); Inter-American Commission on Human Rights, Report on the Situation of Human Rights in Guatemala, OEA/Ser.L/V/II.83 (March 12, 1993); Inter-American Commission on Human Rights, Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin, OEA/Ser. L/V/II.62, doc. 10, rev. 3, Nov. 29, 1983.

Additionally, the American Declaration of the Rights and Duties of Man (hereinafter "American Declaration") affirms the prohibition against forced relocation. American Declaration on the Rights and Duties of Man, O.A.S. Res. XXX, adopted May 2, 1948, O.A.S. Off. Rec. OEA/Ser. L/V.I.4 Rev. (1965).

Article I recognizes that “[e]very human being has the right to life, liberty and the security of his person.” Article VIII provides that “[e]very person has the right to fix his residence within the territory of the state of which he is a national, to move about freely and not to leave it except by his own free will.” Furthermore, Article IX provides that “[e]very person has the right to the inviolability of his home.” For these reasons, Article XI recognizes that “[e]very person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

The Inter-American Commission has determined that forced relocation violates the American Declaration as well. In the Yanomami Decision, Res. No. 12/85, Case No. 7615, OAE/Ser.L/V/II.62,doc.10 rev.1 (1985), the Brazilian government authorized the construction of a highway that would pass through the territory inhabited by the Yanomami Indians. The construction of the highway and the massive influx of people to the area resulted in the forced abandonment of their homes, communities, and source of livelihood. Because of these acts, the Inter-American Commission found that the Government of Brazil was in violation of the rights to life, liberty, personal security (Article I), residence and movement (Article VIII), and the preservation of health and well-being (Article XI).

Finally, the African Charter on Human and People's Rights (hereinafter "African Charter") also prohibits forced relocation.⁷ African Charter on Human and Peoples' Rights, adopted June 27, 1981, entered into force Oct. 21, 1986, OAU Doc. CAB/LEG/67/3 rev. 5. Article 5 provides that "[a]ll forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited." Article 6 recognizes that "[e]very individual shall have the right to liberty and to the security of his person." Article 12(1) provides that "[e]very individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law."

**C. THE PROHIBITION AGAINST FORCED RELOCATION IS
RECOGNIZED IN CUSTOMARY INTERNATIONAL LAW.**

Apart from its codification in multilateral and regional instruments, the prohibition against forced relocation is firmly established in customary international law. A review of international practice also attests to the universal and obligatory nature of this fundamental norm.

On numerous occasions, the United Nations and its affiliated agencies, have affirmed the position that forcible relocation is a violation of international law. For example, the U.N. Commission on Human Rights has repeatedly

⁷ As of January 1, 2000, there are 52 States Parties to the African Charter.

recognized the prohibition against forced relocation.⁸ In 1993, the Commission on Human Rights noted that “[t]he practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing.” Commission on Human Rights, Resolution 1993/77. See also Commission on Human Rights, Resolution 1992/10. In 1997, the Sub-Commission on Prevention of Discrimination and Protection of Minorities convened an Expert Seminar on Forced Evictions to prepare guidelines on development-based displacement.⁹ See Comprehensive Guidelines on Development-Based Displacement, U.N. Doc. E/CN.4/Sub.2/1997/7. The guidelines recognized that forced evictions give rise to numerous human rights violations and are, therefore, inconsistent with international law. Accordingly, any state effort to remove a population from their homes and communities must comply with international human rights law. In 1997, the Sub-Commission also adopted a resolution reaffirming that all people have the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one’s home, land, or community. See U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Resolution 1997/6. Furthermore, it reaffirmed that forced evictions can constitute gross violations of a broad range of human rights and that all states must take immediate measures at all levels to eliminate the

⁸ The Commission on Human Rights was established in 1945 as an entity of the U.N. Economic and Social Council. It monitors implementation of human rights standards throughout the world.

⁹ The Sub-Commission on the Prevention of Discrimination and Protection of Minorities was established in 1946 as a subsidiary body of the Commission on Human Rights.

practice of forced eviction. See also Resolutions 1995/29, 1994/39, 1993/41, 1992/26/ 1991/12.

In 1995, the United Nations Secretary-General issued a report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities on forced evictions. Report of the Secretary-General: Guidelines on International Events and Forced Evictions, U.N. Doc. E/CN.4/Sub.2/1995/13 (1995). The Secretary-General recognized that “[a]lthough some evictions are unavoidable and, under the law, acceptable and reasonable:

the human cost of forced evictions, such as the loss of a secure, neighbourly environment and social network critical for survival, the breaking up of communities, the lack of access to employment and the loss of culturally or traditionally significant sites, can be so harsh and demeaning that any justification for evictions must be evaluated in these terms and in accordance with generally recognized principles of international law.

Id. at para. 7. Accordingly, an obligation exists to undertake measures to compensate the victims, so as to reduce any adverse consequences to a minimum. Guidelines on forced evictions should be based upon the following human rights considerations: the principle of non-discrimination, the need for participation, the need for taking decisions with the informed and free consent of the people concerned, the unlawfulness of force and coercion, access to courts, the right to appeal, and the right to compensation and remedial action. Id. at para. 13. In addition, any decision on forced evictions should include particular attention to vulnerable groups such as indigenous ethnic minorities.

In a recent policy statement, the United Nations High Commissioner for Human Rights (hereinafter "UNHCHR") stated that "to be persistently threatened or actually victimized by the act of forced eviction from one's home or land is surely one of the most supreme injustices any individual, family, household or community can face."¹⁰ United Nations High Commissioner for Human Rights, Fact Sheet No. 25, Forced Evictions and Human Rights (1997). Accordingly, such action constitutes a gross violation of human rights. These acts cannot be justified by the simple use of such terms as "unavoidable" or "in the public interest." Forced relocations that do not protect basic human rights are a violation of international law. The UNHCHR indicated that the international obligation against forced eviction applies to all states, regardless of their stage of development.

While particular elements of the human right to adequate housing

¹⁰ The Office of the UNHCHR has the principal responsibility for United Nations human rights activities under the direction and authority of the U.N. Secretary-General.

may be more difficult or take longer to attain for poorer States, any assumption that the prohibition of forced evictions is only a progressive obligation is seriously flawed. Every Government, notwithstanding its position on the global development scale, can act immediately to halt forced evictions and ensure this aspect of the housing rights of their citizens. In the final analysis, a lack of available resources cannot be used to justify forced evictions. This practice can be effectively eliminated when and where Governments choose to do so.

Id. See also United Nations High Commissioner for Human Rights, Fact Sheet No. 25, The Human Right to Adequate Housing (1997).

In 1998, the Special Representative of the U.N. Secretary-General on Internally Displaced Persons submitted a series of reports on internal displacement to the Commission on Human Rights.¹¹ See, e.g., See also U.N. Docs. E/CN.4/1998/53; E/CN.4/1998/53/Add.2. The reports represent an exhaustive and authoritative overview of forced relocation and contain explicit principles concerning such actions. According to the report Legal Aspects Relating to the Protection Against Arbitrary Displacement, the displacement of persons affects a multitude of rights including the freedom of movement and choice of residence. U.N. Doc. E/CN.4/1998/53/Add.1 (1998). Thus, such government intervention may only be undertaken in exceptional circumstances and must conform to international law. The report entitled Guiding Principles on Internal Displacement is particularly instructive. U.N. Doc. E/CN.4/1998/53/Add.2. The report was drafted to address the specific needs of

¹¹ The Special Representative on Internally Displaced Persons was established in 1992 by the Commission on Human Rights.

internally displaced persons worldwide. It identifies "rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration." For example, Principle 5 provides "[a]ll authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to the displacement of persons." Principle 6 then states "[e]very human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence." Principle 7 is significant and merits full elaboration.

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
 - (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
 - (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
 - (c) The free and informed consent of those to be displaced shall be sought;

- (d) The authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;
- (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Id. See also U.N. Docs. E/CN.4/2000/83/Add.2; E/CN.4/1999/79.

In 1997, the U.N. Special Rapporteur on Population Transfer issued a report on freedom of movement and population transfers. See Human Rights and Population Transfer, U.N. Doc. E/CN.4/Sub.2/1997/23 (1997). The report determined that population transfer is prima facie unlawful and violates a number of human rights. Specifically, population transfers violate international law when they meet one or more of the following criteria: they take place without due process, they are involuntary, they are carried out by force or threat of force, or they are discriminatory. According to the Special Rapporteur, population transfers can involve large numbers of people in a single event or they can be gradual, incremental, or phased. In addition, population transfers can occur for a variety of reasons including, inter alia, transfers purportedly for development or other public purposes.

In 1995, the U.N. Special Rapporteur on Housing issued a report on the universal right to adequate housing. See The Right to Adequate Housing, U.N. Doc. E/CN.4/Sub.2/1995/12 (1995). According to the Special Rapporteur, it is

undisputed under international law that forced evictions constitute a gross violation of human rights. Id. at para. 166. Accordingly, states should ensure that forced relocations do not occur and that any development projects that may lead to evictions should comport with the full panoply of human rights law. For example, “[d]evelopment projects that lead to evictions should not be initiated until a full resettlement policy is in place. Complete rehabilitation, in accordance with international law, must be ensured, taking into account the needs of special groups – women, children, and the aged.” Id. at para. 168.

Even the United Nations High Commissioner for Refugees, whose mandate focuses primarily on refugees, has recognized the significant problem of internally displaced persons. See UNHCR, Executive Committee, Protection Aspects of UNHCR Activities on Behalf of Internally Displaced Persons, U.N. Doc. EC/1994/SCP/CRP.2 (1994). See also G.A. Res. 49/169, U.N. GAOR, 49th Sess., U.N. Doc. A/RES/49/169 (1995); G.A. Res. 48/116, U.N. GAOR, 48 th Sess., U.N. Doc. A/RES/48/116 (1993).

The position taken by the United Nations and its affiliated agencies is unanimous – forced relocation that fails to protect basic human rights is a fundamental violation of international law. See also UNICEF, The Needs of Internally Displaced Women and Children: Guiding Principles and Considerations (1998); UNHCR, International Legal Standards Applicable to the Protection of

Internally Displaced Persons: A Reference Manual for UNHCR Staff (1996); World Conference on Human Rights, Vienna Declaration and Programme of Action, U.N. Doc. A/CONF. 157/23 (1993); U.N. General Assembly Res. 43/181 (1988); Agenda 21, U.N. Doc. A/CONF.151/4 (1992).

Several regional initiatives and declarations reiterate the international consensus that forced relocation violates fundamental human rights norms. The 1984 Cartagena Declaration on Refugees expressed “its concern at the situation of displaced persons within their own countries.” See Cartagena Declaration on Refugees, adopted November 22, 1984. In this respect, the Declaration called on national authorities and the competent international organizations “to offer protection and assistance to those persons and to help relieve the hardship which may face them.” Similarly, the 1992 Declaration on the Protection of Refugees and Displaced Persons in the Arab World reaffirmed “the fundamental right of every person to the free movement within his own country” See Declaration on the Protection of Refugees and Displaced Persons in the Arab World, adopted Nov. 19, 1992. Article 5 provides that displaced persons shall be protected by: (a) the humanitarian principles of asylum in Islamic law and Arab values; (b) the basic human rights values, established by international and regional organizations; and (c) other relevant principles of international law. Finally, the 1994 San Jose Declaration on Refugees and Displaced Persons under the Auspices of the Costa Rican Government determined that the problem of the internally displaced is “of

concern to the international community because it is a human rights issue”

San Jose Declaration on Refugees and Displaced Persons under the Auspices of the Costa Rican Government, International Colloquium in Commemoration of the Tenth Anniversary of the Cartagena Declaration on Refugees, Conclusion No. 16 (1994). See also Guidelines for Aid Agencies on Involuntary Displacement and Resettlement, OECD/GD (91) 201 (1991).

Finally, the World Bank has recognized the profound consequences of involuntary resettlement and its impact on human rights. In a 1990 Operational Directive on Involuntary Resettlement, the World Bank acknowledged that “[i]nvoluntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.” World Bank, Operational Directive: Involuntary Resettlement, OD 4.30 (June 1990), at ¶ 2. Specifically, “[d]evelopment projects that displace people involuntarily generally give rise to severe economic, social and environmental problems: production systems are dismantled; productive assets and income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community structures and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished.” Id. A more recent World Bank

draft on involuntary resettlement reiterates these concerns. See World Bank, Draft OP 4.12: Involuntary Resettlement (1999).

In the final analysis, these multilateral and regional pronouncements affirming the prohibition against forced relocation can be traced to the universal expectation that governments do not have an unfettered power to trample upon the basic human rights of their citizens. It is not surprising, therefore, to find, that laws protect against such acts in virtually all states. Indeed, this principle can be traced to the seminal Magna Carta. Thus, individuals cannot be forcibly removed from their homes or compelled to relocate to government specified areas amid threats and use of deadly force and absent even minimal procedural safeguards.

**D. THE PROHIBITION AGAINST FORCED RELOCATION IS
RECOGNIZED IN U.S. LAW AND PRACTICE.**

It is evident that due process protections limit the ability of the United States to forcibly remove individuals from their homes or to require them to relocate to government specified areas. Case law firmly establishes that the Constitution prohibits the taking of life, liberty, or property without due process and that such rights are intended to secure the individual from the arbitrary exercise of government authority.

In this regard, the Japanese internment cases of World War II stand as a stark reminder of the necessity to ensure due process and constitutional

protections even in time of war. In Korematsu v. United States, 323 U.S. 214 (1944), the U.S. Supreme Court found that an exclusionary order against Japanese-Americans, an order which excluded all persons of Japanese ancestry from Military Area No. 1, was constitutional. Accordingly, the Court affirmed the conviction of a Japanese-American citizen who violated the exclusionary order. In a subsequent coram nobis action, however, a federal court vacated the conviction. Korematsu v. United States, 584 F.Supp. 1406, 1420 (N.D. Cal. 1984). The court noted that "Korematsu remains on the pages of our legal and political history. As a legal precedent, it is now recognized as having very limited application." Id. at 1420. See also Hirabayashi v. United States, 627 F.Supp. 1445 (W.D. Wash. 1986). It should also be recalled that Korematsu was decided before the major postwar developments in human rights law. Interestingly, the U.S. Supreme Court held in Ex Parte Endo, 323 U.S. 283 (1944), a decision decided on the same day as Korematsu, that the Fifth Amendment precludes the forcible relocation of a U.S. citizen to an internment camp. In his concurring opinion, Justice Murphy noted "[a]n admittedly loyal citizen has been deprived of her liberty for a period of years. Under the Constitution she should be free to come and go as she pleases. Instead, her liberty of motion and other innocent activities have been prohibited and conditioned. She should be discharged." Id. at 310. In a recent treatise on civil liberties, Chief Justice Rehnquist affirmed that such forcible relocation of a civilian population, even in time of war, is

inconsistent with fundamental principles of justice and civil liberty. William H.

Rehnquist, All the Laws But One 206 (1998).

[Citizens] may be excluded from sensitive military areas in the absence of a security clearance and may otherwise be denied access to any classified information. But it pushes these propositions to an extreme to say that a sizable geographical area, including the residences of many citizens, may be declared off-limits and the residents required to move. It pushes it to an even greater extreme to say that such persons may be required not only to leave their homes but also to report to and remain in a distant relocation center.

In 1988, Congress adopted the Civil Liberties Act in recognition of the basic injustices caused by the relocation of Japanese-Americans. Civil Liberties Act of 1988, 100 P.L. 383, 102 Stat. 903. The purpose of the Act was to "acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II" *Id.* at § 1.

The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

Id. at § 2. The Act authorized the Attorney General to recommend to the President for pardon consideration any individuals of Japanese ancestry who had been convicted of violating evacuation, relocation, or internment laws. It also authorized compensation for any individual of Japanese ancestry who was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of the evacuation, relocation, or internment laws.

The United States Government has condemned forced relocation in numerous statements. For example, the Bureau of International Labor Affairs for the Department of Labor issued a 1998 Report on Labor Practices in Burma which specifically recognizes that acts of forced relocation constitute fundamental violations of human rights and international law. U.S. Dep't of Labor, Bureau of International Labor Affairs, Report on Labor Practices in Burma (1998). Similarly, the U.S. Department of State categorizes forced relocation as a human

rights violation in its annual Country Reports on Human Rights Practices. See, e.g., U.S. Dep't of State, Country Reports on Human Rights Practices 816, 819, 1984, 1985 (April 1999). In its most recent Country Reports on Human Rights Practices, the Department of State noted that acts of forced relocation constitute abuses of human rights, particularly when relocation orders are conducted with discriminatory purposes, without public consultation or endorsement, or when residents are given short notice and no option but to move. U.S. Dep't of State, Country Reports on Human Rights Practices (February 2000) <http://www.state.gov/www/global/human_rights/1999_hrp_report/burma.html>.

Finally, the well-respected Restatement (Third) of the Foreign Relations Law of the United States recognizes that forced relocation is a violation of international law. Restatement (Third) of the Foreign Relations Law of the United States (1987). Specifically, Restatement (Third) § 702 cmt.(m) recognizes that a consistent pattern of gross violations of human rights constitutes a violation of customary international law. Such acts can include systematic harassment, invasion of the privacy of the home, and mass uprooting of a country's population. Id.

In sum, multilateral instruments, regional agreements, and customary international law evince a clear and unequivocal prohibition of forced relocation.

This definable, universal, and obligatory norm is a fundamental principle of international law and an essential feature of human rights.

II. ACTS OF FORCED RELOCATION MAY GIVE RISE TO CRIMINAL LIABILITY UNDER INTERNATIONAL LAW

Since World War II, acts of forced relocation have been viewed as a violation of international law and have given rise to criminal liability. In the context of international criminal law, acts of forced relocation are classified as a crime against humanity. While acts of forced relocation originally required a nexus to armed conflict, this requirement is no longer recognized under international law. In addition, the term “deportation” has been extended to include forcible transfer of populations regardless of whether such transfers extend beyond state borders.

The Charter for the International Criminal Tribunal at Nuremberg first set forth the general prohibition against forced relocation. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis Powers and Charter of the International Military Tribunal at Nuremberg (the London Agreement), signed and entered into force Aug. 8, 1945, 82 U.N.T.S. 279. Because of the nature of the Tribunal, the prohibition against forced relocation is set forth in the definitions of war crimes and crimes against humanity. Thus, Article 6(b) defines war crimes to include “ill-treatment or

deportation to slave labor or for any other purpose of civilian population of or in occupied territory” as a war crime. Article 6(c) defines crimes against humanity as enslavement, deportation, and other inhuman acts committed against any civilian population, before or during the war” In its judgment, the International Military Tribunal at Nuremberg recognized that acts of forced relocation against civilian populations constituted war crimes and crime against humanity. The Nurnberg Trial, 6 F.R.D. 69, 116-120, 126-131 (1946).

In addition to the Charter of the International Military Tribunal, Control Council Law No. 10 also prohibited acts of forced relocation. Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Humanity, adopted Dec. 20, 1945, 3 Official Gazette Control Council for Germany 50-55 (1946) Sess., Supp. No. 12, at 11, U.N. Doc. A/1316 (1950). Thus, Article II(1)(b) defines war crimes as atrocities or offences against persons or property, constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labour or for any other purpose of civilian population from occupied territory” Article II(1)(c) defines crimes against humanity as atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhuman acts committed against any civilian population”

Subsequent developments since the Nuremberg era have affirmed the prohibition against forced relocation. In 1993, the U.N. Security Council adopted the Statute of the International Criminal Tribunal for the Former Yugoslavia (hereinafter "ICTY"). Statute of the International Criminal Tribunal for the Former Yugoslavia, Report of the Secretary-General Pursuant to Paragraph 2 of U.N. Security Council Resolution 808, U.N. GAOR, May 19, 1993, U.N. Doc. S/25704 (1993). Article 5 authorizes the ICTY to prosecute persons responsible for the following crimes when committed in armed conflict and directed against a civilian population: murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution on political, racial and religious grounds, and other inhumane acts.

The case law of the ICTY has clarified the terms "crimes against humanity" and "deportation." In the Tadic case, the Appeals Chamber of the ICTY elaborated on the fact that crimes against humanity may be committed notwithstanding the absence of any connection to an armed conflict. Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-T (Oct. 2, 1995).

It is by now a settled rule of customary international law that crimes against humanity do not require a connection to international armed conflict. Indeed, as the Prosecutor points out, customary international law may not require a connection between crimes against humanity any conflict at all. Thus, by requiring that crimes against humanity be committed in either internal or international armed conflict, the Security Council may have

defined the crime in Article 5 more narrowly than necessary under customary international law

In the Nikolic case, Trial Chamber I found that acts of deportation include the transfer of individuals from one location to another within the same country. Decision of Trial Chamber I – Review of Indictment Pursuant to Rule 61, IT-95-2-R61 (Oct. 20, 1995). Such forced transfers of a civilian population constitute deportation and, therefore, a crime against humanity.

In 1994, the U.N. Security Council adopted the Statute of the International Tribunal for Rwanda (hereinafter “ICTR”). Statute Establishing the International Criminal Tribunal for Rwanda, S.C. Res. 955, 49 U.N. SCOR at 1, U.N. Doc. S/RES/955 (1994), 33 I.L.M. 1598 (1994). The ICTR Statute mirrors the ICTY Statute except it does not contain a reference to armed conflict. Thus, Article 3 authorizes the ICTY to prosecute persons responsible for the following crimes directed against a civilian population: murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution on political, racial and religious grounds, and other inhumane acts.

In July 1998, the Rome Statute of the International Criminal Court (hereinafter “Rome Statute”) was adopted. Rome Statute of the International Criminal Court, U.N. Doc. A/Conf. 183/9 (1998). Article 7(1) provides that the deportation or forcible transfer of population constitutes crimes against humanity. Article 7(2) defines “deportation or forcible transfer of population” to mean “forced displacement of the persons concerned by the expulsion or other coercive

acts from the area in which they are lawfully present, without grounds permitted under international law.” This definition is consistent with the recent work of the International Law Commission, which has been drafting an international criminal code. Report of the International Law Commission on the Work of its Forty-Eighth Session, Draft Code of Crimes Against the Peace and Security of Mankind, U.N. GAOR, 51st Sess., Supp. No. 10, U.N. Doc. A/51/10 (1996).

CONCLUSION

While states maintain certain police powers as an incident of sovereignty, such powers are not absolute. Forcibly removing individuals from their homes or compelling them to move to government specified areas in the absence of due process protection and amid threats and use of deadly violence is contrary to fundamental principles of international law. Indeed, forced relocation is a particularly egregious violation of international law because it implicates a variety of fundamental human rights including the right to liberty and security of the person, the right to be free from arbitrary detention or exile, the right to be free from arbitrary interference with one’s privacy, family and home, and the right to freedom of movement and residence.

It should also be emphasized that forced relocation, when undertaken with discriminatory intent, through acts of torture or summary execution, or as a

mechanism for instituting forced labor, constitutes a jus cogens violation of international law. Restatement (Third), at § 702 cmt (n).

Based upon this review of international law and practice, it is evident that the prohibition against forced relocation is a definable, universal, and obligatory norm that binds all states.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 25 day of February
2000.

William J. Aceves
Deborah Anker

Anthony D'Amato

Constance de la Vega

Joan Fitzpatrick

Jordan Paust
John Quigley

Dinah Shelton
Anne-Marie Slaughter

David Weissbrodt

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APPENDIX 1

AFFILIATIONS AND QUALIFICATIONS OF INTERNATIONAL LAW

SCHOLARS

1. William J. Aceves is Associate Professor of Law at California Western School of Law. Professor Aceves teaches Human Rights Law, Comparative Law, Foreign Affairs and the Constitution, and Law and International Relations. He was previously a visiting Ford Foundation Fellow in International Law at the UCLA School of Law. He is a member of the American Society of International Law and the American Branch of the International Law Association. He is the Chair of the Extradition and Human Rights Committee of the American Branch of the International Law Association. He has published articles in several law reviews, including journals at Berkeley, Fordham, Harvard, Hastings, Michigan, Pennsylvania, and Vanderbilt. He has also written several essays for the prestigious American Journal of International Law. Professor Aceves has extensive experience in human rights litigation, having submitted amicus briefs to the First Circuit, Fourth Circuit, Fifth Circuit, Ninth Circuit, Tenth Circuit, and the United States Supreme Court.

2. Deborah Anker is the head of the Immigration and Refugee Clinic at Harvard Law School. Professor Anker has taught courses on immigration and refugee law. She is the co-founder of the Refugee Law Center, which participated as a certified NGO at the Fourth World Conference on Women in Beijing in 1995. She has published several articles on refugee and immigration matters, including journals at Harvard and San Diego. She is the author of The Law of Asylum in the United States (3rd ed. 1999). Professor Anker has extensive experience in human rights litigation, having argued

before numerous federal courts and has filed amicus briefs in the United States Supreme Court in every major refugee case in the last fifteen years.

3. Anthony D'Amato is Professor of Law at Northwestern University School of Law. Professor D'Amato teaches several courses including International Law, International Human Rights, International Intellectual Property, and Constitutional Law. He is currently a member of the International Law Association, a member of the Board of Directors at Transnational Publishers Inc., and an advisory editor of the Journal of International Legal Studies. He was previously a member of the Executive Council of the American Society of International Law, the Chair of the Human Rights Interest Group of the American Society of International Law, and the Chair of the Section on International Law of the Association of American Law Schools. He has published over 150 articles in numerous law reviews, including journals at Columbia, Michigan, Northwestern, New York University, Stanford, Texas, Virginia, and Yale. He has also published several articles in the prestigious American Journal of International Law. He is the author or coauthor of several treatises, including The Alien Tort Claims Act: An Analytical Anthology (1999), European Union Law Anthology (1998); International Intellectual Property Law (1997), International Law: Process and Prospect (1995); International Law Coursebook (1994), International Law Anthology (1994), and The Concept of Custom in International Law (1971). Professor D'Amato has extensive experience in human rights litigation, having argued before the International Criminal Tribunal for the Former Yugoslavia, the European Court of Human Rights, the International Court of Justice, and several U.S. courts including the Fifth Circuit, Seventh Circuit, Eleventh Circuit, and the D.C. Circuit.

4. Constance de la Vega is Professor of Law at the University of San Francisco School of Law. Professor de la Vega teaches International Human Rights and is the Director of the Civil Litigation and Human Rights Clinic. She is member of the Board of Directors of Human Rights Advocates and a member of the National Advisory Board for the Berkeley Women's Law Journal. She has published articles in several law reviews, including journals at Cincinnati, Harvard, San Francisco, and Whittier. Professor de la Vega has extensive experience in human rights litigation, having submitted amicus briefs to the California Supreme Court, the Ninth Circuit and the United States Supreme Court.

5. Joan Fitzpatrick is Professor of Law at the University of Washington School of Law. Professor Fitzpatrick teaches Federal Courts, Immigration Law, International Human Rights Law, and Refugee Law. She has published over 30 articles in numerous law reviews, including journals at Berkeley, Georgetown, Harvard, Hastings, Michigan, Virginia, St. Johns, Washington, and Yale. She has also written several essays for the prestigious American Journal of International Law. She is the author or coauthor of several treatises, including Secrecy and Liberty: National Security, Freedom of Expression and Access to Information (1999) and Human Rights in Crisis: The International System for Protecting Rights During States of Emergency (1994).

6. Jordan Paust is the Law Foundation Professor of International Law at the University of Houston Law Center. Professor Paust teaches International Law, International Criminal Law, the Constitution and Foreign Affairs, and Human Rights and is the Director of the International Law Institute. He is a member of the American

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7. John Quigley is President's Club Professor of Law at Ohio State University College of Law. Professor Quigley teaches several courses including Comparative Law and International Law. He is a member of the American Society of International Law and on the Advisory Board of the Inter-American Comparative Law Institute. He has published articles in several law reviews, including journals at American, Connecticut, Cornell, Harvard, Michigan, Notre Dame, Syracuse, Virginia, and Yale. Professor Quigley has extensive experience in human rights litigation, having participated in cases

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8. Dinah L. Shelton is Professor of International Law at the Center for Civil and Human Rights at Notre Dame Law School. Professor Shelton teaches International Human Rights Law, International Law, and International Organizations. She is a member of the Executive Councils at the Marangopoulos Foundation for Human Rights, Redress International, the International Institute of Human Rights, and Environnement sans frontière. She is an editor of the Yearbook of International Environmental Law. She has published articles in several law reviews, including journals at American, Iowa, and Washington & Lee. She has also written several articles for the prestigious American Journal of International Law. She is the author or coauthor of several treatises, including Remedies in International Human Rights Law (1998), Manual of European Environmental Law (2nd ed. 1997), Protecting Human Rights in the Americas (4th ed. 1996), and International Environmental Law (1991).

9. Anne-Marie Slaughter is the J. Sinclair Armstrong Professor of Foreign, Comparative and International Law and Director of Graduate and International Legal Studies at Harvard Law School. Professor Slaughter teaches International Litigation, International Law and International Relations, and Civil Procedure. She is on the Board of Editors for the American Journal of International Law and International Organization. She is also a member of the American Society of International Law and the Council on Foreign Relations. She has written widely on issues of international law and international relations. She has published articles in numerous law reviews, including journals at

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10. David Weissbrodt is the Fredrikson & Byron Professor of Law at the University of Minnesota. Professor Weissbrodt teaches several courses, including Immigration Law, International Human Rights, and International Law. He is legal counsel for the Center of Victims of Torture and the Minnesota Advocates for Human Rights and on the Advisory Board of the International Human Rights Internship Program. He is currently a member of the United Nations Sub-Commission on the Promotion and Protection of Human Rights. He has also served on the Board of Directors of Amnesty International - USA. He has published articles in several law reviews, including journals at Buffalo, Harvard, Minnesota, Whittier, and Yale. He has also written several essays for the prestigious American Journal of International Law. He is the author or coauthor of several treatises, including Immigration Law in a Nutshell (4th ed. 1998), The Right to a Fair Trial, and International Human Rights; Law, Policy and Process (2nd ed. 1996).

11. Richard J. Wilson is Professor of Law at the Washington College of Law at American University and Director of the International Human Rights Law Clinic. He is a member of the Board of Directors for the Center for Human Rights and Humanitarian Law, a member of the Board of Litigation Directors for Rights International: Center for International Human Rights Law, and a member of the Board of Editors for the American Journal of Comparative Law. In 1998, he was Legal Advisor to the Consulate of the

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