

The legal obligation to prevent genocide which is one of four separate legal duties connected with genocide.¹ The International Court of Justice (ICJ), the “world court,” issued a historic decision in 2007 clarifying this legal duty to act, finding that states, not just individuals, could be held criminally liable for genocide including for failing to act to prevent genocide - even if such action is unsuccessful.²

All authoritative global indices tracking risks of genocide are in consensus, placing Burma in the “Red Alert” risk category. This puts all states under a legal obligation to take all available actions to prevent genocide in Burma, including states sitting on the Security Council. We argue this necessarily includes a referral to the International Criminal Court.

Burma as a “Red Alert” Country Triggers a Legal Duty Requiring All States to Take All Measures Available to Prevent Genocide, Including that the Security Council Refer Burma to the International Criminal Court

Ranking of Burma in Genocide Risk Indices 2008—2009

Aggregated by the Genocide Prevention Project

Country	Sudan	Burma	Somalia	Iraq	Pakistan	DR Congo
Harff: Countries at Risk of Genocide & Politicide (May 2008) Normalized Score	1.625	1.625	0.975	0.975	1.635	0.650
Peoples Under Threat 2008, Minority Rights Group International Normalized Score	1.622	1.51	1.712	1.697	1.442	1.495
The Failed States Index Normalized Score	1.20	1.07	1.22	1.18	1.11	1.14
Genocide Watch Normalized Score	1.28	1.28	1.28	1.28	1.28	1.28
GI-NET Normalized Score	1.15	1.51	1.51	1.51	0.75	1.51
Total Score (Sum of Normalized Scores)	7.25	7.007	6.708	6.654	6.22	6.086

The risk of genocide triggers legal obligations on all countries and the United Nations including the Security Council. The top five independent global genocide indices were aggregated by the Genocide Prevention Project in a “Mass Atrocity Crimes Watch list.” Burma is ranked as one of the top two “Red Alert” countries at the highest risk of genocide, second only to Sudan.³

The Special Adviser to the United Nations Secretary General on the Prevention of Genocide uses these same global indices to assess the risk of genocide. Since 2006, Burma has been on the United Nations monitoring list.⁴

The 2008-2009 Global Indices Documenting Risk of Genocide are in Consensus that Burma is One of the Top Two States at Risks of Genocide Worldwide



¹The violations of legal duties under genocide can be grouped as: first, murder or other crimes committed with genocidal intent; second, failing to ensure that perpetrators of genocide are punished; third, the culpability of states for failing to take all measures available to prevent genocide; and fourth, state parties' failure to comply with the Genocide Convention, including passing national legislation criminalizing genocide.

Convention on the Prevention and Punishment of the Crime of Genocide, art. 1, Dec. 9, 1948

²See, The Application of the Genocide Convention Case (*Bosnia and Herzegovina v. Serbia and Montenegro*), 2007 I.C.J. 140 (Feb. 26, 2007).

³See, Genocide Prevention Project, Mass Atrocity Red Alert, available at <http://www.preventorprotect.org/overview/watch-list.html>. The five indices are: *Countries at Risk of Genocide and Politicide* in May 2008; *Peoples Under Threat 2008 index* of Minority Rights Group International; *the Failed States Index* created by the Fund for Peace with the support of the Ploughshares Fund; Genocide Watch's *Genocides, Politicides, and Other Mass Murder Since 1945*; and the Genocide Intervention Network's list of countries that are "areas of concern" as well as the countries on its "radar list." See, Political Stability Taskforce, *Genocide and Politicide*, available at: <http://globalpolicy.gmu.edu/genocide/>; Minority Rights Group, *How to assess Risk*, available at: <http://www.minorityrights.org/837/peoples-under-threat/peoples-under-threat-2008.html>; Fund for Peace, *the Failed States Index*, available at: http://www.foreignpo0.975licy.com/story/cms.php?story_id=4350; Genocide Watch Group, "*Countries at Risk 2008*", 1 November 2008, available at http://genocidewatch.org/images/Genocide_08_Genocides_and_Politicides_since_1945_with_stages_in_2008.pdf; Genocide Intervention Network, available at: <http://www.genocideintervention.net/>.

⁴See, Office of the Special Advisor to the UN Secretary-General on the Prevention of Genocide, *Developing a Strategy, Methods, and Tools for Genocide Early Warning*, Woocher Report, Sept 2006.

Lisa Schlein, UN Expert Says Action Needed to Prevent Genocide in Several African Countries. VOA News (27 January 2006). Available on-line at: <<http://www.voanews.com/english/2006-01-27-voa58.cfm>>.