

## Launch of the book “The Prevention of Gross Human Rights Violations Under International Human Rights Law”, followed by a panel discussion

On 4 June, the T.M.C. Asser Instituut organised a launch event for the book “[The Prevention of Gross Human Rights Violations Under International Human Rights Law](#)”, authored by **Dr. Nienke van der Have** (Senior Legal Specialist, Ministry of the Interior and Kingdom Relations of the Netherlands). The book launch offered a structural exploration of the topic and the main findings of the book, as well as presentations by experts on their perspectives on, and new developments in, the field of prevention.

What types of obligations do states have at different points in time? When are they triggered? What concrete measures may they require and how do they apply outside a state’s territory? **Dr. Christophe Paulussen** (Senior Researcher, T.M.C. Asser Instituut) opened the event and illustrated the topicality and relevance of the book with these questions. He then introduced to the audience **Dr. van der Have** and two other panellists, **Dr. Emma Irving** (Assistant Professor, Grotius Centre for International Legal Studies, Leiden University) and **Ms. Audrey Fino** (International Lawyer, Former OHCHR and ICTY staff member).

**Dr. van der Have** offered the audience a structural overview of the main findings of the book, whose main focus is to clarify and categorise states’ obligations to prevent gross human rights violations. The book investigates the prevention of three types of violations—torture, arbitrary deaths, and genocide—both within a state’s territory and extraterritorially. It categorises states’ obligations to prevent into four groups along the timeline of the occurrence of human rights violations, from prevention to prosecution: (1) long-term obligations to introduce a proper legislative and administrative system capable of deterring violations; (2) short-term obligations to take measures to prevent a violation/offence; (3) obligations to cease or intervene in an ongoing violation or offence, and; (4) obligations to investigate, prosecute, and punish to prevent recurrence. At the same time, Dr. van der Have also identified several challenges in her book. Firstly, extraterritorial obligations of states are still relatively underdeveloped. Despite movements in judicial decisions towards broader applicability of human rights treaties, it is often still unclear how the extraterritorial context influences the content and scope of extraterritorial obligations and this leaves room for gaps. Secondly, the measures required by the obligations to prevent aren’t always effective in practice, as the obligations are formulated in a diplomatic context, which does not allow much space for research on the effectiveness of such measures. Albeit there remains many questions and uncertainties in the field, with the publication of this book, Dr. van der Have wishes to make it easier for states to implement their obligations to prevent and for other actors to hold states accountable for failures in that regard.

Following the presentation of Dr. van der Have, **Dr. Emma Irving** took the floor and gave a speech titled “Technology and the Prevention of Gross Human Rights Violations: New Approaches, Changing Obligations?”. Her speech focused on two aspects; it first outlined the digital tools that could play a role in the prevention of gross human rights violations, utilising the timeline framework developed in the book of Dr. van der Have; it then discussed the connection with and the impact these tools could have on the legal framework. From the perspective of long-term prevention, social media is being used by judicial bodies such as the International Criminal Court to collect evidence in the prosecution of crimes, which could contribute to the prevention of impunity and recurrence. From the perspective of short-term prevention, digital communication tools are very cost-effective in monitoring patterns of discrimination and exclusion; posts on social media can also serve as a clear indicator for the levels of hate speech. Once gross human rights violations occur, satellite imagery is a very

effective tool to monitor events on the ground, such as the building up of troops; social media platforms such as Facebook and Twitter tend to also contain a sheer body of material on the levels of violence. For Dr. Irving, these developments have a potential to impact the legal framework on the prevention of gross human rights violations in two ways. As digital tools increase the availability of information to states, states can now be made aware of the risk of violations at an earlier point, which brings forward the moment at which states' obligations are triggered. Secondly, digital tools might also impact the content of the risk assessment that states are obliged to carry out: are states obliged to use new technologies? Do states have to invest in the development of new technologies? Dr. Irving concluded her speech with these cutting-edge questions, which left the audience with much food for thought.

**Ms. Audrey Fino** subsequently took the audience further in the exploration of states' obligations by discussing the particular subject of sanctioning hate speech to prevent genocide, also employing the timeline framework developed in Dr. van der Have's book. For Ms. Fino, addressing hate speech is an important subject as it is usually an early warning sign of war crimes, crimes against humanity, and genocide. Generally speaking, there are three categories of hate speech: advocacy to hatred that constitutes incitement to discrimination, hostility, or violence against persons belonging to a target group; incitement which creates an imminent risk of discrimination, hostility, or violence; and speech that may be shocking or offensive but does not constitute advocacy or incitement. For Ms. Fino, the key issue is to balance freedom of expression of the speaker and the freedom from discrimination (as well as the right to life, security, and dignity) of the targeted person or group. As a result, limitations to the freedom of speech must be narrowly defined by law, necessary, and proportionate. Ms. Fino then shared three kinds of measures that could be taken by states. From the perspective of long-term prevention, states could take legislative measures such as criminalising the most serious forms of hate speech and enacting comprehensive non-discrimination laws, judicial or procedural measures such as training law enforcement officials in what constitutes incitement and advocacy, and policy measures such as fostering inter-cultural and inter-religious dialogue. From the perspective of short-term prevention, states could adopt judicial measures such as the prosecution of suspects, as well as policy measures such as public condemnation of hate speech. Ms. Fino also outlined a few challenges ahead for the prevention of hate speech. It is, for example, still necessary to clarify the normative framework, including the thresholds required for a speech to qualify as advocacy or incitement of hatred. It is also important for states to share good practices with each other and provide adequate human rights education.

After the panel discussions and an engaging Q&A session, **Mr. Frank Bakker** (Publisher, T.M.C. Asser Press) delivered his remarks on the new book. He appreciated their cooperation in the publishing process and acclaimed the book as "innovative, important, and topical". He delivered the first symbolic copy of the book to Dr. van der Have, which marked the height of the event.