

Edited by Andrzej Jakubowski

Cultural Rights as Collective Rights

*An International Law
Perspective*

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Foreword

This collection is a welcome contribution to the literature on cultural rights that squarely takes on the challenge of addressing the crucial issue of collective rights, that some consider to be ‘one of the most contested issues of international law and politics’, as pointed out in the introduction by the editor, Andrzej Jakubowski.

Differing perspectives notwithstanding, as the first independent expert appointed by the United Nations Human Rights Council in the Field of Cultural Rights, I have stressed from the outset that cultural rights protect the rights for each person, individually and in community with others, as well as groups of people to develop and express their humanity, world visions, meanings assigned to life and understanding of development.¹ Furthermore, as elaborated in my reports to the United Nations, the collective aspects of cultural rights are not particular to only some specified groups, such as minorities and indigenous peoples; they apply universally to all communities of shared cultural values.

From the perspective of collective rights, it is essential to underscore that cultural rights are *not* about preserving cultural heritage, be it tangible or intangible. Cultural rights entail ensuring the conditions necessary to enable everyone, without discrimination and on a basis of equality, to contribute to the constantly evolving cultural life of as many – or as few – communities as they select to be part of. Pivotal to the recognition and respect of human dignity, that lies at the centre of notions of human rights, cultural rights encompass important freedoms connected to collective identity and the pursuit of specific ways of life, but *equally* to individual identity and self-expression. Cultural rights are inextricably linked to a host of other rights such as: freedom of expression and belief, information and communication, language, and education.

The core features of cultural rights relate to the right of everyone to access, participate in and contribute to cultural life in all its diversity. In promoting the cultural rights of all without discrimination and on a basis of equality – whether individual or collective – it is of paramount importance to remember that culture itself is ever-evolving and that all collective identities entail contestations over meanings and definitions; processes that are inevitably linked

1 HRC, Report of the Independent Expert in the Field of Cultural Rights, Ms. Farida Shaheed, submitted pursuant to resolution 10/23 of the Human Rights Council, 22 March 2010, UN Doc. A/HRC/14/36, para 9.

to the underlying structures and dynamics of power related to accessing and exercising control over economic, political and cultural resources. Hence, the right to access and contribute to cultural life necessitates access to both inherited and contemporary cultural expressions of one's own community *and* that of others.

Cultural diversity must never be equated with cultural relativism: no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope. Nor can collective rights related to cultural identity be preserved at the cost of sacrificing the rights of particular individuals. Not all cultural practices accord with international human rights law; some practices may be particularly detrimental to, for example, the rights of women and girls or persons with disabilities. Identifying exactly which cultural practices may be contrary to human rights presents a challenge. Nevertheless, the endeavour must always be to modify and/or discard all practices – new or old and regardless of provenance and justification – pursued in the name of culture that impede the enjoyment of human rights by any individual. Irrespective of political, economic and cultural systems, all States have an obligation to uphold the principle of non-discrimination and to respect, protect and fulfil the cultural rights of all persons. Upholding the cultural rights of all without discrimination will encourage the promotion of universal human rights in all communities, encouraging new thinking, cultural practices and context-specific vocabulary that espouse the universality, indivisibility, interdependence and inter-relatedness of human rights. In this regard States have an obligation to exercise due diligence to address rights violations by non-state actors, including those undertaken in the name of culture and religion.

Crucially, therefore, cultural rights are to be understood as including the right, without fear of punitive actions: not to participate in particular cultural activities; to challenge existing precepts and norms; to leave and re-join communities; to critique, reject and innovate within such communities and to create new communities of shared cultural values; to hold multiple identities simultaneously. All individuals must be recognized as active and legitimate producers of culture(s). The diversity of opinion within communities is as important as the diversity across communities and relates to issues of power and authority, in terms of who 'the community' authorizes to speak on its behalf as well as who the state authorities recognize and give space to speak on behalf of that community. It is incumbent that States ensure equal opportunity for all voices within a community to be heard, in particular the marginalised.

The collective rights aspects of cultural rights, especially in the context of international law, have remained a neglected area of human rights. This volume makes an important contribution on this complex and complicated

subject. Approaching the issue from the perspective of how collective rights are considered in international law, the volume brings new insights, critically interrogates existing concepts and raises important questions for further consideration. It will undoubtedly make an important contribution towards the promotion of a better understanding and recognition of cultural rights as collective rights in all their facets.

Farida Shaheed

United Nations Special Rapporteur in the field of cultural rights
October 2015

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This book is dedicated to cultural diversity in the world and to all those individuals and communities who have contributed to its development and protection.

Andrzej Jakubowski

Warsaw, Poland

April 2016

List of Select Abbreviations

ACtHPR	African Court of Human and Peoples Rights
AfCHPR	African Commission on Human and Peoples' Rights
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
BYIL	<i>British Yearbook of International Law</i>
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CETS	<i>Council of Europe Treaty Series</i>
CoE	Council of Europe
CRC	Committee on the Rights of the Child
CUP	Cambridge University Press
ECOSOC	Economic and Social Council
ECtHR	European Court of Human Rights
EJIL	<i>European Journal of International Law</i>
ESC	Economic, Social and Cultural Rights
ETS	<i>European Treaty Series</i>
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
GYIL	<i>German Yearbook of International Law</i>
Hart	Hart Publishing
HILJ	<i>Harvard International Law Journal</i>
HR Comm	Human Rights Committee
HRC	Human Rights Council
HRQ	<i>Human Rights Quarterly</i>
HUP	Harvard University Press
IACmHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICJ Reports	<i>International Court of Justice Reports of Judgments, Advisory Opinions and Orders</i>
ICLQ	<i>International and Comparative Law Quarterly</i>
ICOMOS	International Council on Monuments and Sites
ICSID	International Centre for Settlement of Investment Disputes
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia

IJCP	<i>International Journal of Cultural Property</i>
IJHR	<i>International Journal of Human Rights</i>
ILA	International Law Association
ILC	International Law Commission
ILM	<i>International Legal Materials</i>
ILO	International Labour Organization
ILR	International Law Reports
IYIL	<i>Italian Yearbook of International Law</i>
LN	League of Nations
LNTS	<i>League of Nations Treaty Series</i>
NHRI	National Human Rights Institution
Nijhoff	Martinus Nijhoff Publishers
OAS	Organization of American States
OASTS	Organization of American States Treaty Series
OAU	Organization of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights (OHCHR)
OJLS	<i>Oxford Journal of Legal Studies</i>
OSCE	Organization for Security and Co-operation in Europe
OUP	Oxford University Press
Parry's CTS	<i>Parry's Consolidated Treaty Series</i>
PCIJ	Permanent Court of International Justice
PCIJ ser.A/B	<i>Permanent Court of International Justice, Collection of Judgments, Orders and Advisory Opinions (1931–40)</i>
PUP	Princeton University Press
RCADI	<i>Recueil des Cours de l'Académie de la Haye (Collected Courses of the Hague Academy of International Law)</i>
UNCHR	United Nations Commission on Human Rights
UNESCO	The United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNGA Res.	United Nations General Assembly Resolution
UNHRC	United Nations Human Rights Council
UNPFII	United Nations Permanent Forum on Indigenous Issues
UNSC	United Nations Security Council
UNTS	<i>United Nations Treaty Series</i>
UN	United Nations
WH	World Heritage
WHC	World Heritage Committee
WHL	World Heritage List

Table of Cases

African Commission on Human and Peoples' Rights

- Amnesty International and Others v Sudan*, AfCHPR, Comm. Nos. 48/90,50/91, 52/91, 89/93, 8 November 1999.
- Centre for Minority Rights Development and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya*, AfCHPR, Comm. No. 276/03, 4 February 2010.
- International Pen and Others v Nigeria*, AfCHPR, Comm. Nos. 137/94, 139/94, 154/96 and 161/97 (1998), 31 October 1998.
- Malawi African Association and Others v Mauritania*, AfCHPR, Comm. Nos. 54/91, 61/91, 98/93, 164/97 à 196/97 and 210/98, 11 May 2000.
- Organisation Mondiale Contre La Torture and Others v Rwanda*, AfCHPR, Comm. Nos. 27/89, 46/91, 49/91 and 99/93, 31 October 1996.
- Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria*, AfCHPR, Comm. No. 155/96, 27 May 2002, No. ACHPR/COMM/A044/1.

African Court of Human and Peoples' Rights

- African Commission on Human and Peoples' Rights v the Republic of Kenya*, ACtHPR, Application 006/2012 (received on 12 July 2012).
- African Commission on Human and Peoples' Rights v the Republic of Kenya*, ACtHPR, Application 006/2012, Order of Provisional Measures, 15 March 2013.

Australia

- Kruger v Commonwealth* (1997) 190 CLR 1, 38 (Dawson).
- Mabo & Ors v Queensland (No. 2)* (1992) 175 CLR 1, 107 ALR 1.
- Members of the Yorta Yorta Aboriginal Community v State of Victoria & Ors* (2001) 110 FCR 244, FCA 45 (8 February 2001); *affd* (2002) 77 ALJR 356, 194 ALR 538, HCA 58 (12 December 2002).
- Milirrpum v Nabalco Pty Limited and Anor* (1971) 17 FLR 141.
- Wik peoples v Queensland* (1996) 187 CLR 1.
- Yumbulul v Reserve Bank of Australia* (1991) 21 *Intellectual Property Reports* 481

European Court of Human Rights

- Ahmet Arslan and Others v Turkey*, Application No. 41135/98, Judgment of 23 February 2010, ECHR (2010).
- Albert Fürst von Thurn und Taxis v Germany*, Application No. 26367/10, Decision of 14 May 2013, ECHR (2013).
- Beyeler v Italy*, Application No. 33202/96, Judgment of the Grand Chamber of 5 January 2000, ECHR 2000-I.
- Buckley v the United Kingdom*, Application No. 20348/92, Judgment of 25 September 1996, ECHR 1996-IV.
- Buonomo Gärber and others v Italy*, Application No. 63783/00, Decision of 20 May 2003, ECHR (2003).
- Cha'are Shalom Ve Tsedek v France*, Application No. 27417/95, Judgment of 27 June 2000, ECHR 2000-VII.
- Chapman v the United Kingdom*, Application No. 27238/95, Judgment of 18 January 2001, ECHR 2000-I.
- Cyprus v Turkey*, Application No. 25781/94, Judgment of the Grand Chamber of 10 May 2001, ECHR 2001-IV.
- D.H. and Others v the Czech Republic*, Application No. 57325/00, Judgment of 7 February 2006, ECHR (2006).
- D.H. and Others v the Czech Republic*, Application No. 57325/00, Judgment of the Grand Chamber of 13 November 2007, ECHR 2007-IV.
- Debelianovi v Bulgaria*, Application No. 61951/00, Judgment of 27 November 2008, ECHR (2008).
- Debelianovi v Bulgaria*, Application No. 61951/00, Judgment of 29 March 2007, ECHR (2007).
- Depalle v France*, Application No. 34044/02, Judgment of the Grand Chamber of 29 March 2010, ECHR (2010).
- Dink v Turkey*, Application Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, Judgment of 14 September 2010, ECHR (2010).
- Eweida and Others v the United Kingdom*, Application Nos. 48420/10, 59842/10, 51671/10, 36516/10, Judgement of 15 January 2013, ECHR (2013)
- Former King of Greece and Others v. Greece*, Application No. 25701/94, Judgment of 23 November 2000, ECHR 2000-XII.
- Garaudy v France*, Application No. 65831/01, Decision of 24 June 2003, ECHR 2003-IX.
- Gorzelik and Others v Poland*, Application No. 44158/98, Judgment of the Grand Chamber of 17 February 2004, ECHR 2004-I.
- Hamer v Belgium*, Application No. 21861/03, 27 November 2007, ECHR 2007-V.
- James and Others v the United Kingdom*, Application No. 8793/79, Judgment of 21 February 1986, ECHR, Series A/98 (1986).

- Kamasinski v Austria*, Application No. 9783/82, Judgment of 19 December 1989, ECHR, Series A/168 (1989).
- Kamasinski v Austria*, Application No. 9783/82, Judgment of 19 December 1989, ECHR, Series A/168 (1989).
- Kenedi v Hungary*, Application No. 31475/05, Judgment of 26 May 2009, ECHR (2009).
- Kokkinakis v Greece*, Application No. 14307/88, Judgement of 25 May 1993, ECHR, Series A/260-A (1993)
- Kozacıoğlu v Turkey*, Application No. 2334/03, Judgment of the Grand Chamber of 19 February 2009, ECHR (2009).
- Lautsi v Italy*, Application No. 30814/06, Judgment of the Grand Chamber of 18 March 2011, ECHR (2011)
- Lighgow and Others v the United Kingdom*, Application Nos. 9006/80, 9262/81, 9263/81, 9265/81, 9266/81, 9313/81, 9405/81, Judgment of 8 July 1986, ECHR, Series A/102 (1986).
- Lingens v Austria*, Application No. 9815/82, Judgment of 8 July 1986, ECHR, Series A/103 (1986).
- Lombardi Vallauri v Italy*, Application No. 39128/05, Judgment of 20 October 2009, ECHR (2009).
- Muñoz Díaz v Spain*, Application No. 49151/07, Judgment of 8 December 2009, ECHR (2009).
- Nikola Jorgić v Germany*, Application No. 74613/01, Judgment of 12 July 2007, ECHR 2007-III.
- Nowakowski v Poland*, Application No. 55167/11, Judgment of 22 July 2014, ECHR (2014).
- Nowakowski v Poland*, Application No. 55167/11, Judgment of 24 July 2012, ECHR (2009).
- Oršuš and Others v Croatia*, Application No. 15766/03, Judgment of the Grand Chamber of 16 March 2010, ECHR (2010).
- Otto-Preminger-Institut v Austria*, Application No. 13470/87, Judgment of 20 September, ECHR, Series A/295-A (1994)
- Potomska and Potomski v Poland*, Application No. 33949/05, Judgment of 29 March 2011, ECHR (2011).
- Potomska and Potomski v Poland*, Application No. 33949/05, Judgment of 4 November 2014, ECHR (2014).
- Ruspoli Morenes v Spain*, Application No. 28979/07, Judgment of 28 June 2011, ECHR (2011).
- SCEA Ferme de Fresnoy v France*, Application No. 61093/00, Decision of 1 December 2005, ECHR (2005).
- Sidiropoulos & Others v Greece*, Application No. 26695/95, Decision of 10 July 1998, ECHR (1998).

- Sporrong and Lönnroth v Sweden*, Application No. 7752/72, Judgment of 23 September 1982, ECHR, Series A/52 (1983).
- Sud Fondi srl and Others v Italy*, Application No. 75909/01, Judgment of 20 January 2009, ECHR (2009).
- Tănase v Moldova*, Application No. 7/08, Judgment of the Grand Chamber of 27 April 2010, ECHR (2010).
- Thlimmenos v Greece*, Application No. 34369/97, Judgment of the Grand Chamber of 6 April 2000, ECHR 2000-IV.
- Tunceli Kültür ve Dayanışma Derneği v Turkey*, Application No. 61353/00, Judgment of 10 October 2006, ECHR (2010).
- Turgut and Others v Turkey*, Application No. 1411/03, Judgment of 8 July 2008, ECHR (2008).
- Winterstein and Others v France*, Application No. 27013/07, Judgment of 17 October 2013, ECHR (2013).

European Court of Justice

- Inuit Tapiriit Kanatami and Others v European Parliament and Council*, Case No. T-18/10, Order of 6 September 2011, [2011] ECR II-5599.

Extraordinary Chambers in the Courts of Cambodia (ECCC)

- Case No. 002/19-09-2007, Extraordinary Chambers in the Courts of Cambodia (ECCC), Closing Order against Ieng Sary, Khieu Samphan, Nuon Chea and Ieng Thirith, 15 September 2010.

France

- Agent Judiciaire du Trésor v. Walter*, Cour de Cassation, 29 February 1996, JCP 1996, II, 22672.
- Klaus Barbie Case*, No. 87–84240, Judgment of 3 June 1988, Cass. Crim., 1988, J.C.P. II G, No. 21, 149 (Report of Counselor Angevin)

Human Rights Committee

- Ángela Poma Poma v Peru*, HR Comm. No. 1457/2006, 27 March 2009, UN Doc. CCPR/C/95/D1457/2006 (2009).

- Apirana Mahuika et al. v New Zealand*, HR Comm. No. 547/1993, 27 October 2000, UN Doc. CCPR/C/70/D/547/1993 (2000).
- Howard v Canada*, HR Comm. No. 879/1999, 26 July 2005, UN Doc. CCPR/C/84/D/879/1999.
- I. Länsman et al. v Finland*, HR Comm. No. 511/1992, 8 November 1994, UN Doc. CCPR/C/52/D/511/1992.
- I. Länsman et al. v Finland*, HR Comm. No. 671/1995, 30 October 1996, UN Doc. CCPR/C/58/D/671/1995.
- Kitok v Sweden*, HR Comm. No. 197/1985, 27 July 1988, UN Doc. CCPR/C/33/D/197/1985.
- Lovelace v Canada*, HR Comm. No. 24/1977, 30 July 1981, UN Doc. CCPR/C/13/D/24/1977.
- Lubicon Lake Band (Bernard Ominayak) v Canada*, HR Comm. No. 167/1984, 26 March 1990, UN Doc. CCPR/C/38/D/167/1984.

India

- Pramatha Nath Mullick v Pradyumna Kumar Mullick* (1925) LR 52 Ind. App. 245.

Inter-American Commission on Human Rights

- Grand Chief Michael Mitchell v Canada*, IACmHR Report No. 61/08, Case 12.435, 25 July 2008, OEA/Ser.L/V/II.134 doc. 5 rev. 1, 160 (2008).
- Jehovah's Witnesses v Argentina*, IACmHR Report No. 45-78, Case 2137, 29 June 1979, OEA/Ser.L/V/II.47, doc. 13 rev.1 (1979).
- Jorge Odir Miranda Cortez v El Salvador*, IACmHR Report No. 29/01, Case 12.249, 7 March 2001, OEA/Ser.L/V/II.111 doc. 20 rev., 284 (2000).
- Mary and Carrie Dann v United States*, IACmHR Report No. 75/02, Case 11.140, 27 December 2002, OEA/Ser.L/V/II.117 doc.5 rev., 960 (2003).

Inter-American Court of Human Rights

- Acevedo Buendía et al. v Peru*, Judgment of 1 July 2009, IACtHR (Ser. C), No. 198 (2009).
- Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v Colombia*, Judgment of 20 November 2013, IACtHR (Ser. C), No. 270 (2013).
- Aloeboetoe et al. v Suriname*, Judgment of 10 September 1993, IACtHR (Ser. C), No. 15 (1993).
- Castillo Páez Case*, Judgment of 3 November 1997, IACtHR (Ser. C), No. 34 (1997), Separate Opinion of Judge Antônio A. Cançado Trindade.

- Children's Rehabilitation v Paraguay*, Judgment of 2 September 2004, IACtHR (Ser. C), No. 112 (2004).
- Contreras et al. v El Salvador*, Judgment of 31 Aug 2011, IACtHR (Ser. C), No. 232 (2011).
- Five Pensioners v Peru*, Judgment of 28 February 2003, IACtHR (Ser. C) No. 98 (2003).
- Kichwa Indigenous People of Sarayaku v Ecuador*, Judgment of 27 June 2012, IACtHR (Ser. C), No. 245 (2012).
- Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their Members v Panama*, Judgment of 14 October 2014, IACtHR (Ser. C), No. 284 (2014).
- 'The Last Temptation of Christ' (Olmedo-Bustos et al.) v Chile*, Judgment of 5 February 2001, IACtHR (Ser. C), No. 73 (2001).
- Mayagna (Sumo) Awas Tigni Community v Nicaragua*, Judgment of 31 August 2001, 79 IACtHR (Ser. C), No. 79 (2001).
- Moiwana Community v Suriname*, Judgment of 15 June 2005, IACtHR (Ser. C), No. 124 (2005).
- Myrna Mack-Chang v Guatemala*, Judgment of 25 November 2003, IACtHR (Ser. C), No. 101 (2003).
- Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v Chile*, Judgment of 29 May 2014, IACtHR (Ser. C), No. 279 (2014).
- Pueblo Indígena Kichwa de Sarayaku v Ecuador*, Judgment of 12 June 2012, IACtHR (Ser. C), No. 245 (2012).
- Saramaka People v Suriname*, Judgment of 28 November 2007, IACtHR (Ser. C), No. 172 (2007).
- Sawhoyamaya Indigenous Community v Paraguay*, Judgment of 29 March 2006, IACtHR (Ser. C) No. 146 (2006).
- Street Children (Villagrán-Morales et al.) v Guatemala*, Judgment of 19 November 1999, IACtHR (Ser. C), No. 63 (1999).
- Tiu-Tojín v Guatemala*, Judgment of 26 November 2008, IACtHR (Ser. C), No. 190 (2008).
- Xákmok Kásek Indigenous Community v Paraguay*, Judgment of 24 August 2010, IACtHR (Ser. C), No. 214 (2010).
- Yakye Axa Indigenous Community v Paraguay*, Judgment of 17 June 2005, IACtHR (Ser. C), No. 125 (2005).
- Yatama v Nicaragua*, Judgment of 23 June 2005, IACtHR (Ser. C), No. 127 (2001).
- Yean and Bosico Children v the Dominican Republic*, Judgment of 8 September 2005, IACtHR (Ser. C), No. 130 (2005).

International Centre for Settlement of Investment Disputes

- Compañía de Desarrollo de Santa Elena SA v Costa Rica*, ICSID Case No. ARB/96/1, Final Award of 17 February 2000, 5 ICSID Reports 153.

Glamis Gold, Ltd. v The United States of America, ICSID Award under UNCITRAL Rules, 8 June 2009.

Parkerings-Compagniet AS v Republic of Lithuania, ICSID Case No. ARB/05/8, Award of 11 September 2007.

Southern Pacific Properties (Middle East) Limited v Arab Republic of Egypt, ICSID Case No. ARB/84/3, Award of 20 May 1992, 3 ICSID Reports 189.

International Criminal Tribunal for Rwanda

Prosecutor v Akayesu, Case No. ICTR-96-4, Judgment of 2 September 1998.

International Criminal Tribunal for the Former Yugoslavia

Prosecutor v Blagojević & Jokić, Case No. IT-02-60-A, Judgment of 9 May 2007.

Prosecutor v Blagojević & Jokić, Case No. IT-02-60-T, Judgment of 17 January 2005.

Prosecutor v Blaškić, Case No. IT-95-14, Second Amended Indictment of 25 April 1997.

Prosecutor v Blaškić, Case No. IT-95-14-T, Judgment of 3 March 2000.

Prosecutor v Bralo, Case No. IT-95-17, Amended Indictment of 18 July 2005.

Prosecutor v Brdanin, Case No. IT-99-36, Sixth Amended Indictment of 9 December 2003.

Prosecutor v Brdanin, Case No. IT-99-36-T, Judgment of 1 September 2004.

Prosecutor v Deronjić, Case No. IT-02-61, Second Amended Indictment of 29 September 2003.

Prosecutor v Đorđević, Case No. IT-05-87/1, Fourth Amended Indictment of 2 June 2008.

Prosecutor v Gotovina et al. Case No. IT-06-90-T, Judgment of 15 April 2011.

Prosecutor v Hadžić, Case No. IT-04-75, Notice of Filing of Second Amended Indictment of 22 March 2012.

Prosecutor v Karadžić & Mladić, Case No. IT-95-5-R61, Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence of 11 July 1996.

Prosecutor v Karadžić, Case No. IT-95-5/18-I, Prosecution's Marked-up Indictment of 12 October 2009.

Prosecutor v Kordić & Čerkez, Case No. IT-95-14/2, Amended Indictment of 30 September 1998.

Prosecutor v Kordić & Čerkez, Case No. IT-95-14/2-T, Judgment of 26 February 2001.

Prosecutor v Krajišnik, Case No. IT-00-39, Consolidated Amended Indictment of 7 March 2002.

Prosecutor v Krajišnik, Case No. IT-00-39-T, Judgment of 27 September 2006.

Prosecutor v Krstić, Case No. IT-98-33-A, Judgment of 19 April 2004.

Prosecutor v Krstić, Case No. IT-98-33-T, Judgment of 2 August 2001.

- Prosecutor v Kupreškić et al.*, Case No. IT-95-16-T, Judgment of 14 January 2000.
- Prosecutor v Milošević*, Case No. IT-02-54, Amended Indictment 'Bosnia and Herzegovina' of 22 November 2002.
- Prosecutor v Mladić*, Case No. IT-09-92, Fourth Amended Indictment of 16 December 2011.
- Prosecutor v Naletilić & Martinović*, Case No. IT-98-34, Second Amended Indictment of 28 September 2001
- Prosecutor v Popović et al.*, Case No. IT-05-88-T, Judgment of 10 June 2010.
- Prosecutor v Prlić et al.*, Case No. IT-04-74, Second Amended Indictment of 11 June 2008.
- Prosecutor v Šainović et al.*, Case No. IT-05-87, Third Amended Joined Indictment of 21 June 2006.
- Prosecutor v Šešelj*, Case No. IT-03-67, Third Amended Indictment of 7 December 2007.
- Prosecutor v Stakić*, Case No IT-97-24, Fourth Amended Indictment of 10 April 2002.
- Prosecutor v Stakić*, Case No IT-97-24-T, Judgment of 31 July 2003.
- Prosecutor v Stanišić & Župljanin*, Case No. IT-08-91, Second Amended Consolidated Indictment of 10 September 2009.
- Prosecutor v Tadić*, Case No. IT-94-1-T, Judgment of 7 May 1997.
- Prosecutor v Talić*, Case No. IT-99-36/1, Fourth Amended Indictment – Corrected Version of 10 December 2001.
- Prosecutor v Vasiljević*, Case No. IT-98-32, Amended Indictment of 12 July 2001.
- Prosecutor v Vasiljević*, Case No. IT-98-32-T, Judgment of 29 November 2002.

International Court of Justice

- Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion of 22 July 2010, ICJ Reports 2010, 403.
- Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo)*, Judgment of 24 May 2007, ICJ Reports 2007, 582.
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)*, Judgment of 18 November 2008 (preliminary objections), ICJ Reports 2008, 412.
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)*, Judgment of 3 February 2015; <<http://www.icj-cij.org/docket/files/118/18422.pdf>>.
- Application of the Interim Accord of 13 September 1995 (the Former Yugoslav Republic of Macedonia v Greece)*, Judgment of 5 December 2011, ICJ Reports 2011, 644.
- Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)*, Judgment of 19 December 2005, ICJ Reports 2005, 168.
- Asylum case (Colombia v Peru)*, Judgment of 20 November 1950, ICJ Reports 1950, 266.