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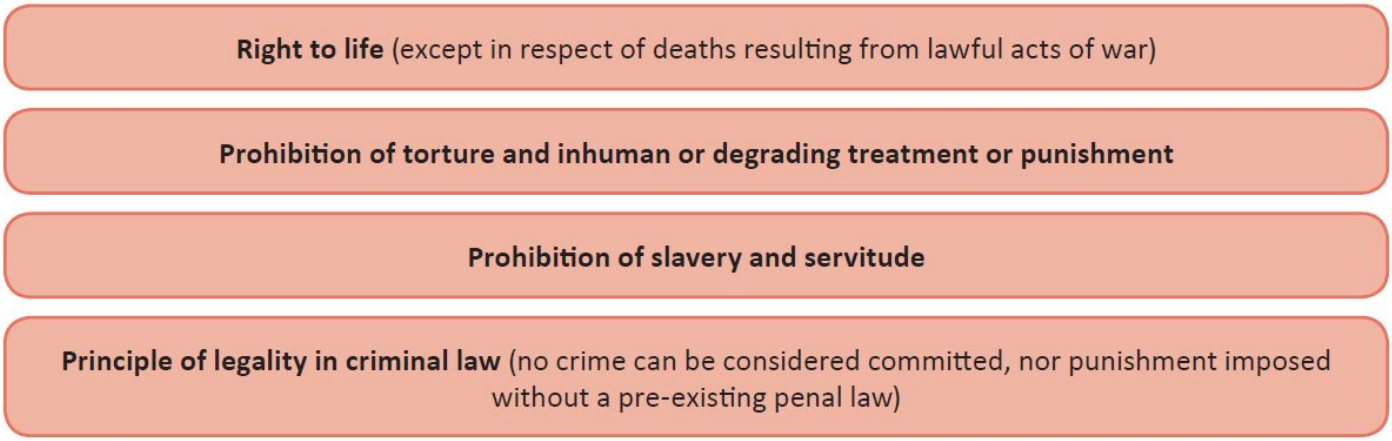
2. Is the act a violation of a non-derogable human right or a sufficiently severe violation of another basic human right?

a. Which rights?

'**Non-derogable human rights**' refers to rights that are absolute and may not be subject to any derogation, even in time of war or emergency. Article 15(2) of the European Convention on Human Rights (ECHR) provides a list of rights that may not be suspended under any circumstances.



Other 'basic human rights' could be derived from relevant human rights instruments, such as the following.

- Universal Declaration of Human Rights.
- International Covenant on Civil and Political Rights (ICCPR). It can be noted that this covenant also mentions certain rights as non-derogable. In addition to the rights under Article 15(2) ECHR, those include:
    - prohibition of imprisonment because of inability to fulfil contractual obligation;
    - recognition everywhere as a person before the law;
    - freedom of thought, conscience and religion - freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

- International Convention on the Elimination of all Forms of Racial Discrimination.
- Convention on the Elimination of all Forms of Discrimination against Women.
- Convention on the Rights of the Child.
- Convention on the Rights of Persons with Disabilities.

Whether the human rights listed in these instruments can be considered to qualify as ‘basic’ will be a matter of analysis of whether they are rights which are of fundamental importance and inherently belong to each individual.

b. What severity?

In order to assess whether the violation of basic rights is sufficiently severe, the case officer should look at whether and to what extent the mistreatment affects the possibility to enjoy the respective right.

If the act does not fall under the above, the case officer should move to step 3.

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