

## GENOCIDE PREVENTION, RESPONSIBILITY TO PROTECT, PREVENTION OF ATROCITIES: A BRIEF OVERVIEW

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## INTRODUCTION

This brief overview maps the field, clarifies core concepts and provides key considerations on how to approach genocide prevention, the responsibility to protect and the prevention of atrocities. Section I traces the origins of the concepts while Section II describes the legal foundations of atrocity prevention. Sections III, IV and V explain what is to be prevented, who is to be protected and what the responsibility encompasses. Finally, Section VI discusses several practical elements of atrocity prevention and response.

For various reasons, some communities prefer certain terms that are rejected by other actors. This overview uses the term “atrocity prevention” as shorthand for genocide prevention, responsibility to protect and prevention of atrocities. But this terminology in no way expresses a preference of one term over another. Rather, a pragmatic approach is recommended: whatever works best to protect populations at risk in a specific context should determine the choice of words.<sup>1</sup>

### I. A SHORT HISTORY OF ATROCITY PREVENTION

Atrocity prevention as it is understood today focuses on the prevention of genocide, crimes against humanity and war crimes, as well as of ethnic cleansing.<sup>2</sup> The first three concepts emerged in the context of establishing individual criminal accountability for serious violations of international humanitarian and human rights law, in particular following the unimaginable atrocities committed in World War II. These three categories of acts are characterised by the extreme gravity of their assault upon the human person.<sup>3</sup>

The concepts of the crime of genocide and crimes against humanity developed shortly after World War II in connection with efforts to prosecute Nazi criminals.<sup>4</sup> The 1945 Charter of the International Military Tribunal (the Nuremberg Tribunal) centres on crimes against humanity.<sup>5</sup> The definition in the Charter suffered, however, from a serious limitation in that it confined crimes against humanity to acts committed in association with an aggressive war (the concept has evolved since, and crimes against humanity are no longer restricted to armed conflict). Disappointment with these severe restrictions led to the development of the legal concept of genocide, which could be committed in time of conflict as well as in time of peace. The United Nations General Assembly adopted during its first session in 1946 Resolution 96 (I), which states that “genocide is a crime under international law which the

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<sup>1</sup> For definitions of key terms consult Annex A.

<sup>2</sup> A bibliography of relevant sources and related literature is provided in Annex B.

<sup>3</sup> See, e.g., Steven R. Ratner and Jason S. Abrams, *Accountability for Human Rights Atrocities in International Law. Beyond the Nuremberg Legacy*, 2<sup>nd</sup> edition (London: Oxford University Press, 2001).

<sup>4</sup> William A. Schabas, “What is Genocide? What are the Gaps in the Convention? How to Prevent Genocide?”, *Politiorbis* 47 (2/2009), 33-46. The term “genocide” was coined by the jurist Raphaël Lemkin.

<sup>5</sup> United Nations, Charter of the International Military Tribunal - Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis (“London Agreement”), 8 August 1945, available at: <http://www.refworld.org/docid/3ae6b39614.html>.

civilized world condemns.”<sup>6</sup> Two years later, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly.<sup>7</sup>

The traditional laws and customs of war acknowledged certain limitations on wartime conduct but were largely silent about individual accountability. This began to change after World War I, and even more so after World War II. The 1949 Geneva Conventions and the 1977 Protocol I contain provisions for holding individuals to account for grave breaches of the Conventions or Protocol, and obligate states to extradite or prosecute the perpetrators of such war crimes.

In the 1960s, Holocaust studies emerged as an academic field. Soon, the field was called Holocaust and genocide studies, or just genocide studies, and significant research dedicated to the topic was conducted. Yet genocide studies remained largely confined to academia, and actual policy to prevent genocide did not develop in foreign ministries or the United Nations. Some human rights treaty bodies developed, however, related early-warning and early-action procedures.<sup>8</sup>

Following the end of the Cold War, the broader topic of conflict prevention received significant attention. In 1994, the Carnegie Commission on Preventing Deadly Conflict was established “to advance new ideas for the prevention and resolution of conflict.” In its final report in 1998, the Commission distinguished, among other things, between two broad categories of strategies for conflict prevention: operational prevention to avert imminent violence and structural prevention to address root causes of deadly conflict so that crises do not arise in the first place or do not recur.<sup>9</sup>

In the same period, two highly visible genocides forced the international community to evaluate and reconsider how it worked to prevent genocide from taking place, how to protect populations at risk, and how to ensure that genocide did not recur. The April-August

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<sup>6</sup> United Nations, General Assembly resolution 96/1, The Crime of Genocide, A/RES/96/1, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/96\(1\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/96(1)).

<sup>7</sup> United Nations, General Assembly resolution 260/3 A, Adoption of the Convention on the Prevention and Punishment of the Crime of Genocide, and text of the Convention, A/RES/260(III)A (09 December 1948), available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/260\(III\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/260(III)). To date, 146 countries have ratified or acceded to the treaty and many have incorporated the crime of genocide in their national legislation: Albania, Antigua, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bolivia, Bosnia-Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Canada, China, Colombia, Costa Rica, Cote d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, El Salvador, Estonia, Ethiopia, Fiji Islands, Finland, France, Georgia, Germany, Ghana, Guatemala, Hong Kong, Hungary, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macau, Mali, Mexico, Netherlands, New Zealand, Nicaragua, Panama, Paraguay, Peru, Poland, Portugal, Romania, Russia, Rwanda, Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Sweden, Switzerland, Tajikistan, Tonga, Trinidad and Tobago, Tuvalu, Ukraine, United Kingdom, United States, Vietnam.

<sup>8</sup> United Nations, General Assembly resolution 60/251 (2006), A/RES/60/251 (3 April 2006), available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_Eng.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_Eng.pdf).

<sup>9</sup> Carnegie Commission on Preventing Deadly Conflict, *Preventing Deadly Conflict: Final Report* (New York: Carnegie Corporation, 1998).

1994 Rwandan genocide and the failure of the international community to intervene resulted in the death of an estimated 800,000 people, mostly members of the Tutsi minority but also moderate Hutus and others who opposed the genocide. Barely one year later in the former Yugoslavia in July 1995, the Srebrenica massacre led to the death of over 8,000 Bosniaks (Bosnian Muslims). Both events raised fundamental questions about the efficacy of the institutions in place to prevent genocide. In 1998-1999, the United Nations was once again faced with large-scale, systematic violence, especially the ethnic cleansing of the Albanian population in Kosovo, but after failing to create consensus in the Security Council, a US-led NATO bombing campaign set a controversial precedent for armed intervention without Security Council authorisation. The cumulative failures of the international community in Rwanda and in Bosnia and Herzegovina had an impact on the decision to intervene in Kosovo, one that the Independent International Commission on Kosovo found to have been “illegal but legitimate.”<sup>10</sup>

In 2000, the International Commission on Intervention and State Sovereignty (ICISS) was established to “build a new international consensus on how to respond in the face of massive violations of human rights and humanitarian law.”<sup>11</sup> In 2001, the Commission issued its report *The Responsibility to Protect*.<sup>12</sup> The ICISS report is based on the concept of *sovereignty as responsibility*, arguing that sovereignty cannot only be defined by the inviolability of state borders but also entails both internal and external duties, in particular obligations to ensure the safety, welfare and protection of fundamental human rights and freedoms of those within a state’s borders.<sup>13</sup> The Commission proposed three specific responsibilities within the framework of the responsibility to protect, the responsibilities to prevent, to react and to rebuild.

Meanwhile, in 2000, African nations enshrined in the Constitutive Act of the African Union “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly [of Heads of State and Government] in respect of grave circumstances, namely:

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<sup>10</sup> The Independent International Commission on Kosovo, *The Kosovo Report. Conflict, International Response, Lessons Learned* (New York: Oxford University Press, 2000), available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/6D26FF88119644CFC1256989005CD392-thekosovoreport.pdf>: “The Commission concludes that the NATO military intervention was illegal but legitimate. It was illegal because it did not receive prior approval from the United Nations Security Council. However, the Commission considers that the intervention was justified because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression under Serbian rule.”

<sup>11</sup> International Commission on Intervention and State Sovereignty, “The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty,” December 2001, available at <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

<sup>12</sup> Ibid.

<sup>13</sup> The concept “sovereignty as responsibility” was coined in efforts to define state obligations towards internally displaced persons (“IDPs”), people who have not crossed an international border and thus remain vulnerable to abuse by their sovereign government or non-state actors in their home countries. See Francis M. Deng, *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, DC: Brookings Institution, 1996).

war crimes, genocide and crimes against humanity.”<sup>14</sup> This not only constituted a remarkable shift in Africa considering that the AU’s predecessor, the Organisation of African Unity, was known for its deference to state sovereignty, but it is also the first time a regional or international legal instrument outlines a particular mechanism of intervention in response to what it defined as “grave circumstances,” which are the three crimes mentioned.

The timing of the ICISS report only a few weeks after 9/11 meant that the implications of the responsibility to protect were slow to evolve. Following the Fourth Stockholm International Forum “Preventing Genocide: Threats and Responsibilities” in 2004, ten years after the international community failed to prevent genocide in Rwanda, the post of Special Advisor to the Secretary-General on the Prevention of Genocide was established.<sup>15</sup> The Secretary-General’s High-Level Panel on Threats, Challenges and Change incorporated, in its 2004 report “A More Secure World: Our Shared Responsibility,” 101 recommendations to meet the world’s security challenges, including by embracing the responsibility to protect. In preparation for the 60<sup>th</sup> session of the United Nations General Assembly in 2005, the United Nations Secretary-General released the report “In Larger Freedom: Towards Development, Security and Human Rights for All,” which included recommendations on what issues should be addressed at the World Summit. In the human rights section of the report, the Secretary-General recommended, among other things, that states embrace the responsibility to protect.<sup>16</sup>

At the 2005 World Summit, all United Nations member states endorsed the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>17</sup> In 2008, the United Nations Secretary-General appointed the first Special Adviser on Responsibility to Protect, who along with the Special Adviser on the Prevention of Genocide, is supported by the Office on Genocide Prevention and the Responsibility to Protect. There have been annual General Assembly informal interactive dialogues on the responsibility to protect starting in 2009, as well as 30 United Nations Security Council resolutions referencing the responsibility to protect in thematic and/or conflict-specific resolutions between 2005 and 2015.

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<sup>14</sup> Organization of African Unity (OAU), Constitutive Act of the African Union, 1 July 2000, available at: <http://www.refworld.org/docid/4937e0142.html>. At the African Union’s 7<sup>th</sup> Extraordinary Session of the Executive Council in March 2005, the African Union explicitly embraced, in the so-called “Ezulwini Consensus”, the responsibility to protect and recognized the authority of the Security Council to decide on the use of force in situations of genocide, crimes against humanity, war crimes and ethnic cleansing. It also insisted on the need for an empowerment of regional organizations to take action in such cases.

<sup>15</sup> United Nations, Department of Public Information, “Genocide is threat to peace requiring strong, united action,” Secretary-General tells Stockholm International Forum, SG/SM/9126/REV.1 (11 February 2004), available at: <http://www.un.org/press/en/2004/sgsm9126Rev1.doc.htm>.

<sup>16</sup> United Nations, General Assembly, Report of the Secretary-General In larger Freedom: Towards Development, Security and Human Rights for All, A/59/2005 (21 March 2005), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/270/78/PDF/N0527078.pdf?OpenElement>.

<sup>17</sup> United Nations, General Assembly resolution 60/1, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

The emergence of the responsibility to protect constitutes a shift from genocide prevention to the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity. This development was a consequence of increasing frustration at the inability to recognize genocide early enough to prevent it, as well as the common view that it makes little qualitative difference whether large-scale loss of life was caused with genocidal intent (which is a legal requirement established in the Genocide Convention to determine whether a genocide has occurred) or without specific intent to destroy a particular group.<sup>18</sup> The responsibility to protect also emerged out of recognition that existing legal obligations were not translating into actual protection on the ground.

Since 2005, the responsibility to protect has gained broad acceptance but also suffered pushback, especially in relation to coercive military intervention to prevent genocide and other atrocities. For instance, the United Nations-sanctioned intervention in Libya in 2011, which resulted in the removal of Muammar Gaddafi's regime, sparked controversies over the scope and limits of the responsibility to protect. Critics of the responsibility to protect argue that the option of coercive military intervention can easily be abused for purposes other than protecting populations whenever great powers elect to do so. This has led to a focus on prevention and a preference, by some actors, to use terms such as prevention of atrocities rather than the responsibility to protect. These discussions have also resulted in further reflections on the meaning of atrocity prevention and on how it can be achieved.

## II. WHAT ARE THE LEGAL FOUNDATIONS?

Genocide, crimes against humanity and war crimes are not only international crimes that fall within the jurisdiction of the International Criminal Court<sup>19</sup> and for which international law imposes an obligation on states to extradite or to prosecute (*aut dedere aut iudicare*),<sup>20</sup> but states are also obliged to prevent these crimes from happening, to halt them when they are ongoing, and to prevent their recurrence once they have taken place. Such obligations can be found in international human rights law, in international humanitarian law and in international customary law.

International human rights law establishes not only an obligation of states to respect but also to ensure human rights. The International Covenant on Civil and Political Rights specifies,

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<sup>18</sup> Sheri P. Rosenberg, Tibi Galis, and Alex Zucker, *Reconstructing Atrocity Prevention* (Cambridge: Cambridge University Press, 2015).

<sup>19</sup> United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, available at: <http://www.refworld.org/docid/3ae6b3a84.html>, articles 5-8.

<sup>20</sup> Amnesties for such crimes are, therefore, prohibited (United Nations, Security Council, Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, S/2004/616 (23 August 2004), available at: <http://www.ipu.org/splz-e/unga07/law.pdf>, par. 64(c)), and immunities can generally not bar prosecution for serious crimes under international law (see, in particular United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, available at: <http://www.refworld.org/docid/3ae6b3a84.html>, Article 27). On the *aut dedere aut iudicare obligation* see United Nations, The Obligation to Extradite or Prosecute (*aut dedere aut iudicare*). Preliminary Report by Zdzislaw Galicki, Special Rapporteur, A/CN.4/571 (7 June 2006), available at: [http://legal.un.org/ilc/documentation/english/a\\_cn4\\_571.pdf](http://legal.un.org/ilc/documentation/english/a_cn4_571.pdf).

for instance, in Article 2 that state parties undertake “to respect and to ensure... the rights recognized in the present Covenant...” The positive obligation to ensure includes a comprehensive duty to prevent violations of human rights, particularly the most serious violations such as those occurring in the context of genocide and crimes against humanity.<sup>21</sup> In addition, this positive obligation entails taking measures to cease ongoing violations and to prevent their recurrence.<sup>22</sup> Also international humanitarian law (Common Article 1 of the Geneva Conventions and Article 1 of Additional Protocol I) requires the contracting parties not only to respect but also “to ensure respect” for its rules in international and in non-international conflicts.<sup>23</sup> Again, this duty to ensure respect contains obligations to prevent violations of humanitarian law, to halt ongoing violations, and to prevent their recurrence.

The Convention on the Prevention and Punishment of the Crime of Genocide not only mentions prevention in its title but also states, in Article 1, that the contracting parties “undertake to prevent [and punish]” the international crime of genocide.<sup>24</sup> The preventive nature of the Convention is further underlined by the fact that it punishes not only the commission of genocide but also incitement and attempt to commit genocide even when they do not result in genocide, thereby striving to stop these acts before they materialize into genocide itself.<sup>25</sup>

While firmly based on existing obligations under international law the responsibility to protect itself is not a legal norm. The concept of the responsibility to protect is widely

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<sup>21</sup> United Nations, Human Rights Committee, General Comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant, 26 May 2004, CCPR/C/21/Rev.1/Add.13, par. 7, available at: <http://www.refworld.org/docid/478b26ae2.html>. See also United Nations, General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations Treaty Series, vol. 1465, p. 85, article 2, available at: <http://www.refworld.org/docid/3ae6b3a94.html>; United Nations, General Assembly, International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006, articles 22-23, available at: <http://www.refworld.org/docid/47fdfaeb0.html>; United Nations, General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: resolution adopted by the General Assembly, 21 March 2006, A/RES/60/147, par. 3, available at: <http://www.refworld.org/docid/4721cb942.html>.

<sup>22</sup> United Nations, Human Rights Committee, General Comment no. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, CCPR/C/21/Rev.1/Add.13, par. 17, available at: <http://www.refworld.org/docid/478b26ae2.html>. Generally, the overall commitment to adhere to a norm involves making efforts to ensure that its violation ceases and is not repeated. See International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1, article, 30, available at: <http://www.refworld.org/docid/3ddb8f804.html>.

<sup>23</sup> International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, available at: <http://www.refworld.org/docid/3ae6b36d2.html>, Article 1 Common to the four Geneva Conventions; Article 1, par. 4 of Additional Protocol I.

<sup>24</sup> United Nations, General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, (9 December 1948), United Nations Treaty Series, vol. 78, p. 277, available at: <http://www.refworld.org/docid/3ae6b3ac0.html>, art. 1: “The Contracting Parties confirm that genocide... is a crime under international law which they undertake to prevent and to punish.”

<sup>25</sup> Ibid., article 3.

accepted, but its legal status is sometimes disputed. Some refer to it as a political concept<sup>26</sup> or a principle<sup>27</sup> while others describe it as an emerging norm or an emerging doctrine in international law.<sup>28</sup> However, even its supporters do not claim that the responsibility to protect is a norm of customary international law.<sup>29</sup> Most accurately, the responsibility to protect is described as a political commitment set out in the 2005 World Summit Outcome.<sup>30</sup>

In committing to the responsibility to protect in 2005, member states concurred to proceed within the framework of the Charter of the United Nations. The member states reaffirmed their commitment to the principle of state sovereignty, in accordance with article 2 of the Charter, and the primary responsibility of individual states to protect their populations. Member states also agreed to support individual states in their endeavours, in particular to assist them with building prevention capacity. At the same time, the member states made commitments to use “appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter” to protect populations from imminent threats; and should peaceful means prove inadequate and states “manifestly fail” to protect their populations, to “take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII...” Such collective action would be taken “in cooperation with relevant regional organisations”.<sup>31</sup>

### III. WHAT IS TO BE PREVENTED?

Within the framework of the 2005 World Summit, four categories of acts are to be prevented: genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>32</sup> This section provides short definitions of these four categories in the context of atrocity prevention.

The Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, including: killing members of the group,

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<sup>26</sup> See footnote 30.

<sup>27</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, A/HRC/28/66 (29 December 2014), available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_66\\_ENG.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_66_ENG.doc).

<sup>28</sup> William A. Schabas, “What is Genocide? What are the Gaps in the Convention? How to Prevent Genocide?,” *Politorbis* 47 (2/2009), 37.

<sup>29</sup> Jonah Eaton, “An Emerging Norm - Determining the Meaning and Legal Status of the Responsibility to Protect,” *Michigan Journal of International Law*, 32, no.765 (2011), available at: <http://repository.law.umich.edu/mjil/vol32/iss4/4>.

<sup>30</sup> United Nations, Security Council, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, S/2012/376 (22 May 2012), available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2012/376](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/376), par. 21.

<sup>31</sup> United Nations, General Assembly resolution 60/1, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>, pars. 138-139.

<sup>32</sup> United Nations, General Assembly resolution 60/1, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>, par. 138.

causing serious bodily or mental harm, inflicting conditions of life on the group that could bring about its physical destruction, imposing measures to prevent births, and forcibly transferring children of the group to another group. Genocide may be committed in times of war or in times of peace.<sup>33</sup> Prohibition of genocide has become a norm of customary international law.

The Convention's definition of genocide has been criticized for not including the three distinct categories of physical, biological, and cultural genocide, as intended by the first drafters of the Convention. Additionally, political and economic groups are left outside the protection of the Convention.<sup>34</sup> The Convention requires that perpetrators act with genocidal intent, which is often a challenge since proving that an act was committed with the specific intent to destroy a particular group can be difficult.

Just as genocide, crimes against humanity and war crimes are also internationally defined crimes. The definition of crimes against humanity developed under customary law and was codified in the statutes of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, as well as in the Rome Statute of the International Criminal Court. According to the Statute, crimes against humanity encompass a range of acts when committed as part of a widespread or systematic attack against civilian populations, particularly murder, extermination, enslavement, deportation, illegal detention, torture, sexual violence, persecution, enforced disappearance, apartheid, and other inhumane acts of a similar character.<sup>35</sup> Crimes against humanity can be undertaken in times of war and in times of peace; they may be perpetrated by state and non-state actors; they must be committed in the context of a widespread or systematic attack against a civilian population; but different from genocide, they do not have to be based on discriminatory intent of the perpetrator (except for the crime of persecution).

War crimes refer to serious violations of *jus in bello* (law in international and non-international armed conflict) that entail individual criminal responsibility. Generally, war crimes aim to shield from the violence of armed conflict civilians including non-combatants such as medical and religious personnel, as well as combatants removed from fighting. War crimes can be found in international humanitarian law and international criminal law treaties, as well as in international customary law.<sup>36</sup> According to the Rome Statute, war crimes include grave breaches of the 1949 Geneva Conventions, as well as a range of other

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<sup>33</sup> United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, A/RES/260(III)A (09 December 1948), Article 2, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/260\(III\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/260(III)).

<sup>34</sup> Maríam L. Milliren, "The UN Convention on Genocide," *World Affairs* 110 (4). World Affairs Institute: 293–96 (1947), available at: <http://www.jstor.org/stable/20664513>.

<sup>35</sup> United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, available at: <http://www.refworld.org/docid/3ae6b3a84.html>, article 7. Similar but not identical definitions are included in the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

<sup>36</sup> War crimes are listed in the 1949 Geneva Conventions and in the 1977 Additional Protocol I. The Rome Statute of the International Criminal Court also contains a list of war crimes, as well as the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

serious violations of the laws and customs applicable in international armed conflict and in non-international armed conflict, as listed in the Statute.<sup>37</sup>

Ethnic cleansing is not a defined international crime but includes acts that are serious violations of human rights and humanitarian law that may themselves amount to crimes against humanity, genocide or war crimes.<sup>38</sup> Ethnic cleansing generally refers to the forced removal by one ethnic (or religious) group of another ethnic (or religious) group from a territory. The coercive practices used for removal can include murder, torture, arbitrary arrest, sexual violence and many other crimes.<sup>39</sup>

What genocide, crimes against humanity and ethnic cleansing have in common is the fact that they refer to systematic or widespread acts of violence against populations that may occur in either times of conflict or times of peace. War crimes, on the other hand, can only be committed during armed conflict, cover a range of crimes of varying severity, and do not necessarily imply an extensive scale. However, in the context of atrocity prevention, not all war crimes are of concern but only those that impact on the protection of human life and meet the “substantiality test,”<sup>40</sup> i.e. that are committed as part of a large-scale plan or attack against populations.<sup>41</sup>

The 2001 ICISS report had proposed broader and less clearly defined circumstances under which the responsibility to protect was to be applied. For instance, the ICISS report left unclear whether the responsibility to protect applied to intentional violence only or also to natural disasters and other forms of humanitarian emergency. In fact, the responsibility to protect has faced a series of challenges to its definition and scope. For instance, a former French Minister of Foreign Affairs argued, in 2008, for the inclusion of natural disasters under the responsibility to protect umbrella in connection with the cyclone that hit Burma/Myanmar. Others have called for the expansion of prevention under the responsibility to protect, and to adopt a “human security” perspective – arguing to consider the living conditions of populations in least developed countries and to improve these

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<sup>37</sup> United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, Article 8, available at: <http://www.refworld.org/docid/3ae6b3a84.html>, Article 8.

<sup>38</sup> United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), footnote 1, available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf), footnote 1.

<sup>39</sup> United Nations, Security Council, Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780, S/1994/674 (27 May 1994), Annex, 3, 33, available at [http://www.icty.org/x/file/About/OTP/un\\_commission\\_of\\_experts\\_report1994\\_en.pdf](http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf).

<sup>40</sup> David Scheffer, “Atrocity Crimes Framing the Responsibility to Protect,” 40 Case W. Res. J. Int’l L. 111 (2008), available at: <http://scholarlycommons.law.case.edu/jil/vol40/iss1/8>. Along similar lines, the Statute of the International Criminal Court focuses on war crimes “when committed as part of a plan or policy or as part of a large-scale commission of such crimes” (Article 8.1).

<sup>41</sup> United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, article 8, available at: <http://www.refworld.org/docid/3ae6b3a84.html>; Scott Strauss, “What is being prevented? Genocide, Mass Atrocity, and Conceptual Ambiguity in the Anti-Atrocity Movement,” in Reconstructing Atrocity Prevention, edited by Sheri P. Rosenberg, Tibi Galis, and Alex Zucker (Cambridge: Cambridge University Press, 2015).

conditions as a form of prevention.<sup>42</sup> None of these proposals has received much support. Expanding the scope of the responsibility to protect beyond the four categories of crimes would risk undermining the consensus reached at the 2005 World Summit and “stretch the concept beyond recognition or operational utility.”<sup>43</sup>

The four categories have been increasingly designated as “atrocity crimes,” “mass atrocities” or simply “atrocities.”<sup>44</sup> In his 2013, 2014 and 2015 reports on the responsibility to protect, the Secretary-General uses the term “atrocity crimes” to describe the four categories of international crimes.<sup>45</sup> The term is also used in the United Nations Framework of Analysis for Atrocity Crimes that the Special Advisers on the Prevention of Genocide and the Responsibility to Protect issued in 2014 as a tool to assess the risk of genocide and other serious international crimes.<sup>46</sup> The Security Council and the Human Rights Council in their recent resolutions on genocide prevention do not, however, use the term “atrocity crimes” but continue to separately refer to the four individual categories of international crimes and occasionally employ the term “serious crimes under international law.”<sup>47</sup> Certain states

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<sup>42</sup> Okolo B. Simon, “Human Security and the Responsibility to Protect Approach: A Solution to Civilian Insecurity in Darfur,” *Human Security Journal* 7, Summer (2008): 46-61.

<sup>43</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), par. 10(b), available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677).

<sup>44</sup> David Scheffer, “Atrocity Crimes Framing the Responsibility to Protect,” 40 *Case W. Res. J. Int'l L.* 111 (2008), available at: <http://scholarlycommons.law.case.edu/jil/vol40/iss1/8>. “Atrocities” generally refer to the most serious violations of international human rights and humanitarian law. See, e.g. Steven R. Ratner and Jason S. Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy* (Oxford: Oxford University Press, 2001).

<sup>45</sup> United Nations, General Assembly, Report of the Secretary-General on Responsibility to Protect: State Responsibility and Prevention, A/67/929-S/2013/399 (9 July 2013), par. 2, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/67/929](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/929); United Nations, General Assembly, Report of the Secretary-General on Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect, A/68/947-S/2014/449 (11 July 2014), footnote 1, available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2014/449](http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/449); United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), footnote 1, available at: <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20P%20English.pdf>. The 2012 Secretary-General report on the responsibility to protect does not use the term “atrocities.” The 2011 report of the Secretary-General repeatedly uses the term “mass atrocities” but does not define it. See United Nations, General Assembly, Report of the Secretary-General on The Role of Regional and Sub-regional Arrangements in Implementing the Responsibility to Protect, A/65/877-S/2011/393 (27 June 2011), pars. 8, 12, 18, 20, 21, available at: <http://www.un.org/en/ga/president/65/initiatives/Report%20of%20the%20SG%20to%20MS.pdf>.

<sup>46</sup> United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf).

<sup>47</sup> United Nations, Security Council resolution 2150 (2014), S/RES/2150 (16 April 2014), available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2150\(2014\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2150(2014)). The term “serious crimes under international law” encompasses “grave breaches of the Geneva Conventions of 12 August 1949 and of Additional Protocol I thereto of 1977 and other violations of international humanitarian law that are crimes under international law, genocide, crimes against humanity, and other violations of internationally protected human rights that are crimes under international law and/or which international law requires States to penalize, such as torture, enforced disappearance, extrajudicial execution, and slavery” (United Nations, Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher. Addendum:

oppose the use of the terms “atrocities,” “mass atrocities” and “atrocity crimes” because they are not legally defined categories.

#### IV. WHO IS TO BE PROTECTED FROM ATROCITIES?

The 2005 World Summit Outcome Document refers to “populations” when describing who is to be protected from genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>48</sup> Who is covered by the notion of “populations?”

Genocide is a crime committed with the intent to target the members of a national, ethnical, racial or religious group. Ethnic cleansing is also a form of group-selective violence. Crimes against humanity target civilian populations. War crimes are committed against civilians, non-combatants such as medical and religious personnel, humanitarian workers and civil defence staff, and combatants removed from fighting (“hors de combat”). In the context of atrocity prevention, such persons are targeted in a systematic or widespread manner. Populations within an atrocity prevention framework refers, therefore, not just to certain groups and not just to citizens but to all populations at risk living within a state’s borders, whether nationals or not.<sup>49</sup>

#### V. WHAT IS THE RESPONSIBILITY?

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide is largely silent about the scope of the obligation to prevent and does not provide guidance on a course of action when genocide is occurring. In a judgement in 2007, the International Court of Justice for the first time provided some clarification about the scope of the state’s obligation to prevent genocide. The Court found that the obligation to prevent had a “separate legal existence of its own.” The Court held that the obligation extends beyond a country’s own borders and is imposed on any state that “has in its power to contribute to restraining in any degree the commission of genocide.” This duty to act does not depend on the certainty, or even on the likelihood, that the action will successfully prevent genocide.<sup>50</sup> Hence not only the state facing a risk of genocide but also other states and the international community have an obligation to do all that is reasonably in their means to prevent genocide in the country at risk.

The responsibility to protect builds on the concept of sovereignty as responsibility, which emphasises the protection responsibilities of sovereign states. The 2001 ICISS Report proposed three specific responsibilities within the framework of the responsibility to

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<sup>48</sup> Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, E/CN.4/2005/102/Add.1, 8 February 2005, Definitions B).

<sup>49</sup> A/RES/60/1, pars. 138-139.

<sup>50</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), pars. 11, 46, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677).

<sup>51</sup> International Court of Justice, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia-Herzegovina v. Serbia and Montenegro)*, 26 February 2007, par. 438, available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=91&p3=4>.

protect: the responsibility to prevent, which entails having an early warning system, an understanding of the situation and a toolbox of preventative policies (i.e. political, economic, legal and military reform measures); the responsibility to react, which comprises coercive measures such as economic sanctions, and as an extraordinary measure, military intervention for human protection when the state fails or neglects to do so; and the responsibility to rebuild, which requires the intervening powers following an intervention to support the reestablishment of security through policing and DDR, the creation of transitional justice mechanisms as well as to encourage development and economic growth, while promoting local ownership of the process.<sup>51</sup>

When the principle was adopted at the 2005 World Summit, the United Nations version of the responsibility to protect included the first two responsibilities from the ICISS report—prevention and response—but the responsibility to rebuild was not included. The 2009 report of the Secretary-General laid out a three-pillar strategy for implementing the responsibility to protect in line with the World Summit Outcome:<sup>52</sup>

Pillar I – the protection responsibilities of the state: the state has to protect its populations, whether nationals or not, from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from their incitement.

Pillar II – international assistance and capacity building: the responsibilities of the international community to assist individual states in building their capacities to protect, to encourage states through diplomatic means to prevent the predicate crimes, and to provide international protection assistance to states. The pillar also outlines the importance of engaging regional and sub-regional organizations as well as civil society in building these capacities.

Pillar III – timely and decisive response: the responsibilities of the international community to use appropriate peaceful means to protect populations, in accordance with Chapters VI and VIII of the United Nations Charter, and to take collective action in a timely and decisive manner, should peaceful means be inadequate and states are “manifestly failing” to protect their populations, in accordance with Chapter VII of the Charter.

Again, the responsibilities listed under the three pillars concentrate on the prevention and response responsibilities discussed in the ICISS report but do not elaborate on responsibilities when the atrocities have come to an end.

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<sup>51</sup> International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001), available at: <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

<sup>52</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677).

The scope of prevention is not always clear in the context of atrocity prevention. The Genocide Convention does not specify what prevention means and how it is to be done.<sup>53</sup> In the 2001 ICISS Report, prevention represents the first of the three types of specific responsibilities within its responsibility to protect framework (prevent – respond – rebuild) and relates to addressing “the root causes and direct causes of internal conflict and other man-made crises putting populations at risk,”<sup>54</sup> i.e. to averting atrocities from happening. Within the three-pillar approach of the Secretary-General’s 2009 report on implementing the responsibility to protect, pillars I and II (protection responsibilities of the state, international assistance and capacity-building) are understood to fall within the sphere of prevention whereas pillar III (timely and decisive response by the international community) encompasses measures of response to imminent or ongoing atrocities when prevention fails.<sup>55</sup> But response to atrocities in the context of pillar III is also described as “preventing the escalation of atrocity crimes.”<sup>56</sup> Moreover, the goal of pillar III measures is not only to halt atrocities but also to lay the foundations for the state affected by the atrocities to reassume its responsibilities and again protect its own populations. The dividing line between prevention and response is not always clear-cut, and the pillars do not represent a sequence of activities. Frequently, an effective strategy involves elements of both prevention and response.<sup>57</sup>

Prevention can be interpreted to mean many things. Definitions of prevention can be so expansive that it cannot be distinguished from general development policies. Narrow definitions, on the other hand, tend to limit prevention to early warning, preventive diplomacy and crisis management, which can reduce the likelihood of an outbreak of

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<sup>53</sup> United Nations, General Assembly resolution 260/3 A, Adoption of the Convention on the Prevention and Punishment of the crime of genocide, and text of the Convention, A/RES/260(III)A (09 December 1948), art. 1, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/260\(III\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/260(III)): “The Contracting Parties confirm that genocide... is a crime under international law which they undertake to prevent and to punish.”

<sup>54</sup> International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001), available at: <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

<sup>55</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677). See also United Nations, General Assembly, Report of the Secretary-General on Responsibility to Protect: State Responsibility and Prevention, A/67/929-S/2013/399 (9 July 2013), par. 2, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/67/929](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/929), and United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), par. 4, available at <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>.

<sup>56</sup> United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), pars. 37, 38 and 42, available at <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>.

<sup>57</sup> United Nations, General Assembly, Report of the Secretary-General on Responsibility to Protect: Timely and Decisive Response, A/66/874-S/2012/578 (25 July 2012), par. 11, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/66/874](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/66/874).

violence or limit its escalation but cannot address the factors that give rise to violent disputes. On the basis of approaches developed in the field of conflict prevention, a distinction is often made between structural and operational or proximate atrocity prevention. Structural prevention aims to render a context less prone to atrocities. It is mostly linked to pillars I and II, and has an extended timeline. Operational prevention is generally related to pillar III and aims to avert an imminent threat of atrocities.<sup>58</sup> Yet this distinction has been criticised for paying too little attention to mid-term prevention, which seeks to identify engagement points “beyond structural assistance, but before the tipping points of direct killings have been reached.”<sup>59</sup> Along similar lines, it has been proposed that a situation should be considered within the framework of the responsibility to protect if there is “a real risk that exceptionally grave human rights violations, as described in genocide, war crimes, crimes against humanity and ethnic cleansing are occurring or could occur in the future.”<sup>60</sup>

In his 2015 report on the responsibility to protect, the Secretary-General added another dimension of prevention, efforts to prevent recurrence of atrocities in societies recovering from these horrifying forms of violence.<sup>61</sup> This focus on the aftermath of atrocities relates to the responsibility to rebuild, an aspect of the responsibility to protect that was considered in the 2001 ICISS report but was left aside in the 2005 World Summit Outcome and subsequent reports of the Secretary-General. The ICISS responsibility to rebuild focuses, however, on the international community’s responsibilities following a military intervention rather than on the general responsibility to prevent recurrence. The duty to prevent recurrence is consistent with the international law obligations that constitute the foundation of the responsibility to protect, in particular the obligation to ensure in international human rights law and the obligation to ensure respect in international humanitarian law. Attention to the aftermath of atrocities also links the responsibility to protect more clearly to transitional justice, or dealing with the past as it is also called, which encompasses not only truth-seeking, criminal justice and reparation but also measures to prevent recurrence of atrocities that already happened, the so-called guarantees of non-recurrence.<sup>62</sup>

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<sup>58</sup> United Nations, General Assembly, Report of the Secretary-General on The Role of Regional and Sub-regional Arrangements in Implementing the Responsibility to Protect, A/65/877-S/2011/393 (27 June 2011), par. 21, available at: <http://www.un.org/en/ga/president/65/initiatives/Report%20of%20the%20SG%20to%20MS.pdf>.

<sup>59</sup> Sheri P. Rosenberg, Tibi Galis, and Alex Zucker, *Reconstructing Atrocity Prevention* (Cambridge: Cambridge University Press, 2015).

<sup>60</sup> Cardozo Law, “Policy Brief: A Common Standard for Applying R2P”, (2013), available at: [http://www.globalr2p.org/media/files/r2p\\_standards\\_policy\\_letter-1.pdf](http://www.globalr2p.org/media/files/r2p_standards_policy_letter-1.pdf).

<sup>61</sup> United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), pars. 65-67, available at <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>.

<sup>62</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, A/HRC/30/42 (7 September 2015), available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_42\\_ENG.DOCX](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_42_ENG.DOCX).

There is general consensus that the approach to atrocity prevention should be narrow but deep – narrow, in terms of restricting its application to genocide, war crimes, ethnic cleansing and crimes against humanity, and deep, in terms of employing the wide array of prevention measures available to individual states, international, regional and sub-regional actors, as well as to civil society actors.<sup>63</sup> In addition, the legal obligations of states are not limited to preventing atrocities but comprise also halting ongoing atrocities and preventing the recurrence of past atrocities. Equally, the responsibility to protect is not limited to prevention but covers also response, and increasingly also recurrence prevention. There remain, however, many questions about how atrocities can be effectively prevented in practice (see next).

## VI. HOW CAN PREVENTION WORK?

This section discusses some basic aspects of how atrocity prevention may be approached in practice but cannot cover the vast field of atrocity prevention. More detailed guidance is referenced in footnotes with further reference to websites. Some specific prevention tools are introduced in more detail in Annexes C-H.

### A. Contextuality of Atrocity Prevention

Not only the types of potential atrocities can vary greatly from one situation to the next but also the contexts in which atrocities may be committed. Most atrocities occur within armed conflicts but sometimes, atrocities are also committed as part of a pre-conflict phase or even outside armed conflicts. The types of possible perpetrators vary from one situation to the next and increasingly include non-state armed groups.

Cultural, social, political and other contextual factors affect not only the commission but also the prevention of atrocities. The development of prevention strategies should, therefore, start with an identification of the conditions for atrocity prevention in the context in question. Also the choice of terminology should be adapted to contextual preferences. Some actors have concerns with the concept of the responsibility to protect because it is not a legally defined norm and they fear it may be used as a pretext for unjustified intervention. Other actors do not wish to engage in discussions about genocide due to the potential legal and political implications of being associated with situations of genocidal risk. Other actors again oppose the use of the terms “atrocity crimes,” “atrocities,” or “mass atrocities” because they lack legal definition. Rather, they prefer that genocide, war crimes, ethnic cleansing and crimes against humanity be spelled out. While the legal obligations and the political commitments made cannot be abandoned and should not be downplayed, the

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<sup>63</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), par. 10, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677). See also Jennifer M. Welsh, "The 'Narrow but Deep Approach' to Implementing the Responsibility to Protect: Reassessing the Focus on International Crimes," in *Reconstructing Atrocity Prevention*, edited by Sheri P. Rosenberg, Tibi Galis and Alex Zucker (Cambridge: Cambridge University Press, 2015).

choice of words and approaches should be determined by what is acceptable and what works best to protect populations at risk in a specific context.

## B. Politics of Atrocity Prevention

Not only the commission of atrocities but also national efforts to prevent them and international activities to support these efforts are highly political. States have clear legal obligations to prevent atrocities and have committed to the responsibility to protect. But in practice, particular political interests in a country at risk and diverging strategic interests at the regional and international levels limit their actual willingness to prevent atrocities. Frequently, the commitment to atrocity prevention does not translate into action. These tensions are unlikely to change in the foreseeable future because states are not likely to accept significant limits on their sovereignty. Therefore, atrocity prevention needs to focus on early action when the political stakes are lower than at later stages, and on prevention efforts by national actors at national and local levels that raise little concerns over infringements on national sovereignty.

In a crisis situation with an imminent atrocity risk, politics heavily affect prevention efforts. While technical engagements can facilitate the prevention of imminent atrocities, its effectiveness and sustainability will depend on political solutions. The “primacy of politics” accorded to UN peace operations applies equally to atrocity prevention.<sup>64</sup> This does not mean that basic principles, legal obligations or other commitments should be compromised in political negotiations. But all political tools should be employed and all avenues explored to find alternatives to an outbreak of atrocities and bring about settlements respectful of the legitimate interests and grievances of the various groups involved.

## C. Early Detection for Early Action

Late prevention in imminent crisis situations is difficult and costly. Such situations are marked by entrenched political positions, breakdown of capacities to resist atrocities, and diminished concern about resorting to violent means. A priority in atrocity prevention is, therefore, early detection of conditions that increase the susceptibility to the commission of atrocities in order to engage in early preventive action. Guidance to monitor and assess atrocity risks has been developed by various civil society, governmental, regional and international organisations. A useful assessment and monitoring tool is the United Nations Framework of Analysis for Atrocity Crimes.<sup>65</sup> More examples of atrocity early warning tools and conflict early warning tools can be found in Annex C.

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<sup>64</sup> United Nations, General Assembly, Report of the High-Level Independent on United Nations Peace Operations. Uniting our Strengths for Peace – Politics, Partnership and People, A/70/95-S/2015/446 (17 June 2015), available at: [http://www.un.org/sg/pdf/HIPPO\\_Report\\_1\\_June\\_2015.pdf](http://www.un.org/sg/pdf/HIPPO_Report_1_June_2015.pdf).

<sup>65</sup> United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf).

Monitoring of atrocity risks is more effective when it is not an ad-hoc, situation-specific exercise but conducted on an on-going basis by permanent mechanisms. Sub-regional, regional and international organisations and networks can monitor atrocity risks. Examples include the United Nations Special Advisors on the Prevention of Genocide and the Responsibility to Protect, the Global Network of Responsibility to Protect Focal Points, Global Action Against Mass Atrocity Crimes, and the Latin American Network for Genocide and Mass Atrocity Prevention. International monitoring mechanisms such as the Universal Periodic Review process under the auspices of the United Nations Human Rights Council or the African Peer Review Mechanism could also adopt an “atrocity prevention lens” in their review processes.<sup>66</sup> Along similar lines, the United Nations’ Human Rights up Front initiative places the protection of human rights at the heart of United Nations strategies and operations (see below section VI.H).

International and regional actors need to access information in a timely manner and to verify the data received in order to determine the level of atrocity risk. Verification facilitates early detection of atrocity risks and helps build confidence and consensus that action is needed. Useful lessons on verification methodologies can be learned from the regime governing non-proliferation of weapons of mass destruction (see Annex D).

But primarily, atrocity risk monitoring should be done at the national level. One model is to establish a dedicated national body to monitor atrocity risks. As of 2015, fifty-one countries have appointed senior level officials to serve as national responsibility to protect focal points, charged with promoting the responsibility to protect at the national level and supporting international cooperation.<sup>67</sup> Alternatively, atrocity-specific monitoring can be streamlined into existing mechanisms, which may be more effective and less costly. In addition to their regular activities, mechanisms such as a national security council or a national human rights body could have a small, dedicated prevention capacity to continuously assess atrocity risks and resilience capacities in a country. Human rights and other civil organisations can also provide critical information on atrocity risks. In times of crisis involving an imminent atrocity risk, the dedicated prevention capacity or another mechanism should have convening authority with a direct line of communication to the national leadership. The convening mechanism ought to provide consolidated advice to senior decision makers and to coordinate a whole-of-government implementation of an agreed prevention strategy.<sup>68</sup>

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<sup>66</sup> Alex J. Bellamy, “Operationalizing the ‘Atrocity Prevention Lens’: Making Prevention a Living Reality,” in *Reconstructing Atrocity Prevention*, edited by Sheri P. Rosenberg, Tibi Galis, and Alex Zucker (Cambridge: Cambridge University Press, 2015).

<sup>67</sup> Countries that have appointed national Responsibility to Protect Focal Points: Albania, Angola, Argentina, Australia, Austria, Belgium, Bosnia-Herzegovina, Botswana, Bulgaria, Chile, Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Ireland, Italy, Japan, Jordan, Liberia, Liechtenstein, Lithuania, Luxembourg, Montenegro, Mozambique, Netherlands, New Zealand, Paraguay, Poland, Portugal, Qatar, Republic of Korea, Rwanda, Sierra Leone, Slovenia, Spain, Sweden, Switzerland, Uruguay, United Kingdom and United States. See at [http://www.globalr2p.org/our\\_work/r2p\\_focal\\_points](http://www.globalr2p.org/our_work/r2p_focal_points).

<sup>68</sup> Ibid.

Annex E lists and provides basic information on existing international, regional, sub-regional, national and civil society actors involved in atrocity prevention.

#### D. Strengthening National Resilience

Early detection is of little help if it does not result in early preventive action. Effective atrocity prevention focuses, in particular, on strengthening national resilience to atrocities. One way of enhancing resilience is to lessen political and economic inequalities among groups and promote effective, legitimate and inclusive governance. Most atrocities occur in countries that are deeply afflicted by poverty, discrimination and the resulting inequalities between groups. Effective, accountable and participatory institutions, respect for the rule of law and equal access to justice, fair management of economic resources, and mechanisms to respond to incitement to violence can alleviate the grievances of particular groups and reduce atrocity risks. Of specific importance in this regard is the establishment of integrated institutions, particularly in the security sector, that represent and have access to all groups in a society, and that can facilitate dialogue between these groups.<sup>69</sup> Useful advice on how to promote integration can be found in the Ljubljana Guidelines on the Integration of Diverse Societies, developed by the OSCE High Commissioner on National Minorities.<sup>70</sup>

Another way of making societies more resilient is to strengthen “inhibitors” to atrocities. Inhibitors refer to “particular capacities, institutions and actors that help to prevent escalation from risk to imminent crisis.”<sup>71</sup> Such inhibitors include a professional and accountable security sector; impartial institutions for overseeing political transitions, in particular an impartial and competent electoral commission; independent judicial and human rights institutions; capacity to assess risks and mobilise early response; local capacity to resolve conflicts; media capacity to counteract prejudice and hate speech; and capacity for effective and legitimate transitional justice. Inhibitors can contribute to prevention in that they address early on the dynamics that may result in atrocities.<sup>72</sup> Annex F provides examples of various local conflict resolution mechanisms.

Largely, atrocity prevention has been state-centric focusing on public sector institutions. But atrocity prevention can be more effective when it concentrates not just at the institutional sphere but also targets civil society, as well as the cultural and personal spheres. Civil society organisations can be important drivers of atrocity prevention. Civil society can be strengthened by removing restrictions on civil society organisations and by legal

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<sup>69</sup> United Nations, General Assembly, Report of the Secretary-General on Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect, A/68/947-S/2014/449 (11 July 2014), pars. 39-42, available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2014/449](http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/449).

<sup>70</sup> Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, The Ljubljana Guidelines on Integration of Diverse Societies (7 November 2012), available at: <http://www.osce.org/hcnm/96883>.

<sup>71</sup> United Nations, General Assembly, Report of the Secretary-General on Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect, A/68/947-S/2014/449 (11 July 2014), available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2014/449](http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/449).

<sup>72</sup> Ibid., pars. 43-58.

empowerment measures. Prevention activities in the cultural sphere can include education, social mobilisation, works of art, and archives.<sup>73</sup> The media can play an important role in preventing incitement to atrocities, which constitutes a critical aspect of effective prevention.<sup>74</sup> Interventions by influential personalities from the worlds of sports, arts and religion can also have a preventive effect. Prevention activities in the personal sphere can include counselling of victims to overcome trauma<sup>75</sup> or efforts to provide access to justice.<sup>76</sup> Culture and personality structures are more resistant to intervention. Change in these spheres is, therefore, more difficult and takes longer to achieve, but it is more resilient once it has been obtained.

Atrocity prevention can also learn from the field of public health, which applies a multi-disciplinary approach to disease prevention drawing from various disciplines including medicine, epidemiology, sociology, psychology, criminology and education. Public health commonly distinguishes between primary, secondary and tertiary prevention, moving gradually from the general to the group to the individual level. Public health pays particular attention to early monitoring of at-risk cases and the promotion of healthy behaviours, habits and environment.<sup>77</sup> Lessons can also be drawn from international environmental law. Of particular use is the so-called precautionary principle, which requires states to take precautionary measures whenever there is a plausible risk of exposing the environment or the public to harm. Scientific uncertainty about a causal relationship must not be used to postpone such measures.<sup>78</sup> Annex G explains more concretely how atrocity prevention can learn from a public health approach.

## E. International Response to Atrocities

The primary responsibility to prevent atrocities, as well as to stop them when they are ongoing, resides with individual states (pillar I within the framework of the responsibility to protect). The international community committed itself to supporting individual states in their preventive efforts, particularly to assisting them with building capacities to resist

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<sup>73</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, A/HRC/30/42 (7 September 2015), available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_42\\_ENG.DOCX](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_42_ENG.DOCX).

<sup>74</sup> United Nations, Office of Genocide Prevention and the Responsibility to Protect, Preventing Incitement: Policy Options for Action, (November 2013), available at:

<http://www.un.org/en/preventgenocide/adviser/pdf/Prevention%20of%20incitement.Policy%20options.Nov2013.pdf>.

<sup>75</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, A/HRC/30/42 (7 September 2015), available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_42\\_ENG.DOCX](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_42_ENG.DOCX).

<sup>76</sup> On access to justice see, for instance, Avocats sans Frontières, Access to Justice, at <http://www.asf.be/action/asf-programmes/access-to-justice>.

<sup>77</sup> See, e.g., Michael H. Merson, Robert E. Black, and Anne Mills, *International Public Health: Diseases, Programs, Systems, and Policies* (Sudbury, MA: Jones and Bartlett, 2006).

<sup>78</sup> United Nations, General Assembly, Rio Declaration on Environment and Development, A/CONF.151/26 (vol. I) (12 August 1992), available at: [www.un.org/documents/ga/conf151/aconf15126-1annex1.htm](http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm); see also Sands, Philippe, Jacqueline Peel, Adriana Fabra Aguilar, and Ruth Mackenzie *Principles of International Environmental Law* (Cambridge: Cambridge University Press, 2012).

atrocities (pillar II). The international community also committed itself to use appropriate peaceful means to help to protect populations, and should peaceful means be inadequate and a state manifestly fail to protect its populations, to take collective action in a timely and decisive manner (pillar III).

Response activities of the international community refer, first of all, to “appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter” to protect populations from imminent threats of atrocities.<sup>79</sup> Such measures may include, for instance, human rights monitoring and reporting, diplomacy and mediation, public advocacy, arbitration, humanitarian assistance, economic and political inducements, unarmed civilian protection, peacebuilding, and peace operations agreed to consensually under Chapter VI.<sup>80</sup> Such response activities may be undertaken in parallel to pillar I and pillar II efforts, as appropriate, and by a broad range of actors including by individual states, the United Nations system, regional and sub-regional bodies, and non-state actors. Prevention and response cannot adopt linear models because atrocities do not evolve in a linear fashion.

Should peaceful means prove inadequate and states “manifestly fail” to protect their populations from imminent or on-going atrocities, the international community also is committed to take “collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII...”<sup>81</sup> Response activities conducted under Chapter VII cannot always be clearly separated from Chapter VI and VIII activities but include referral of apparent atrocities to the International Criminal Court by the Security Council acting under Chapter VII, in accordance with the Rome Statute; diplomatic and other sanctions such as arms embargoes, in accordance with Articles 41 and 53 of the Charter; peace operations with Security Council authorisation to protect civilians, under Chapter VII of the Charter; and coercive military action by regional actors mandated by the Security Council under Chapter VII.

There is no agreed upon indicator or threshold on how to understand and measure “manifestly failing,” and concern has been raised that the use of military force may be used as a pretext for unjustified intervention in the pursuit of particular geopolitical interests. For instance, following the Security Council-mandated intervention in Libya in 2011, Brazil argued in the United Nations General Assembly that “the international community, as it exercises its responsibility to protect, must demonstrate a high level of responsibility while protecting.”<sup>82</sup> Whatever the merits of these concerns in this particular case, the application

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<sup>79</sup> United Nations, General Assembly resolution 60/1, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), pars. 138-139, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

<sup>80</sup> The list draws on Alex J. Bellamy, “The First Response: Peaceful Means in the Third Pillar of the Responsibility to Protect. Policy Analysis,” The Stanley Foundation, 2015.

<sup>81</sup> United Nations, General Assembly resolution 60/1, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), pars. 138-139, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

<sup>82</sup> 66th Session of the General Assembly (fall 2011).

of military force must be limited to the protection of populations as long as national authorities substantially fail to protect their own populations and must not otherwise involve interference in the domestic affairs of individual states. The use of the responsibility to protect for purposes other than the protection of populations undermines its acceptance and makes atrocity prevention even more difficult.

Peaceful options must have been exhausted or unlikely be successful before coercive military action is contemplated. At the same time, within the framework of Chapter VII of the United Nations Charter, coercive interventions cannot and should not be disregarded as a measure of last resort to effectively prevent imminent atrocities or halt on-going atrocities. Also, the demonstrated readiness of the international community to take collective coercive action, when peaceful means are inadequate and national authorities manifestly fail to meet their responsibilities, may in itself reinforce the will of national actors to avoid atrocities. In this regard, several initiatives have been launched calling on the five permanent members of the Security Council to refrain from employing a veto in situations of manifest failure to prevent atrocities.<sup>83</sup> Along these lines, three similar initiatives are currently discussed: a French-Mexican proposal; a code of conduct for Security Council action against genocide, crimes against humanity or war crimes that was launched by the ACT (Accountability, Coherence, Transparency) Group of UN member states; and a proposal by the Elders.<sup>84</sup> But so far, none of these proposals has been accepted by all five permanent members of the Security Council.

#### F. Linking Atrocity Prevention with Transitional Justice

Transitional justice refers to the processes employed to deal with large-scale past atrocities.<sup>85</sup> The main components of transitional justice comprise not only criminal justice, truth-telling and reparations but also guarantees of non-recurrence, which refer to a combination of measures that “contribute to a reduction in the likelihood of recurring [atrocities].”<sup>86</sup> Atrocity prevention has generally adopted a forward-looking approach and has been concerned less with atrocities that occurred in the past. Recently, this has begun to

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<sup>83</sup> For a detailed history of the use of the veto in the Security Council and initiatives to limit its use see Security Council Report, “The Veto: Special Research Report,” available at: <http://www.securitycouncilreport.org/special-research-report/the-veto.php>.

<sup>84</sup> Ibid.; ACT (Accountability, Coherence, Transparency) Group, “Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes,” 24 October 2015, available at: [http://www.regierung.li/files/medienarchiv/unoallgemein/2015-09-01\\_SC\\_Code\\_of\\_Conduct\\_Atrocity.pdf?t=635779390902346809](http://www.regierung.li/files/medienarchiv/unoallgemein/2015-09-01_SC_Code_of_Conduct_Atrocity.pdf?t=635779390902346809).

As of October 2015, 105 member states supported the code of conduct. See also S/63/677, par. 61.

<sup>85</sup> United Nations, Security Council, Report of the Secretary-General on The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, S/2004/616 (23 August 2004), par. 8, available at: <http://www.ipu.org/splz-e/unga07/law.pdf>.

<sup>86</sup> United Nations, Human Rights Council, Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, A/HRC/30/42 (7 September 2015), par. 25, available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_42\\_ENG.DOCX](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_42_ENG.DOCX).

change. Transitional justice is now considered a core inhibitor of further atrocities,<sup>87</sup> preventing recurrence is one of six priorities the United Nations Secretary-General has identified for the responsibility to protect over the next decade, and the responsibility to protect is understood to be an enduring obligation that “requires a spectrum of action, from prevention to timely and decisive response to addressing the risks of recurrence.”<sup>88</sup>

Linking atrocity prevention with transitional justice makes sense for conceptual and practical reasons. Atrocities do not start in situations with a blank slate but are embedded in histories of inequality in which human rights violations occurred. Frequently, atrocities do not happen for the first time in such contexts. Understanding the histories of atrocities and the reasons why they occurred helps design effective prevention strategies because they can be tailored to the conditions of the specific context and to the causes of specific atrocities. A failure to address past atrocities also constitutes a major risk factor of future atrocities because it nurtures a climate of impunity. Understanding that preventing recurrence is a shared concern of atrocity prevention and transitional justice helps design coherent strategies that meet the goals of both fields and enables pooling of limited resources.

Measures to prevent recurrence may be grouped along three categories: disabling capacities that facilitated the commission of atrocities; enabling integrity capacities that strengthen accountability mechanisms and promote the inclusion of victims and other marginalised groups; verbally or symbolically signalling a commitment to overcome the legacy of atrocities and an endorsement of fundamental human rights norms.

Disabling measures may include cantoning or disbanding groups, units or institutions that were involved in atrocities; disarming, demobilising and reintegrating combatants; decommissioning and destroying ammunition, weapons, armoured vehicles and other equipment used to commit atrocities; overcoming group domination within an institution or sector; blocking direct access of the political level to the operational level and restricting opportunities for political interference; and dismantling networks of criminal activity by means of vetting and criminal prosecutions.

Integrity enabling measures include reinforcing internal accountability, such as ethics codes, internal accountability procedures, line supervision and internal discipline; building external oversight, such as parliamentary oversight, executive oversight, independent civilian complaint and review bodies, ombudsperson services and judicial review; and fostering

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<sup>87</sup> United Nations, General Assembly, Report of the Secretary-General on Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect, A/68/947-S/2014/449 (11 July 2014), pars. 57-58, available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2014/449](http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/449).

<sup>88</sup> United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), pars. 65-67, available at: <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>.

informal accountability provided by the media, human rights organisations and other monitoring groups.<sup>89</sup>

Verbal and symbolic measures include, for instance, official apologies; memorials and museums; activities of remembrance such as commemorative days; renaming of streets and removal of monuments that relate to individuals or institutions involved in the commission of atrocities; and the changing of coats of arms, insignia and uniforms that are associated with the atrocity past. Such measures may also include educational reforms such as amendments to textbooks and school curricula that acknowledge the atrocity past, revise discriminatory histories and affirm a commitment to human rights.

In 2015, the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence issued two reports that include concrete examples of approaches and measures to prevent recurrence.<sup>90</sup>

## G. New Technologies for Atrocity Prevention

Broad access to new technologies can be used not only to incite violence, spread false information and facilitate the commission of atrocities but also to disseminate accurate information, contribute to prevention, and collect information on atrocities that have been committed.<sup>91</sup> Social media, other online information sources and short messaging systems provided by mobile phone networks can be used for early warning and to combat extremism by spreading information that promotes tolerance and dialogue.

Web-based applications can help in various ways to prevent atrocities. The Early Warning Project globally tracks and analyses a range of risk factors that could lead to future instances of atrocities.<sup>92</sup> Other web-based tools provide information on small arms trade, which can help for early detection of atrocity risk. For instance, iTrace provides policy makers with precise, verified information on transfers of diverted conventional weapons and ammunition.<sup>93</sup> Mapping Arms Data visualises the trade in small arms and their ammunition<sup>94</sup>

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<sup>89</sup> See Alexander Mayer-Rieckh, *Dealing with the Past in Security Sector Reform*. DCAF SSR Paper No. 10 (Geneva: DCAF, 2013), 27-31.

<sup>90</sup> United Nations, Human Rights Council, Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff, A/HRC/30/42 (7 September 2015), available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_42\\_ENG.DOCX](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_42_ENG.DOCX); United Nations, General Assembly, Note by the Secretary-General on Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, A/70/438 (21 October 2015), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N15/326/47/PDF/N1532647.pdf?OpenElement>.

<sup>91</sup> United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), pars. 51-53, available at: <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>.

<sup>92</sup> United States Holocaust Memorial Museum, Early Warning Project, available at: <http://www.ushmm.org/confront-genocide/how-to-prevent-genocide/early-warning-project>. See also annex H.

<sup>93</sup> Conflict Armament Research, iTrace, available at: <http://www.conflictarm.com/itrace/>. See also annex H.

<sup>94</sup> Peace Research Institute Osli (PRIO), Mapping Arms Data (MAD) 1992-2012, available at: <http://nisatapps.prio.org/armsglobe/>. See also annex H.

and the Homicide Monitor maps data on homicide rates around the world.<sup>95</sup> Social networks like Facebook and Twitter can facilitate the sharing of information by citizens, making it easier to alert those at imminent risk and to broadly disseminate information on imminent and on-going atrocities. Applications like Instagram and Snapchat facilitate the sharing of images by citizens, making the images easily searchable and readily accessible through hashtags and keywords. Innovative solutions are also developed by the Peace Informatics Lab, which explores the use of big data for humanity, and develops data-driven solutions that contribute to promoting peace, justice, security and prosperity.<sup>96</sup>

Another example of how data collection and analysis could help prevent atrocities is the use of the Twitter Application Program Interface. With open-source software, data can be collected from the Twitter site on the use of the platform, user profiles, user friends and followers, and what is trending. While data collection on Twitter does not necessarily produce a representative sample (for instance, smartphone penetration may be low in regions where there are high risks for atrocity crimes), the data can be used to identify certain patterns such as increases in the use of certain language in order to identify early warning signs of atrocities. Such a tool has been used to track uses of hate speech. The Geography of Hate project, for instance, “geotags” (assigns location to) tweets using certain racist or homophobic terms in the United States and creates a heat map, showing the geographic location where these tweets are concentrated.<sup>97</sup> In atrocity prevention, similar technologies can be used to monitor Twitter feeds from at-risk countries; however, this would require special coding to be able to identify special characters in the particular language being used and language experts that can monitor these tweets. For the purposes of atrocity prevention, such data collection would require a time-lapse filter to identify changes in the use of hate speech over time as a tool for early warning. Annex H provides examples of how such maps for early warning might look like.

Other online tools provide information on incitement to atrocities and help expose misinformation. Una Hakika, for example, offers subscribers through text messages neutral, accurate information on rumours that arise in the Tana Delta in Kenya.<sup>98</sup> WikiRumours is a web- and mobile-platform for moderating misinformation and disinformation, which can be used to contextualize and mitigate misinformation through community involvement and crisis moderation.<sup>99</sup> Hatebase is a multilingual online tool creating a repository of words and phrases used as hate speech to detect early situations of atrocity risk.<sup>100</sup>

Some web-based applications may be used to raise understanding of atrocities and make organisations more resilient to atrocities. Fighter not Killer is a mobile application that aims

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<sup>95</sup> Igarape Institute, Homicide Monitor, available at: <http://homicide.igarape.org.br/>. See also annex H.

<sup>96</sup> Peace Informatics Lab, available at: <http://www.peaceinformaticslab.org/>.

<sup>97</sup> Humboldt State University, Geography of Hate, available at: [http://users.humboldt.edu/mstephens/hate/hate\\_map.html](http://users.humboldt.edu/mstephens/hate/hate_map.html). See also annex H.

<sup>98</sup> Una Hakika, available at: <http://www.unahakika.org/>. See also annex H.

<sup>99</sup> Wiki Rumours, available at: <http://www.wikirumours.org/>.

<sup>100</sup> Hatebase, available at: <http://www.hatebase.org/>. See also annex H.

to raise awareness of international humanitarian law among armed groups.<sup>101</sup> Organisations like Palantir develop databases and web-based tools to prepare organisations for various crisis situations.<sup>102</sup>

A range of web-based application can provide information on on-going atrocities. CrisisSignal, developed for emergency situations, allows for real-time updates on what is happening on the ground, through the collection of data from local users.<sup>103</sup> Similarly, Global Emergency Overview is designed to share information and analysis on crisis impact in emergency situation.<sup>104</sup> The Humanitarian Kiosk shares up-to-the-minute humanitarian information from emergencies around the world.<sup>105</sup> Ushahidi Crowdmap was developed to map reports of violence in Kenya after the elections in 2008.<sup>106</sup> Similar maps can be developed through Crowdmap.<sup>107</sup> Open source satellite data can be used to track on-going atrocities.<sup>108</sup>

Other web-based tools can be used to record, safely store and analyse information on atrocities. eyeWitness to Atrocities is a mobile application that allows the user to take photos and record video footage while collecting GPS coordinates and date and time stamping the shared data.<sup>109</sup> The International Evidence Locker App is a mobile application to take photos of atrocities, encrypt them, and send them to a secure drop box at a human rights organization for evidence storage.<sup>110</sup> MediCapt allows doctors working in conflict areas to collect, document, and preserve forensic medical evidence of sexual violence to support the local prosecution of these crimes.<sup>111</sup>

## H. Fields Related to Atrocity Prevention

Several policy areas including those related to human rights, the protection of civilians in armed conflict, the Human Rights up Front initiative of the United Nations, conflict prevention, and countering violent extremism are relevant to atrocity prevention. Their

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<sup>101</sup> Geneva Call, Fighter, Not Killer: A Mobile Application to Raise Awareness of the Law of War among Armed Groups (19 May 2015), available at: <http://www.genecall.org/fighter-killer-mobile-application-raise-awareness-law-war-among-armed-groups/>. See also annex H.

<sup>102</sup> Palantir, Disaster Preparedness and Crisis Response, available at: <https://www.palantir.com/disaster-preparedness/>.

<sup>103</sup> Google Play Apps, CrisisSignal, available at: <https://play.google.com/store/apps/dev?id=7133415022327536166&hl=en>. See also annex H.

<sup>104</sup> ACAPS, Global Emergency Overview (GEO) Mobile App, available at: <http://geo.acaps.org/#geomap-tab>. See also annex H.

<sup>105</sup> Humanitarian Response, Humanitarian Kiosk, available at: <https://www.humanitarianresponse.info/en/applications/kiosk>. See also annex H.

<sup>106</sup> Ushahidi, available at: <http://www.ushahidi.com/>. See also annex H.

<sup>107</sup> Crowdmap, available at: <https://crowdmap.com/welcome>.

<sup>108</sup> Yale University Genocide Studies Program, “Tracking the Genocide in Darfur: Population Displacement as Recorded by Remote Sensing,” available at: <https://geography.blog.gustavus.edu/2012/05/10/remote-sensing-a-tool-to-track-the-darfur-genocide/>.

<sup>109</sup> eyeWitness to Atrocities, available at: <http://www.eyewitnessproject.org/>. See also annex H.

<sup>110</sup> The Tech Challenge for Atrocity Prevention, The International Evidence Locker App Update, available at: <http://thetechchallenge.org/the-international-evidence-locker-app-update/>.

<sup>111</sup> Physicians for Human Rights, MediCapt, available at: <http://physiciansforhumanrights.org/medicapt/?referrer=https://www.google.com/>.

goals overlap but do not converge. They can contribute to each other, but they can also get in each other's way. These fields are mentioned briefly in this overview but their approaches cannot be explored in detail, nor how they relate to atrocity prevention.

The *United Nations Human Rights Council* is mandated, among other things, to "address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon."<sup>112</sup> Between 2006 and 2014, the Council convened sixteen special sessions to address situations of on-going human rights violations. The *United Nations High Commissioner for Human Rights* and *various thematic and country-specific United Nations special rapporteurs* to the Human Rights Council also conduct country visits, report on situations at risk, use their good offices, and make public statements to prevent atrocities. Some *human rights treaty bodies* have developed early-warning and early-action procedures to address serious, massive and persistent patterns of violations including the Committee on the Elimination of Racial Discrimination; the Committee on the Prevention of Torture and its Subcommittee; the Committee on the Elimination of Discrimination against Women; and the Committee on Economic, Social, and Cultural Rights.<sup>113</sup> The *Office of the High Commissioner for Human Rights* establishes field presences to promote and protect human rights at the country level. The activities of these different charter- and treaty-based human rights mechanisms are generally complementary to dedicated atrocity prevention mechanisms. Promoting human rights, the rule of law and inclusion is also instrumental to achieve sustainable development.<sup>114</sup> A unitary approach to human rights combined with a policy of human rights mainstreaming is critical to effective atrocity prevention, provided it pays sufficient attention to the specificities of atrocities and their prevention, particularly to inter-communal tensions based on political and economic inequalities along group lines.

The *protection of civilians in armed conflict* encompasses "all activities aimed at ensuring full respect for the rights of individuals" who do not or no longer take part in hostilities, in accordance with relevant provisions in international humanitarian, human rights and

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<sup>112</sup> United Nations, General Assembly resolution 60/251 (2006), A/RES/60/251 (3 April 2006), available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf).

<sup>113</sup> United Nations, General Assembly, Report of the Committee on the Elimination of Racial Discrimination, A/48/18 (15 September 2015), Annex III, available at: [http://dag.un.org/bitstream/handle/11176/201848/A\\_48\\_18-EN.pdf?sequence=2&isAllowed=y](http://dag.un.org/bitstream/handle/11176/201848/A_48_18-EN.pdf?sequence=2&isAllowed=y)); United Nations, General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations Treaty Series, vol. 1465, p. 85, article 20, available at: <http://www.refworld.org/docid/3ae6b3a94.html>; United Nations, General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations Treaty Series, vol. 1249, p. 13, articles 8, 9, available at: <http://www.refworld.org/docid/3ae6b3970.html>; United Nations, General Assembly, Optional Protocol to the International Covenant on Economic, Social and Cultural Rights : resolution adopted by the General Assembly, 5 March 2009, A/RES/63/117, article 11, available at: <http://www.refworld.org/docid/49c226dd0.html>.

<sup>114</sup> United Nations, General Assembly resolution 70/1 (2015), Transforming Our World: the 2030 Agenda for Sustainable Development, A/RES/70/1 (21 October 2015), Goal 16, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/70/1](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1).

refugee law.<sup>115</sup> Regularly, United Nations peace operations are mandated to use force, if necessary, to protect civilians.<sup>116</sup> The concept of protection of civilians in armed conflict is closely related with atrocity prevention. Both concepts share the same normative foundations, both may entail an involvement of the Security Council, and neither can be reduced to military intervention. But humanitarian actors are sometimes concerned that the protection of civilians is needlessly politicised by linking it to the responsibility to protect, which may result in narrowing the humanitarian space and in restrictions of access to vulnerable populations. In his 2012 report to the Security Council on the protection of civilians in armed conflict, the Secretary-General expressed concern with the conflation of the two concepts. The Secretary-General highlighted that the protection of civilians is a legal concept whereas the responsibility to protect is a political concept. There are also differences in scope between the two. The protection of civilians relates to the rights generally of populations caught up in armed conflict, while the responsibility to protect is limited to the gravest violations of international humanitarian and human rights law. In addition, the responsibility to protect is not limited to situations of armed conflict.<sup>117</sup>

The United Nations' *Human Rights up Front* initiative was launched in response to the "systematic failure" of the United Nations in 2008-2009 during the final stages of the armed conflict in Sri Lanka.<sup>118</sup> It places the protection of human rights at the heart of United Nations strategies and operations by ensuring that the United Nations system takes early, coherent and effective action to prevent serious violations of human rights and humanitarian law. In this regard, the United Nations system is making efforts to ensure that all entities collaborate closely in early warning and adopt a common analysis and strategy, and that Headquarters and the field are aligned to address human rights concerns in political prevention efforts. The Human Rights up Front initiative supports the atrocity prevention agenda in reiterating the commitment of the United Nations system and its member states to the protection of human rights. Significant improvements can be made to put human rights at the heart of the United Nations system. Effective atrocity prevention will depend,

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<sup>115</sup> Sylvie Giossi Caverzasio, *Strengthening Protection in War: a Search for Professional Standards* (Geneva: ICRC, 2001); see also Swiss Federal Department of Foreign Affairs, Strategy on the Protection of Civilians, 2013, 6, available at: [https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Strategie-zum-Schutz-der-Zivilbevoelkerung-in-bewaffneten-Konflikten-2013\\_en.pdf](https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Strategie-zum-Schutz-der-Zivilbevoelkerung-in-bewaffneten-Konflikten-2013_en.pdf).

<sup>116</sup> The protection of civilians in peace operation contexts should, however, not be limited to the use of force. It is a "whole-of-mission" responsibility involving three tiers: protection through political process, protection from physical violence, and establishing a protective environment (see Department of Peacekeeping Operations/Department of Field Support, Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations, 9 April 2010, par. 14).

<sup>117</sup> United Nations, Security Council, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, S/2012/376 (22 May 2012), par. 21, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2012/376](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/376).

<sup>118</sup> United Nations, Report of the Secretary-General's Internal Review Panel on the United Nations Action in Sri Lanka (November 2012), available at: <http://www.un.org/News/dh/infocus/Sri Lanka/The Internal Review Panel report on Sri Lanka.pdf>.

however, on the political commitment of individual states and the international community as a whole.

*Conflict prevention* builds on the understanding that violent conflicts can be avoided, or at least mitigated, through the careful analysis of the underlying factors that can result in violent conflict and the triggers that can bring to light historical grievances and result in violence.<sup>119</sup> Atrocities do not always occur in conflict, and not every conflict triggers atrocities. Nevertheless, most atrocities occur in conflict and conflict prevention generally contributes to atrocity prevention, as it aims to prevent conflict through early warning and to tackle the underlying causes of conflict.<sup>120</sup>

*Countering violent extremism* emerged recently as a field in the United States and gained international traction in response to the rise of violent extremism and the changing nature of conflict. On 15 January 2016, the United Nations Secretary-General released the UN's Plan of Action to Prevent Violent Extremism calling for a comprehensive approach encompassing both security-based counter-terrorism measures and systematic preventive steps to address the root causes of extremism.<sup>121</sup> Violent extremist threats can come from a range of actors including violent extremists in stable democracies and extremist groups in weak states that are unable or unwilling to protect their populations. Such groups demonstrate an inherent disregard for international humanitarian law, and their modus operandi has raised the question of how populations at risk can be protected from these groups. The responsibility to prevent atrocities primarily rests in the hands of states. Countering violent extremism focuses on the role and implication of non-state armed groups in atrocities. The countering violent extremism agenda can contribute to atrocity prevention, particularly by addressing the root causes of violent extremism, which are similar to the risk factors associated with atrocity crimes, and by developing "community-oriented approaches to counter hateful extremist ideologies that radicalise, recruit or incite to violence."<sup>122</sup>

## CONCLUSION

Atrocity prevention is conceptually complex and extremely challenging in practice. Some progress has been made but the shortcomings remain glaring and the continuing failures to prevent atrocities are numerous, tragic and shameful. Politics will continue to constrain overall progress in atrocity prevention, particularly when it comes to response activities by the international community. This does not mean that efforts to enhance international response to imminent or on-going atrocities should not continue. But significant

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<sup>119</sup> Organization for Economic Co-Operation and Development, "Encouraging Effective Evaluation of Conflict Prevention and Peacebuilding Activities: Towards DAC Guidance," *OECD Journal on Development* 8, no. 3 (2007).

<sup>120</sup> Alex J. Bellamy, "Conflict Prevention and the Responsibility to Protect," *Global Governance* 14, no. 2 (2008).

<sup>121</sup> "UN Chief Introduces New Action Plan to Prevent Violent Extremism" (15 January 2016), available at <http://www.un.org/apps/news/story.asp?NewsId=53008#.Vp34szZhwZI>.

<sup>122</sup> The White House, "Fact Sheet: The White House Summit on Countering Violent Extremism" (18 February 2015), available at: <https://www.whitehouse.gov/the-press-office/2015/02/18/fact-sheet-white-house-summit-countering-violent-extremism>.

improvements to atrocity prevention can be made if it is localised, integrated into existing policy making, and focused on strengthening national resilience. Creative use of new technologies and adapting approaches from other fields like nuclear non-proliferation and public health can also contribute to more effective atrocity prevention.

## ANNEX A. TERMS AND DEFINITIONS

**Atrocity crimes** refer to the four acts specified in paragraph 138 of the 2005 World Summit Outcome: genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>1</sup>

**Conflict prevention** "involves the application of structural or diplomatic measures to keep intra-state or inter-state tensions and disputes from escalating into violent conflict. Ideally, it should build on structured early warning, information gathering and a careful analysis of the factors driving the conflict."<sup>2</sup>

**Crimes against humanity** encompass a range of acts when committed as part of a widespread or systematic attack against civilian populations, particularly murder, extermination, enslavement, deportation, illegal detention, torture, sexual violence, persecution, enforced disappearance, apartheid, and other inhumane acts of a similar character. Crimes against humanity can be undertaken in times of war and in times of peace.<sup>3</sup>

**Ethnic cleansing** is not a defined international crime but includes acts that are serious violations of human rights and humanitarian law that may themselves amount to crimes against humanity, genocide or war crimes.<sup>4</sup> Ethnic cleansing generally refers to the forced removal by one ethnic (or religious) group of another ethnic (or religious) group from a territory. The coercive practices used for removal can include murder, torture, arbitrary arrest, sexual violence and many other crimes.<sup>5</sup>

**Genocide** refers to "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, including: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction

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<sup>1</sup>United Nations, General Assembly, Report of the Secretary-General on A Vital and Enduring Commitment: Implementing the Responsibility to Protect, A/69/981-S/2015/500 (13 July 2015), footnote 1, available at: <http://www.un.org/en/preventgenocide/adviser/pdf/N1521764%202015%20SG%20Report%20R2P%20English.pdf>; United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf).

<sup>2</sup> United Nations, *United Nations Peacekeeping Operations. Principles and Guidelines* (New York: United Nations, 2008), 17.

<sup>3</sup> United Nations, General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, available at: <http://www.refworld.org/docid/3ae6b3a84.html>, article 7. Similar but not identical definitions are included in the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

<sup>4</sup> United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), footnote 1, available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf), footnote 1.

<sup>5</sup> United Nations, Security Council, Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780, S/1994/674 (27 May 1994), Annex, 3, 33, available at [http://www.icty.org/x/file/About/OTP/un\\_commission\\_of\\_experts\\_report1994\\_en.pdf](http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf).

in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group."<sup>6</sup>

**Populations** within an atrocity prevention framework refers not just to certain groups and not just to citizens but to all populations at risk living within a state's borders, whether nationals or not.<sup>7</sup>

**Protection of civilians in armed conflict** is a legal concept that relates to the rights generally of populations caught up in armed conflict.<sup>8</sup> is a legal concept that relates to all measures aimed at ensuring the rights of individuals who do not or no longer take part in hostilities, in accordance with relevant provisions in international humanitarian, human rights and refugee law.<sup>9</sup>

**Responsibility to protect** is a commitment to prevent atrocity crimes from happening, decisively respond to imminent and ongoing atrocity crimes, and prevent the recurrence of past atrocities. A three-pillar strategy has been devised to implement the responsibility to protect: pillar I encompasses the primary protection responsibilities of the state; pillar II relates to the responsibilities of the international community to assist states in building their protection capacities, encourage states to prevent atrocities, and provide international protection assistance to states; and pillar III refers to the responsibilities of the international community to use peaceful means to protect populations, and to take collective action in a timely and decisive manner, should peaceful means be inadequate and states manifestly fail to protect their populations.<sup>10</sup>

**Transitional justice** "comprises the full range of processes and mechanisms associated with a societies attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement

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<sup>6</sup> United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, A/RES/260(III)A (09 December 1948), Article 2, available at:

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/260\(III\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/260(III)).

<sup>7</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), pars. 11, 46, available at:

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677).

<sup>8</sup> United Nations, Security Council, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, S/2012/376 (22 May 2012), par. 21, available at:

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2012/376](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/376).

<sup>9</sup> Swiss Federal Department of Foreign Affairs, Strategy on the Protection of Civilians, 2013, 6, available at:

[https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Strategie-zum-Schutz-der-Zivilbevoelkerung-in-bewaffneten-Konflikten-2013\\_en.pdf](https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Strategie-zum-Schutz-der-Zivilbevoelkerung-in-bewaffneten-Konflikten-2013_en.pdf).

<sup>10</sup> United Nations, General Assembly, Report of the Secretary-General on Implementing the Responsibility to Protect, A/63/677 (12 January 2009), available at:

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/63/677](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677).

(or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.”<sup>11</sup>

**War crimes** refer to serious violations of *jus in bello* (law in international and non-international armed conflict) that entail individual criminal responsibility. They include grave breaches of the Geneva Conventions and other serious violations of the laws and customs applicable in international armed conflict and in conflicts “not of an international character” listed in the Rome Statute. In the context of atrocity prevention, not all war crimes are of concern but only those that impact on the protection of human life and are committed as part of a large-scale plan or attack against populations. The prohibited acts include, *inter alia*, murder; mutilation, cruel treatment and torture; taking of hostages; intentionally directing attacks against the civilian population; and rape, sexual slavery, forced pregnancy or any other form of sexual violence.

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<sup>11</sup> United Nations, Security Council, Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, S/2004/616 (23 August 2004), available at: <http://www.ipu.org/splz-e/unga07/law.pdf>, par. 8.

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## ANNEX C. ATROCITY AND CONFLICT EARLY WARNING TOOLS

Following the end of the Cold War and as a reaction to the international community's failure to prevent the genocide in Rwanda in 1994, many international organizations and bilateral development agencies have integrated early warning mechanisms into policy decision making. There has been significant intellectual and financial investment in this area in the last decades in an attempt to create systems that allow for the collection and analysis of information to allow for preventive action in a timely manner prior to the eruption of violent conflict based on the understanding that conflicts do not erupt from one day to the next, but rather build on a variety of underlying tensions. Having a framework that can be adapted and utilized in a number of different situations does not only facilitate the systematic analysis of the conditions on the ground but also provides the adequate conditions for comparison. However, the international community still struggles to understand and anticipate the consequences of clear warning signs. Quantitative early warning systems have strong predictive capabilities when it comes to political crisis and instability. These models, combined with state fragility indexes often help provide a list of countries that need to be on the international community's "watch list" regarding the possibility of conflict and instability, allowing international and regional organizations to act proactively. Qualitative methods provide the necessary background and contextual analysis to understand the root causes of conflict. Comprehensive early-warning systems combine both qualitative and quantitative tools.<sup>12</sup>

The tables on the following pages present a series of early warning systems and state fragility indexes including those used by different governments and international organizations.

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<sup>12</sup> OECD (2009), Preventing Violence, War and State Collapse: The Future of Conflict Early Warning and Response, Conflict and Fragility, OECD Publishing, Paris.

## Quantitative Models and Methods - Violent Conflict and State Fragility

Violent conflict	
Leiden University (Netherlands): Inter-Disciplinary Research Programme on Root Causes of Human Rights Violations	Kansas University (United States): Protocol for the Assessment of Non-violent Direct Action (PANDA); Kansas Events Data System (KEDS)
Georgia Institute of Technology (United States): Conflict Early Warning Project – Pattern Recognition	Fein (United States): Life Integrity Violations Analysis (LIVA)
Carleton University (Canada): Country Indicators for Foreign Policy (CIFP)	Virtual Research Associates (United States): GeoMonitor
Economist Intelligence Unit (United Kingdom): The Global Peace Index	US Naval Academy (United States): State Failure Project; Accelerators of Genocide Project
State fragility	
The Fund for Peace (United States): Failed States Index (annual) <sup>3</sup>	University of Maryland/Centre for International Development and Conflict Management (United States): Peace and Conflict Instability Ledger (annual)
George Mason University (United States): State Fragility Index (annual)	Center for Global Development (United States): Engaging Fragile States
Political Instability Task Force (United States): Internal Wars and Failures of Governance 1955-2006	Center for Systemic Peace (United States): Polity IV, Coups d'Etat, PITF Problem Set
Carleton University (Canada): Country Indicators for Foreign Policy (CIFP)	Institute for State Effectiveness (United States): Sovereignty Index
United Agency for International Development (United States): Measuring State Fragility	

\*\* Table from: OECD, Preventing Violence, War and State Collapse (2009)

## Qualitative Models and Methods - Violent Conflict and State Fragility

Violent conflict	
Conflict Prevention and Post-Conflict Reconstruction (CPR) Network: Early Warning and Early Response Handbook (V2.3) (2005); Peace and Conflict Impact Assessment Handbook (V2.2) (2005); <i>Guide de Diagnostic des Conflits</i> (2003)	United States Agency for International Development (United States): Conflict Assessment Framework (2005); Conducting a Conflict Assessment: A Framework for Strategy and Program Development (2004)
Bush: A Handbook for Peace and Conflict Impact Assessment (2004)	UNDP: Conflict-Related Development Analysis (2002); Peace and Development Analysis (2003)
Department for International Development (United Kingdom): Conducting Strategic Conflict Assessments (2002)	World Bank: Conflict Analysis Framework (2002)
<i>Deutsche Gesellschaft für Technische Zusammenarbeit</i> (Germany): Conflict Analysis for Project Planning and Management (2001)	Forum on Early Warning and Early Response (United Kingdom): Conflict Analysis and Response Definition (2001)
FEWER, International Alert, Saferworld (United Kingdom): Development in Conflict: A Seven Step Tool for Planners (2001)	CARE International (United States): Benefits-Harms Handbook (2001)
Clingendael Institute (Netherlands): Conflict and Policy Assessment Framework (2000)	European Commission: Check-List for Root Causes of Conflict (1999); Peace-building and Conflict Prevention in Developing Countries : A Practical Guide (1999); Peace and Conflict Impact Assessment: A Practical Working Tool for Prioritising Development Assistance in Unstable Situations (1999)
German Federal Ministry for Economic Cooperation and Development (BMZ): An Indicator Model for Use as an Additional Instrument for Planning and Analysis in Development Co-operation (1998)	Forum on Early Warning and Early Response (United Kingdom): A Manual for Early Warning and Early Response (1998)
The Fund for Peace (United States): Conflict Assessment System Tool (1996)	
State fragility	
Canadian International Development Agency (Canada): On the Road to Recovery: Breaking the Cycle of Poverty and Fragility: A Guide for Effective Development Cooperation in Fragile States (2007)	Department for International Development (United Kingdom): Scenario and Contingency Planning for Fragile States (2007); Country Governance Analysis (2006); Drivers of Change (2003)
Netherlands Ministry of Foreign Affairs (Netherlands): The Stability Assessment Framework: Designing Integrated Responses for Security, Governance and Development (2005)	Prime Minister's Strategy Unit (United Kingdom): Countries at Risk of Instability: Country Strategy Formulation Process Manual (2005)

\*\* Table from: OECD, Preventing Violence, War and State Collapse (2009)

Governmental, Inter-Governmental, and Non-Governmental Early Warning Systems

Governmental early warning systems	Inter-governmental early warning systems	Non-governmental early warning systems
<i>Secrétariat Général de la Défense Nationale (France): Système d'Alerte Précoce (SAP)</i>	United Nations: OCHA – Early Warning Unit; Humanitarian Situation Room (Colombia) UNDP – Country-level early warning systems in Ghana, Kenya, Ukraine (Crimea), Bolivia (PAPEP), Balkans, Kyrgyzstan	FEWER-Eurasia (Russia); FWER-Eurasia Network  ISS (South Africa): Early Warning System
German Federal Ministry for Economic Cooperation and Development (BMZ): Crisis Early Warning System	EU: EU Watch List	swisspeace (Switzerland): Early Recognition and Analysis of Tensions (FAST)
United States Government: Office of the Coordinator for Reconstruction and Stabilization and National Intelligence Council: Instability Watch List	AU: Continental Early Warning System (CEWS)  CEEAC: Mécanisme d'Alerte Rapide pour l'Afrique Centrale (MARAC)	Russian Academy of Sciences (Moscow): Network for Ethnological Monitoring and Early Warning (EAWRN)  Foundation for Tolerance International (Kyrgyzstan): Early Warning for Violence Prevention Project
	ECOWAS: ECOWAS Early Warning and Early Response Network (ECOWARN)	Crisis Group (Belgium): Crisis Watch
	IGAD: Conflict Early Warning and Response Mechanism (CEWARN)	Foundation for Co-Existence (Sri Lanka): Program on Human Security and Co-Existence
	OSCE: Centre for Conflict Prevention	West Africa Network for Peacebuilding (Ghana): Early Warning and Response Network (WARN)  FEWER-Africa (Kenya): Ituri Watch (Democratic Republic of Congo)

\*\* Table from: OECD, Preventing Violence, War and State Collapse (2009)

Conflict early warning system models have often served as the basis for atrocity prevention early warning systems, as many of the indicators that are measured for monitoring instability and the emergence of conflict are often present when atrocity crimes take place. Some examples of early warning systems designed for the prevention of atrocity crimes are outlined and described below.

## Office of the Special Advisors on the Prevention of Genocide and the Responsibility to Protect

The UN Office of the Special Advisors on the Prevention of Genocide and the Responsibility to Protect is tasked, among other things, with collecting information on situations where there may be a risk of genocide, war crimes, ethnic cleansing and crimes against humanity in order to serve as a mechanism of early warning for the Security Council and other parts of the UN system. The Office uses a combination of common and specific risk factors to assess the risk of atrocity crimes. These risk factors (listed below) are identified as conditions or situations that increase the risk of atrocity crimes, including a variety of behaviours and circumstances that create an environment that is susceptible to these crimes. The fourteen risk factors are accompanied by a set of indicators, which facilitate the collection and assessment of information.

### Common Risk Factors

- Risk Factor 1: Situations of armed conflict or other forms of instability
- Risk Factor 2: Record of serious violations of international human rights and humanitarian law
- Risk Factor 3: Weakness of State structures
- Risk Factor 4: Motives or incentives
- Risk Factor 5: Capacity to commit atrocity crimes
- Risk Factor 6: Absence of mitigating factors
- Risk Factor 7: Enabling circumstances or preparatory action
- Risk Factor 8: Triggering Factors

### Specific Risk Factors

- Risk Factor 9: Intergroup tensions or patterns of discrimination against protected groups
- Risk Factor 10: Signs of an intent to destroy in whole or in part a protected group
- Risk Factor 11: Signs of a widespread or systematic attack against any civilian populations
- Risk Factor 12: Signs of a plan or policy to attack any civilian population
- Risk Factor 13: Serious threats to those protected under international humanitarian law
- Risk Factor 14: Serious threats to humanitarian or peacekeeping operations

For more detailed information on the UN's early warning system see: United Nations, Framework of Analysis for Atrocity Crimes: A Tool for Prevention (2014), available at: [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf).

## Continental Early Warning System (CEWS)

The Continental Early Warning System (CEWS), one of the five pillars of the African Peace and Security Architecture (APSA), is tasked with data collection and analysis to advise the Peace and Security Council (PSC) on “potential conflict and threats to peace and security in Africa.”

CEWS consists of:

1. Observation and Monitoring Centre: known as the Situation Room, part of the Conflict Management Division in the African Union.
2. Observation and Monitoring Units of the Regional Mechanisms for Conflict Prevention, Management and Resolution (linked to the Situation Room).

### Mandate

- Data collection and analysis;
- Engagement with decision makers; and
- Co-ordination and collaboration with the Regional Economic Communities/Regional Mechanisms (RECs/RMs).

### CEWS Information Gathering Tools

- Africa Media Monitor: automated data-gathering software that collects real-time information from a variety of sources in various languages;
- CEWS Portal: software used for information sharing;
- Indicators and Profiles Module: a database for the collection and appropriate management of structural information baselines, to help with risk assessments;
- Africa Reporter: an analytical tool tailored to the CEWS indicators and templates to facilitate the submission of incident and situation reports from field missions;
- Africa Prospectus: a tool designed to forecast risk propensity or vulnerability; and
- Live-Mon: software that performs an automatic geo-localization of news items so events can be displayed on a map.<sup>13</sup>

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<sup>13</sup> African Peace and Security Architecture “2010 Assessment Study” African Union Peace and Security Department, available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20African%20Peace%20and%20Security%20Architecture.pdf>

## Early Warning Project

The Early Warning Project (EWP) utilizes a wide range of data to evaluate the risks of mass atrocities and genocide in countries at risk. EWP uses a statistical component that is combined with expert opinions on the conditions on the ground to assess the risk factors for atrocity crimes. The systems highlight countries where atrocities are taking place, for example Syria, yet it seeks to bring attention to those countries where these crimes have not yet been perpetuated but the risks are high. In doing so, EWP attempts to provide the necessary information for early action and preventative measures.

EWP uses three models to conduct its statistical analysis:

1. PITF/HARFF: a logistics regression model approximating the structural model of genocide/politicide risk (developed by Barbara Harff for the Political Instability Task Force). The model applied to states that are experiencing a civil war or adverse regime change, producing an estimate of the risk of genocide or politicide.
2. Elite Threat: a logistic regression model that uses the natural log of predicted probabilities of two other logistics regression models – one of civil-war onset, the other of coup attempts – as its only inputs.
3. Random Forest: machine learning technique applied to the variables used in the first two models.

This statistical analysis of the risk factors that could lead to atrocity crimes is combined with an Expert Opinion Pool, which summarizes expert opinion on the country's risk of mass atrocities. The use of an opinion pool in the hands of a large number of experts allows for the assessment and tracking of changes of risk in the risks, providing a qualitative analysis of what is happening on the ground.<sup>14</sup>

## Political Instability Task Force

The Political Instability Task Force (PITF) uses an empirically and theoretically grounded, database system for risk assessment of genocidal violence. The model provides a framework to identify and rank the risks of genocide and politicide in countries with armed conflict, starting in 2001 and has been updated in subsequent years.<sup>15</sup> The model utilizes the following five risk analysis variables (the original model included six variables but after additional data was entered the model was adjusted in 2014 and only five of these variables proved to be significant):

1. State-led discrimination against any ethnic or religious minority
2. Exclusionary ideology held by a ruling elite

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<sup>14</sup> Early Warning Project, "Frequently Asked Questions," available at: <http://www.earlywarningproject.com/faq>.

<sup>15</sup> Genocide Prevention Advisory Network, "Barbara Harff's risk assessments," available at: <http://www.gpanet.org/content/barbara-harffs-risk-assessments>.

3. Minority elite or contention over elite ethnicity
4. Type of polity, autocracy versus democracy using a 20-point scale
5. Past use of genocidal policies<sup>16</sup>

## Sentinel Satellite Project

The Sentinel Satellite Project (SSP) uses DigitalGlobe satellites passing over Sudan and South Sudan and captures imagery of possible threats to civilians, detects bombs and razed villages, or notes other evidence of pending mass violence. The imagery produced by the satellites is then analysed by experts in conjunction with information from sources on the ground to produce reports that are sent to the press, policy makers and activists. SSP attempts to systematically monitor and report on potential hotspots and threats to human security in near real-time by synthesizing evidence from satellite imagery, data pattern analysis, and ground sourcing to produce reports.<sup>17</sup>

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<sup>16</sup> Genocide Prevention and Advisory Network, “Hazar of onsets of genocide/politicide in 2015,” available at: <http://www.gpanet.org/node/567>.

<sup>17</sup> Satellite Sentinel Project, available at: <http://www.satsentinel.org/our-story>.

## ANNEX D. VERIFICATION IN THE NON-PROLIFERATION REGIME

The UN's Framework of Analysis for Atrocity Crimes outlines 14 risk factors that need to be monitored.<sup>18</sup> From a prevention point of view, the international community needs to access information in a timely manner to be able to determine how alarming a situation is. Proper verification of the data collected is central in validating this information.

The idea of creating a robust verification regime to prevent atrocity crimes has been consistently reiterated in many international fora. According to the 2005 report on the work of the Office of the Special Adviser of the United Nations Secretary-General on the Prevention of Genocide, “it was suggested... that the Special Adviser develop a ‘genocide alert’ scale that ranks relevant situations in terms of risk based on multiple indicia, and to engage in fact verification where a situation has escalated beyond a certain threshold.”<sup>19</sup> In fact, the mandate of the Special Adviser on the Prevention of Genocide entails “the careful verification of facts and political analyses and consultations, often not publicly released, to help define the steps necessary to prevent situations of genocide.”<sup>20</sup> Other ideas circulated included “on-site visits and confidence-building activities.”<sup>21</sup>

One of the fields where safeguarding through verification takes place in a thorough manner is the Weapons of Mass Destruction (WMD) non-proliferation regime. On the nuclear weapons’ front, the “[International Atomic Energy Agency] (IAEA) safeguards are generally acknowledged as the single credible means by which the international community can be assured that nuclear material and facilities are being used exclusively for peaceful purposes.”<sup>22</sup>

The cumulative experience gained by the IAEA regarding confidence building, early warning and providing international assurance is something that could benefit those working on the prevention of atrocities. The more a society is open about its internal dynamics, the less likely there is something to hide which in itself is an important indicator. According to the IAEA, “this system functions not only as a confidence building measure, but also as an early warning mechanism.”<sup>23</sup> The international community has had a significant breakthrough in safeguarding nuclear material. The lessons learned there can perhaps provide a framework for preventing atrocity crimes. These lessons include:

1. Norm-building through having agreed-upon international instruments and frameworks;
2. Establishing a multilateral and transparent verification body;
3. Maximizing the utilization of technologies and reducing the human element;

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<sup>18</sup> [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf). See also annex C above.

<sup>19</sup> Ibid.

<sup>20</sup> <http://www.responsibilitytoprotect.org/index.php/component/content/article/3618>.

<sup>21</sup> [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf).

<sup>22</sup> <https://www.iaea.org/sites/default/files/safeguards0408.pdf>.

<sup>23</sup> Ibid.

4. Engaging in transparency and confidence building activities beyond the legal obligations;
5. Creating a ‘system of systems:’ accounting agencies and regional bodies that collaborate with the international entities;
6. Finding synergies between the data collected by the verification regime and other fields where it can be useful to create broader buy-in.

## ANNEX E. INSTITUTIONS, NETWORKS AND ACTORS IN ATROCITY PREVENTION

The following list is a compilation of key institutions, networks and actors in atrocity prevention. The list is not exhaustive because the boundaries of the field are not clearly defined and continuously expand.

### United Nations System

- General Assembly
  - Human Rights Council
- Security Council
- United Nations Secretariat
  - Executive Office of the Secretary-General
    - Secretary-General
    - Special and Personal Representatives, Envoys and Advisers to the Secretary-General
  - Department of Political Affairs
    - Office of the Special Adviser of the Secretary-General on the Prevention of Genocide
      - Special Adviser on the Prevention of Genocide
      - Special Adviser on the Responsibility to Protect
    - Policy and Mediation Division
    - Special Political Missions
  - Department of Peacekeeping Operations
    - Peacekeeping Operations
  - Office for the Coordination of Humanitarian Affairs
  - Office of the United Nations High Commissioner for Human Rights
    - High Commissioner for Human Rights
    - Field Presences
- Office of the United Nations High Commissioner for Refugees
- Peacebuilding Commission

### Regional Organizations

- African Union
  - Peace and Security Council
- European Union
- Organization of American States
  - Inter-American Commission on Human Rights
  - Inter-American Court on Human Rights

- Organization of Islamic Cooperation
- Organization of Security and Co-operation in Europe
  - High Commissioner on National Minorities
- Regional Committee on the Prevention and Punishment of Genocide, War Crimes, Crimes against Humanity and All Forms of Discrimination of the International Conference on the Great Lakes Region
- Association of Southeast Asian Nations
- North Atlantic Treaty Organization
- Economic Community of West African States
- Caribbean Community
- International Committee on the Great Lakes Region

## International and Regional Groups and Networks

- African Task Force on the Prevention of Mass Atrocities
- Africa Youth Initiative Network
- ASEAN High-Level Panel on R2P
- Genocide Network of the European Union
- Global Action Against Mass Atrocity Crimes
- Global Network of R2P Focal Points
- Group of Friends of the Responsibility to Protect
- High Level Advisory Panel on the Responsibility to Protect in Southeast Asia
- International Coalition for the Responsibility to Protect
- Latin American Network for Genocide and Mass Atrocity Prevention
- Task Force on the EU Prevention of Mass Atrocities
- West Africa Civil Society Institute
- West Africa Network for Peacebuilding

## Examples of National Institutions

- All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes Against Humanity (Canada)
- Genocide Prevention Task Force (USA)
- National Committee on the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination (Kenya, Rwanda, Uganda, and Tanzania)
- National R2P Focal Points
- Office of War Crimes Issues (USA)
- Standing Inter-Agency Atrocities Prevention Board (USA)
- Task Force Dealing with the Past and Prevention of Atrocities (Switzerland)

## Examples of Research, Advocacy and other Non-Governmental Groups

- Asia-Pacific Centre for the Responsibility to Protect
- Atrocities Watch Africa
- Auschwitz Institute for Peace and Reconciliation
- Budapest Centre for the International Prevention of Genocide and Mass Atrocities
- Canadian Centre for the Responsibility to Protect
- Canadian Lawyers for International Human Rights
- Cardozo Law Institute in Holocaust and Human Rights
- Center for the Study of Genocide and Human Rights
- Centre for Peace and Conflict Studies
- Centre for Peace and Conflict Studies at the University of Sydney
- Centro de Estudios sobre Genocidio
- Coalition Against Genocide
- Damascus Center for Human Rights Studies
- East Africa Law Society
- Fundación para la Paz y la Democracia
- End Impunity
- Engaging Government on Genocide Prevention
- Enough Project
- Fund for Peace
- Genocide Alert
- Genocide Prevention Advisory Network
- Genocide Prevention Now
- Genocide Watch
- Global Action to Prevent War
- Global Centre for the Responsibility to Protect
- Human Rights Watch
- ICC Coalition
- Impunity Watch
- Initiatives for International Dialogue
- International Association of Genocide Scholars
- International Center for Transitional Justice
- International Coalition for the Responsibility to Protect
- International Crisis Group
- International Network of “Infrastructure for Peace”
- International Refugee Rights Initiative
- International Security Sector Advisory Team
- Kofi Annan International
- Minority Rights Group International

- Montreal Institute for Genocide and Human Rights Studies
- Online Encyclopaedia of Mass Violence
- Stockholm International Peace Research Institute
- The Sentinel Project
- The Stanley Foundation
- United to End Genocide

## ANNEX F. LOCAL CONFLICT RESOLUTION MECHANISMS

Fostering local ownership and indigenous mechanisms in conflict resolution have been recognized as effective ways to resolve disputes and address grievances to prevent the escalation of conflict. These “local traditions of conflict mediation are mainly informal and rely on social codes.”<sup>24</sup> Such local mechanisms utilize the traditional leadership in a given society and capitalize on their authority to promote non-violent resolutions. According to Global Communities – an international non-profit that works closely with communities worldwide to bring about sustainable changes and improve the livelihoods of the vulnerable – “when local actors resolve differences at the community level, they share both a sense of ownership and accountability, which makes their collective work toward a common goal more fruitful and successful.”<sup>25</sup> For instance, “in Afghanistan’s recent history, the most effective agents in advancing peace and security at the local level have been indigenous structures such as Shura and Jirga councils, as well as Maliks.”<sup>26</sup> In Rwanda, the government passed a law following the 1994 genocide recognizing the role of “Abunzi” or local mediators in disputing crimes and resolving conflicts.<sup>27</sup> Below, there is a list of examples of local conflict resolution mechanisms from around the world that could serve as basis for similar initiatives in the prevention of atrocity crimes.

### Rwanda

The *Abunzi*, which literally translates to “those who reconcile,” is a traditional local institution for conflict resolution in Rwanda. The *Abunzi* are local mediators, mandated by the state to serve as mediators and conciliators to solve local disputes by reaching a mutually acceptable solution to any conflict. The *Abunzi* are selected based on their integrity and are charged with managing local cases of civil and criminal nature. This system of local conflict resolution provides a mechanism of decentralized justice, making it more accessible and affordable to local communities. The *Abunzi*’s role was reinforced following the 1994 genocide as part of the government’s toolbox of reconciliation and justice initiatives.<sup>28</sup>

The *Gacaca* courts, based loosely on Rwandan traditional dispute resolution mechanisms, were put in place by the Rwandan government following the 1994 genocide to provide justice and prosecute those accused of genocide crimes. *Gacaca* courts have prosecuted thousands of individuals for crimes against humanity, have opened dialogues between community members

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<sup>24</sup> [http://www.berghof-foundation.org/fileadmin/redaktion/Publications/Other\\_Resources/NEP\\_Local\\_Conflict\\_Resolution\\_Mechanisms.pdf](http://www.berghof-foundation.org/fileadmin/redaktion/Publications/Other_Resources/NEP_Local_Conflict_Resolution_Mechanisms.pdf).

<sup>25</sup> [http://www.globalcommunities.org/publications/3\\_28\\_2013-partners-for-peace.pdf](http://www.globalcommunities.org/publications/3_28_2013-partners-for-peace.pdf).

<sup>26</sup> <http://www.usip.org/publications/enhancing-traditional-local-conflict-resolution-techniques-in-afghanistan>.

<sup>27</sup> <http://scar.gmu.edu/book-chapter/local-conflict-resolution-rwanda-case-of-abunzi-mediators>.

<sup>28</sup> Martha Mutisi (2011) “The Abunzi Mediation in Rwanda: Opportunities for Engaging with Traditional Institutions of Conflict Resolution,” *Policy & Practice Brief*, ACCORD, 012.

regarding the genocide in 1994, and have helped create a narrative of what took place at the local level. The *Gacaca* courts have had mixed reactions from the international community. Some saw this initiative as a way to take advantage of traditional Rwandan institutions in a modern setting, while allowing for community and public participation in the justice process. However, others questioned the ability of these courts of providing a fair trial.<sup>29</sup>

## Haiti

Haiti's instability throughout its history has led to a lack of trust in many of the state institutions and often a lack of access by many of the marginalized populations in the country to the services provided by the state. As a result, local communities have often resorted to other forms of conflict resolution that are community based and outside of state institutions. Conflict resolution mechanisms vary throughout the country and different communities use different models, most of which fall either under consensual methods or adjudication methods.

- Consensual methods: consists of three phases, a first phase of dialogue between the contending parties with the help of a facilitator (often a community leader, church leader, or elder). Both parties first meet with the facilitator on their own and then come together to discuss their grievances. The second phase consists of a negotiation between the parties with the help of the mediation of a committee of community leaders. The final phase consists of a decision or solution accepted by both parties. The role of local community leaders as facilitators and mediators is key in this process.
- Adjudication methods: adjudication methods also consist of community involvement in the dispute, often one of the parties will approach his or her community association or church group to discuss their grievances. The community group then sets a date to deliver their decision or verdict to both parties, different from the consensual methods, there is no consensus-making processes, instead the authority rests solemnly in the hands of the community leaders.<sup>30</sup>

These local models, with prominent community involvement, help identify conflicts early and by doing so allow for resolutions before escalation. Also, having the decisions at the hands of community leaders who understand the realities on the ground, the challenges, and local grievances are often perceived as more just and fair.

## Cambodia

The Khmer Rouge Tribunal (KRT), which began its work in 2007, was established to deliver retributive justice at the national level. Regardless of the merits to date of the work of the tribunal, this mechanism fails to provide a form of restorative justice to the majority of

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<sup>29</sup> Timothy Longman (2009) "An Assessment of Rwanda's Gacaca Courts," *Peace Review*, 21:3.

<sup>30</sup> Hauge Wenche, Rachelle Doucent & Allain Gilles (2015) Building peace from below – the potential of local models of conflict prevention in Haiti, *Conflict Security & Development*, 15:3, 259-282.

Cambodians. Reconciliation processes at the local level are key in moving beyond the grievances left by the atrocities committed by the Khmer regime and in order to prevent future conflict.<sup>31</sup> The Khmer Institute of Democracy (KID), recognizing the gap between peacebuilding and conflict resolution, established a program training civil society members with conflict-focused capacity building, recognizing that reconciliation and conflict resolution are culturally embedded and require a local mechanism in order to be effective. KID has trained a variety of stakeholders including Commune Councillors, grassroots community leaders and members of their Citizen Advisors Network (CAN) (a group of 200 volunteers spread throughout the country, composed mostly of teachers and administrators, who offered to serve as mediator and conciliators for their local communities).<sup>32</sup> The KID has also established Community Mediation Centres with the goal of promoting non-violent restorative justice and conflict resolution at the local level, providing locally-based, professional quality mediation services for community members living in one of the nine provinces where it currently operates.<sup>33</sup>

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<sup>31</sup> Mneesha Gellman. (2008) “No justice, no peace? National reconciliation and local conflict resolution in Cambodia,” *Asian Perspective*, 32/2, 37-57.

<sup>32</sup> The Khmer Institute of Democracy, “Citizen Advisors as Mediators: A Network for Rural Cambodia Human Rights Defense,” available at: [http://kidcambodia.org/index.php?option=com\\_content&task=view&id=49&Itemid=](http://kidcambodia.org/index.php?option=com_content&task=view&id=49&Itemid=).

<sup>33</sup> The Khmer Institute of Democracy, “Community Mediation Centres (CMCs),” available at: [http://kidcambodia.org/index.php?option=com\\_content&task=view&id=47&Itemid=56](http://kidcambodia.org/index.php?option=com_content&task=view&id=47&Itemid=56).

## ANNEX G. ATROCITY PREVENTION WITH A PUBLIC HEALTH APPROACH

Prevention stands at the heart of public health approaches to both communicable and non-communicable diseases based on the understanding that interventions that aim to reduce risks and threats to an individual's health are more likely to be successful when done at early stages than once a disease has fully manifested itself and the health of the individual has been severely affected. Under the umbrella of prevention, the field recognizes that preventative interventions need to happen at various stages. Primary prevention takes place before there are symptoms, focusing on the risk factors that could result in health problems and disease, this aspect of prevention can often focus on psychosocial interventions including promoting healthy nutrition, physical activity, and emotional health, among others; all of which are the basis for healthy individuals. Secondary prevention is shaped by the presence of risk factors and interventions are determined by the impact and gravity of these factors. At this stage, interventions need to be timely and surgical in addressing prominent risk factors or even symptoms. Tertiary prevention focuses on longer-term interventions that address the existence of a disease and the consequences and negative impact to the health of the individual and works towards reducing the harms and once cured reduce the chances of recurrence.<sup>34</sup> These three stages of prevention map the different range of interventions available in public health to address diseases and its harms, recognizing that prevention needs to happen at different stages and needs to include a multi-layered and multifaceted approach that encompasses other health areas beyond the medical.

The public health approach to violence prevention draws from a multi-disciplinary approach relying on knowledge from fields like medicine, epidemiology, sociology, psychology, criminology, education, etc. This multi-discipline approach allows the field to respond successfully to a range of conditions across the globe by counting on collective action on the part of a variety of stakeholders in addressing the problem of violence.<sup>35</sup> The public health approach requires that focus be placed on primary violence prevention, to lessen the consequences of violence for perpetrators and victims by considering host (individual), agent-related (weapon), and environmental (socio-cultural) antecedents in prevention models and emphasizing the need for sustainable, targeted interventions. The premises of this approach are that when violence prevention is understood as a public health problem it may actually be prevented. Two of the frameworks for prevention are the public health approach to violence prevention and the Haddon Matrix for injury prevention. The former divides the problematic into four stages: problem definition and surveillance, risk factor identification, development, testing, and implementation of interventions, and outcome measurement. The latter divides

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<sup>34</sup> Williams, D.J. & Donnelly, P.D. "Is violence a disease? Situating violence prevention in public health policy and practice," *Public Health*, 128 (2014) 960-967.

<sup>35</sup> Injury Prevention & Control: Division of Violence Prevention. "The Public Health Approach to Violence Prevention." Center for Disease Control and Prevention. <http://www.cdc.gov/violenceprevention/overview/publichealthapproach.html>.

each potentially injurious event into human factors, agent factors, and environmental factors, and takes all three into consideration when developing a thorough plan of prevention at three different stages, before, during, and after the incident.

The synergies between the fields of prevention of atrocities and public health can be further highlighted when comparing the public health constructs of primary, late primary/secondary, and tertiary violence prevention as they correspond quite closely to the ICISS international responsibilities to prevent, react, and rebuild.<sup>36</sup> The public health approach to the prevention of violence can serve as a model when thinking about prevention strategies with regards to atrocity crimes as it focuses on specific tools and interventions at particular stages. Starting with primary prevention, focusing on addressing the root causes of violence through educational, sociological, and communal interventions, the focus is prevention at its broadest. Late primary/secondary interventions result from instances of violence but before these are transformed into full violent episodes, in the prevention of atrocities the timing would represent where instances of atrocity crimes begin to surface focusing on preventing the escalation of violence. Finally, tertiary violence prevention focuses on the reconciliation of victim and victimizer, as well preventing recurrence by addressing root causes of violence. This multistage approach to prevention could serve as basis for the prevention of atrocities as the scope of what prevention means varies and is adapted depending on the stage at which prevention is taking place.

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<sup>36</sup> Adler, Reva N., James Smith, Paul Fishman, and Eric B. Larson. "To Prevent, React, and Rebuild: Health Research and the Prevention of Genocide." *Health Serv Res Health Services Research*: 2027-051.

## ANNEX H. NEW TECHNOLOGIES FOR ATROCITY PREVENTION

### Early Warning Project

The image shows two screenshots of the Early Warning Project website. The top screenshot displays a world map where countries are colored according to their statistical risk of state-led mass killing, with a legend ranging from 'LOWEST' (blue) to 'HIGHEST' (red). The bottom screenshot shows detailed risk assessments for Burundi, including a 'Statistical Risk Assessment' chart for 2015 and 2014, an 'Expert Opinion Pool' chart for January 2016, and a blog post titled 'Results from a Recent WikiSurvey on Policy Options in Burundi'.

The Early Warning Project combines quantitative and qualitative analysis to produce risk assessments for the potential for mass atrocities around the world, to be used by governments, advocacy groups, and at-risk societies with earlier and more reliable warning, and thus more opportunities to intervene early. For more information see: <http://www.ushmm.org/confront-genocide/how-to-prevent-genocide/early-warning-project>.

## iTrace

The image consists of two screenshots of the iTrace website. The top screenshot shows a world map with a search bar containing 'Search ...' and a magnifying glass icon. The map is labeled 'Powered By Dfuze'. The bottom screenshot shows a search results page for 'syria'. The search bar contains 'syria'. The results list four entries: 'M16A4 - Rifles and carbines' (Date documented: 26 Jul 2014 19:11), 'Ulyanovsk Machinery Plant - 3\_\*\_87\*' (Date documented: 25 Jul 2014 18:15), 'Ulyanovsk Machinery Plant - 3\_\*\_79\*' (Date documented: 25 Jul 2014 18:15), and 'Ulyanovsk Machinery Plant - 3\_\*\_88\*' (Date documented: 25 Jul 2014 18:15). To the right of the results is a map of the Middle East and North Africa, with labels for countries like Syria, Iraq, Iran, Saudi Arabia, and Egypt. The map is also labeled 'Powered By Dfuze'.

iTrace provides policy makers with precise, verified information on transfers of diverted conventional weapons and ammunition by combining an extensive program of in-conflict field investigations with a public access weapon-tracking database. For more information see: <http://www.conflictarm.com/itrace/>.