

**Combating Holocaust
and Genocide Denial
Protecting Survivors,
Preserving Memory, and
Promoting Prevention**

Policy Paper

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Foreword

Hate speech has been known to stigmatize, marginalize, enable discrimination as well as incite hate crimes and large-scale violence. Genocide and Holocaust denial is often tied to hate speech, specifically when the aim is to target individuals or groups based on specific identity factors. The most serious cases of genocide and Holocaust denial can constitute incitement to discrimination, hostility, or violence, and to genocide.

Historical experience has shown us that such violence often includes denial of past violations and is almost always preceded by online and offline hate speech - or any kind of communication in speech, writing or behaviour that attacks individuals or groups based on their identity. In our world, such dynamics continue to spread like a wildfire, contributing to the perpetration of genocide and other atrocity crimes.

Despite our pledge to “Never Again,” our world continues to be afflicted by violence of genocidal nature.

We remain very concerned about persistent distortions of the historical reality of past genocides, including in Rwanda and Srebrenica, and of the glorification of perpetrators that often accompanies them, including with hate speech. We are also extremely worried about the increasingly frequent distortions of the Holocaust’s scope and intentionality.

Holocaust denial is rooted in Antisemitism. We have seen for instance how antisemitic conspiracy theories concerning COVID-19 became prevalent in mainstream discourse following the emergence of the pandemic. We have also seen the Holocaust and its symbols being trivialized in anti-vaccine protests. Genocide and Holocaust denial constitutes a warning sign of societal fragility and of the enduring presence of the conditions that have allowed large-scale hatred and violence to erupt in the past. The impact of denial in generating fear among victims of past atrocity crimes is also unquestionable, as it can inspire and fuel hatred of, or even incite violence against, communities that previously experienced atrocity crimes. This sense of vulnerability is particularly enhanced when denial comes from government officials and is manifested through state-sponsored media.

In the same vein, glorification of perpetrators of genocide and atrocity crimes can constitute an insurmountable obstacle for accountability and can enhance their ability to fuel further hatred and violence. Glorification equalizes criminals and victims, emboldens the former to consider their past actions as positive and commendable and raises the risk of potential commission of such crimes in the future.

Genocide and Holocaust denial turns perpetrators and war criminals into heroes and heroines. It sows fear, mistrust, and hate. It divides people,

communities, and states. It does not allow for healing and empathy. It also undermines the judicial decisions that have been made and therefore undermines justice. This is to the contrary of what societies which have experienced conflict and have a legacy of atrocity crimes require. It is unacceptable and must be condemned.

We therefore need to address genocide and Holocaust denial urgently and firmly, and this must be done in full respect of international human rights standards and of freedom of opinion and expression. Addressing this phenomenon through legislation should only be used for the most serious instances where genocide and Holocaust denial reaches the threshold of incitement speech, for which the Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence provides clear guidance. Moreover, we need to look beyond legislative measures and use comprehensive policy measures encompassing the overall short, medium, and long-term dimensions of denial, for which sustained action in the fields of awareness raising, and education is also essential.

This Policy Guidance on Combating Genocide and Holocaust Denial includes a rich and broad range of suggestions for national governments, the United Nations system, and other relevant actors, including social media,

to address this phenomenon. I urge the widest possible dissemination and implementation of this Policy Guidance so that we can collectively work to tackle genocide and Holocaust denial and help increase collaboration on these issues among relevant stakeholders to build more peaceful, inclusive, and just societies.



Alice Wairimu Nderitu,
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on the Prevention of Genocide*

I. Introduction

“Genocide and Holocaust denial turns perpetrators and war criminals into heroes and heroines. It sows fear, mistrust, and hate. It divides people, communities, and states. It does not allow for healing and empathy. It also undermines the judicial decisions that have been made and therefore undermines justice. This is to the contrary of what societies which have experienced conflict and have a legacy of atrocity crimes require. It is unacceptable and must be condemned.”

—Alice Wairimu Nderitu, UN Special Adviser on Prevention of Genocide

Denial and distortion of the Holocaust and denial of genocide harms victims and survivors of these crimes and can constitute hate speechⁱ by advancing negative stereotypes of individuals or groups based on their identity, explicitly or implicitly. Denial of past atrocity crimes is also a warning sign of societal fragility and of the potential for violence. Today, more than 75 years after the Holocaust and more than 25 years after the genocides in Bosnia-Herzegovina and Rwanda, the continued persistence of speech denying or distorting the historical reality of these genocides is a source of serious concern that all stakeholders, and the UN system, should confront.

This policy paper, informed by an expert brainstorming session convened on 10 December 2021, by the UN Office on Genocide Prevention and the Responsibility to Protectⁱⁱ and the Jacob Blaustein Institute for the Advancement of Human Rights,ⁱⁱⁱ sets out recommendations to stakeholders on how to effectively address these challenges in line with international human rights law. It addresses recognizing and condemning Holocaust and genocide denial and distortion; addressing Holocaust and genocide denial and distortion through law; addressing Holocaust and genocide denial and distortion online; preventing Holocaust and genocide denial and distortion through education; and preventing Holocaust and genocide denial and distortion through memorialization and other transitional justice measures.

Recognizing and Condemning Holocaust and Genocide Denial and Distortion

Many harmful consequences result from Holocaust and genocide denial and distortion, affecting individuals, communities, and the societies that have experienced them. Holocaust and genocide denial can directly harm individuals by causing fear in victims and by fueling hatred of or directly inciting violence against communities that previously experienced them. Similarly, the glorification of perpetrators of genocide and other atrocity crimes can enhance their ability to fuel hatred and violence and undermine efforts to ensure accountability. Denial of atrocity crimes is also harmful to societies in which it occurs: as the Framework of Analysis for Atrocity Crimes^{iv} developed by the UN Office on Genocide Prevention indicates, it is a warning sign of societal fragility and the enduring presence of the conditions that allowed this large-scale hatred and violence to erupt in the past.^v

Of particular concern today are ongoing denial and distortion of genocides which have been confirmed by international criminal tribunals, in particular the genocide of Bosnian Muslims in Bosnia-Herzegovina and the genocide of the Tutsi in Rwanda and the glorification of perpetrators of these crimes. Such genocide denial, particularly when committed by or with the acquiescence of political leaders, political parties, or others in positions of authority, is fueling fear in the survivors of these crimes; undermining shared historical memory; and facilitating the spread of disinformation aimed at fueling insecurity and animosity between members of different groups and within and among communities, based on ethnic identity.

Denial and distortion of the Holocaust is also a serious and growing problem in many countries. Recent surveys have revealed that ignorance of

the Holocaust is widespread in many countries.^{vi} Simultaneously, antisemitic conspiracy theories concerning COVID-19 became prevalent in mainstream discourse following the emergence of the pandemic and related widespread insecurity and fear. Similarly, the Holocaust and its symbols have been evoked in statements and displays opposing vaccine mandates and other government policies aimed at mitigating the spread of COVID-19 in several countries, and in ways that grossly minimize the extent of suffering inflicted by Nazis during the Holocaust. High-profile political figures have occasionally personally engaged in this conduct or have dismissed it as legitimate political speech. Holocaust denial and distortion convey and facilitate the spread of antisemitic tropes and stereotypes, and their increasing prevalence is particularly troubling as antisemitic incidents have been recorded at record-high levels in several countries in recent years. Holocaust denial and distortion can also encourage audiences to ascribe to other conspiracy theories and to engage positively with other forms of disinformation, thus not only creating risks for Jewish individuals and communities and undermining collective historical memory, but also weakening the resilience and cohesion of democratic societies.

At the United Nations, States have collectively recognized the harmful consequences of Holocaust and genocide denial and the need to counter it in line with international human rights standards.^{vii} Several other important intergovernmental efforts to recognize and counter Holocaust and genocide denial and distortion have also been undertaken in recent years. These include the articulation and development of policy guidance on the Working Definition of Holocaust Denial and Distortion by the International Holocaust Remembrance Alliance (IHRA)^{viii} and the establishment of national committees for the prevention and punishment of the crime of genocide, war crimes and crimes against humanity and all forms of discrimination by several member States of the International Conference on the Great Lakes Region (ICGLR).

RECOMMENDATIONS

- Political leaders and non-State actors in positions of authority should publicly reject prominent assertions of Holocaust denial and distortion and denial of genocides and atrocity crimes. UN actors should affirmatively reject narratives that harm survivors of atrocity crimes and members of communities that have experienced them and work with all stakeholders to discourage denial and disinformation. It is particularly important to clearly reject Holocaust or genocide denial or distortion when advanced by domestic actors in positions of authority; in such situations, while engagement may be difficult, UN actors may be perceived as condoning false narratives if they remain silent.
- All UN actors should ensure they are aware of and respond to Holocaust and genocide denial and distortion using an approach that is victim-centered and human rights-based. In particular, they should regularly consult with representatives of communities that have experienced atrocity crimes to understand their concerns.
- UN actors should seek to advance holistic narratives about the past that do not oversimplify or equate different groups' experiences but that also recognize the moral gravity of all atrocity crimes and avoid attributing collective responsibility for them to entire groups.
- All UN actors should receive instruction on recognizing and understanding Holocaust denial and distortion, with reference to the International Holocaust Remembrance Alliance (IHRA) Working Definition of Holocaust Denial and Distortion.^{ix}
- UN actors in areas in which atrocity crimes have occurred should consider developing a plan of action for responding

to hate speech in cooperation with the UN Office on Genocide Prevention and the Responsibility to Protect.

- States that have not already done so should establish national mechanisms for the prevention of genocide and other atrocity crimes.
- States should implement resolutions addressing Holocaust and genocide denial previously adopted by the United Nations and other relevant intergovernmental organizations in line with international human rights standards.^x

Addressing Holocaust and Genocide Denial and Distortion through Law

Legal prohibitions of Holocaust and genocide denial and distortion are permissible in some contexts and required in others. Denial and distortion of the Holocaust, genocides, and atrocity crimes can be legitimately restricted where doing so is necessary to protect the rights or reputations of victims of atrocity crimes or communities that have previously experienced genocide and other atrocity crimes. Further, denial and distortion can also amount to advocacy of racial or religious hatred that constitutes incitement to hostility, discrimination, or violence, and even to incitement to genocide, which States parties to the International Covenant on Civil and Political Rights and the Convention on the Prohibition and Punishment of the Crime of Genocide^{xi} are obligated to prohibit through law. However, any efforts to prohibit and punish Holocaust or genocide denial must be undertaken for a legitimate purpose and be necessary and proportionate, in line with international standards governing freedom of expression, with determinations of intent and the likelihood of resulting harm made on a case-by-case basis.^{xii} Criminal sanctions will only be appropriate in the

most serious cases.^{xiii} International human rights law does not permit the use of legal prohibitions of Holocaust or genocide denial to punish or discourage legitimate historical inquiry.

Throughout Europe, and in several countries outside Europe, “publicly condoning, denying or grossly trivializing” the Holocaust, as adjudicated by the International Military Tribunal at Nuremberg, or genocide and atrocity crimes is prohibited by law when carried out in a manner likely to incite violence or hatred.^{xiv} The use of such laws to criminalize Holocaust denial and distortion has been upheld by human rights tribunals at the regional level in Europe as permissible restrictions of the right to freedom of expression because their purpose is to strengthen democratic societies by reinforcing a culture of victim-centered memory and compassion and to protect Holocaust survivors and Jewish communities from incitement to antisemitic hatred, discrimination, and violence.^{xv} The African regional human rights system has taken a similar approach, upholding Rwanda’s prohibition of genocide ideology.^{xvi} However, regional courts have not approved of national laws prohibiting the denial of other historical events, including laws restricting the denial of genocides that have not been recognized as such by an international tribunal.^{xvii}

At the same time, several countries have enacted “memory laws” that are broader than the Holocaust and genocide denial laws described above and which advance specific narratives denying national or communal complicity in atrocity crimes, including but not limited to the Holocaust, and protect those narratives from criticism or refutation. In several instances, such laws have been used to prosecute or have had a significant chilling effect on historians, scholars, and other researchers and on the victims of atrocity crimes. International human rights law does not permit these restrictions on the

right to freedom of expression,^{xviii} which can be distinguished from prohibitions on Holocaust and genocide denial because they limit the right to freedom of expression for the illegitimate purpose of protecting the reputation of a State.

The efficacy of denial laws in deterring the denial of atrocity crimes is unclear.^{xix} While laws prohibiting denial of atrocity crimes can play an important communicative function, particularly in conveying States’ resolve to protect communities that experienced atrocity crimes in the past from further harm, the impact of such laws on the public and victims can vary dramatically depending on the frequency and consistency with which they are enforced.

RECOMMENDATIONS

- States that have adopted laws prohibiting denial of the Holocaust, genocides, and atrocity crimes that have been adjudicated as such by national or international courts should consistently enforce them in appropriate and serious cases, e.g., where enforcement is necessary to protect the rights and reputations of others and where denial or distortion amounts to advocacy of national, racial or religious hatred that constitutes incitement to hostility, discrimination, or violence.
- States that have adopted laws prohibiting denial of the Holocaust, genocides, and atrocity crimes that have been adjudicated as such by national or international courts should ensure that their text and application is not excessively broad and should refrain from prohibiting, restricting, or chilling legitimate historical inquiry.
- States that have adopted laws prohibiting denial of the Holocaust, genocides, and atrocity crimes that have been adjudicated as such by national or international courts should ensure that law enforcement, prosecutorial,

and judicial officials receive training on the purpose, function, and appropriate use of such laws; the appropriate use of general laws prohibiting advocacy of national, racial or religious hatred that constitutes incitement to hostility, discrimination, or violence; and the harmful consequences that can result from inconsistent or arbitrary application of such laws, including exacerbating intercommunal tensions.

- States that have enacted laws prohibiting denial and distortion of the Holocaust, genocides, and/or atrocity crimes should be encouraged to monitor their application, including by collecting comprehensive data on their enforcement.
- States should be encouraged to rescind “memory laws” that are broader than the Holocaust and genocide denial laws described above, particularly laws that advance specific narratives denying national or communal complicity in atrocity crimes, including but not limited to the Holocaust, and protect those narratives from criticism or refutation. UN officials should object to the use of such laws to punish and chill legitimate historical inquiry, journalism, or efforts to memorialize atrocity crimes.

Addressing Holocaust and Genocide Denial and Distortion Online

Holocaust and genocide denial and distortion amounting to incitement to hatred against groups that have previously suffered from atrocity crimes are increasingly visible online, including on major social media platforms, even though several companies have explicitly

prohibited Holocaust denial as part of their hate speech policies and strengthened their responses to online hate speech in recent years.

Online content trivializing the Holocaust and genocides has significant potential to cause harm and to have significant influence on popular culture, public opinion, and politics, and can lead to transnational impacts in ways that other manifestations of denial do not. Social media companies’ hate speech policies should conform to international standards governing freedom of expression.^{xx} Their capacity to moderate harmful online content, including by reducing the visibility of content containing Holocaust and genocide denial and distortion, along with disinformation, conspiracy theories, and violent content, is greater than that which States are permitted to limit through the use of criminal or civil laws.^{xxi}

RECOMMENDATIONS

- UN actors, civil society, and social media companies should develop proactive strategies to advance education about the Holocaust and other atrocity crimes and about the dangers of denial and distortion online.^{xxii} Particular focus should be directed to identifying effective strategies for influencing youths through online campaigns.
- UN actors should remind social media companies of their responsibility to refrain from amplifying content including disinformation and Holocaust and genocide denial and distortion that can incite hatred against communities that have experienced genocide and other atrocity crimes.
- Social media companies should be encouraged to adopt definitions of hate speech and adapt community standards to more comprehensively recognize that denial and distortion of the Holocaust and genocide

can cause revictimization, repeat historical patterns of discrimination and negative stereotypes, and incite hostility and violence.

- Social media companies should be encouraged to take affirmative efforts to mitigate the impact of Holocaust and genocide denial and distortion through varying forms of content moderation, including but not limited to content removal. They should also ensure that their algorithms do not promote or direct users to content that constitutes denial or distortion of the Holocaust or genocide or glorification of perpetrators.
- Social media companies should be encouraged to consult with a wide variety of stakeholders, including civil society organizations and representatives of communities that have experienced atrocity crimes, to ensure that appropriate context-specific moderation efforts are being undertaken to address online hate speech including Holocaust and genocide denial and distortion.

Preventing Genocide and Holocaust Denial and Distortion through Education

Education is a critical component of efforts to prevent and respond to Holocaust and genocide denial and distortion. Conversely, educational systems can be a primary driver of Holocaust and genocide denial and distortion and exacerbate intercommunal tensions, depending on how the history of past events is presented. Substantial activities and resources should be directed to developing and encouraging the widespread use of educational curricula that accurately recount the facts of the Holocaust and of other genocides and past atrocity crimes.

RECOMMENDATIONS

- UN actors should encourage wide use of the teaching aid on Holocaust Denial, Distortion and Trivialization developed by the Organization for Security and Cooperation in Europe's Office of Democratic Institutions and Human Rights (OSCE ODIHR), as part of a larger series of teaching aids on Addressing Antisemitism through Education.^{xxiii}
- Educational curricula about other genocides and atrocity crimes should:
 - > Convey comprehensive and accurate information about the country's past
 - > Accurately describe the pluralistic nature of societies in which atrocity crimes occurred, including by identifying individual perpetrators with particular responsibility for past atrocity crimes and addressing the role of systems that facilitated their commission while not portraying entire communities as collectively culpable
 - > Be conducive to promoting inclusive narratives about the future
 - > Include content that is targeted at engaging youths but also target other key stakeholders, including educators who may have experienced atrocity crimes
 - > Explicitly engage with and equip students to recognize and reject genocide denial and disinformation online; and
 - > Be taught throughout the entirety of countries with a recent history of atrocity crimes.

- Education about the Holocaust and genocides should not be limited to secondary educational settings; it should also be incorporated in higher education and in training for civil servants.
- UN actors should encourage the provision of broader digital literacy education in schools that addresses online hate speech, trivialization, misinformation, and disinformation and the harm that these can cause, and should develop teacher training materials addressing these phenomena.

Preventing Holocaust and Genocide Denial and Distortion through Memorialization and other Transitional Justice Measures

Among the most effective measures to prevent denial and distortion of the Holocaust, genocides and atrocity crimes is to build accurate, inclusive collective memory of these events alongside an inclusive national identity. Accountability is an important component of building shared historical memory, as the failure to ensure that perpetrators with particular responsibility for the commission of atrocity crimes are held accountable can create fertile

conditions for successive generations to question the extent of the crimes committed. Victims of atrocity crimes also have the right to the truth about the fate of their loved ones and to remedy and redress; failure to fulfill these rights can create conditions that are conducive for the denial of past atrocity crimes, fuel grievances, and lead to tension within victim communities.

RECOMMENDATIONS

- UN actors should support memorialization efforts that respect the right to truth for all and recognize the experiences of all communities that have experienced atrocity crimes, without conveying false equivalence of groups' experiences.
- UN actors should seek to identify areas in which members of different communities could be encouraged to cooperate and undertake activities jointly on issues of common concern.
- UN actors should explore the feasibility of efforts to encourage greater discussion of historical memory; to ensure that perpetrators of atrocity crimes are held accountable; and to fulfill the rights to truth, to rehabilitation, and to redress and restitution of victims of atrocity crimes.

ENDNOTES

- i The United Nations understands hate speech as “any kind of communication in speech writing of behavior that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words based on religion, ethnicity, nationality race, colour, descent, gender or other identity factor”, <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>
- ii <https://www.un.org/en/genocideprevention/>
- iii <https://www.jbi-humanrights.org/>
- iv https://www.un.org/en/genocideprevention/documents/publications-and-resources/Genocide_Framework%20of%20Analysis-English.pdf
- v https://www.un.org/en/genocideprevention/documents/about-us/Doc.3_Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf Indicator 2.6, p. 11.
- vi https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-experiences-and-perceptions-of-antisemitism-survey_en.pdf (Survey undertaken across the EU in 2018 reveals 62% of Jews have seen or heard non-Jews suggest that the Holocaust is a myth or is exaggerated)
- vii A/RES/61/255, A/RES/76/250 and A/HRC/RES/43/29
- viii [https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-holocaust-denial-and-distortion.](https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-holocaust-denial-and-distortion)
- ix <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-holocaust-denial-and-distortion>, See also UN General Assembly resolution 76/250 (2022).
- x A/RES/61/255, A/RES/76/250 and A/HRC/RES/43/29
- xi Convention on the Prohibition and the Punishment of the Crimes of Genocide (1948), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf
- xii ICCPR article 19(3) and art 20(2) <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (establishes restrictions on the right to freedom of expression are permissible, inter alia, where necessary to protect the rights and reputations of others and clearly set out in law and proportionate; and requires states to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to hostility, discrimination or violence, subject to these limitations).
- xiii See the Rabat Plan of Action, https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf
- xiv See, e.g. European Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.
- xv See ECtHR, *Pastors v. Germany*, Application no. 55225/14, Judgment of 3 October 2019, <http://hudoc.echr.coe.int/eng?i=001-196148>;
- xvi <http://www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhoza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf>
- xvii *Perinçek v. Switzerland*, European Court of Human Rights, <https://hudoc.echr.coe.int/eng?i=001-139276#%22itemid%22:%22001-139276%22>]; <https://strasbourgobservers.com/2014/01/08/criminal-conviction-for-denying-the-existence-of-the-armenian-genocide-violates-freedom-of-expression/>
- xviii <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>
- xix <https://www.holocaustremembrance.com/resources/reports/laws-and-holocaust-denial-project-preliminary-recommendations>
- xx https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf
- xxi <https://www.yadvashem.org/yv/pdf-drupal/en/recommendations-for-reducing-online-hate-speech.pdf>
- xxii See e.g. <https://www.againstholaustdistortion.org/>
- xxiii <https://www.osce.org/odihr/441146>