



AP R2P

Asia Pacific Centre for the Responsibility to Protect

P: +61 7 3346 64 • E: r2pinfo@uq.edu.au

MAY 2016 • ISSUE 29



SPOTLIGHT ON R2P

The Second International Meeting of the Global Action Against Mass Atrocity Crimes (GAAMAC II) on Preventing Atrocities

HOW TO STRENGTHEN NATIONAL ATROCITY PREVENTION ARCHITECTURES.

Professor Alex Bellamy, director of the Asia Pacific Centre for the Responsibility to Protect, took part in the Second International Meeting of the Global Action Against Mass Atrocity Crimes, held in Manila, the Philippines, from 2-4 February 2016. While at the meeting, Professor Bellamy gave a presentation on the impor-

ance of building national systems strong enough to constructively manage diversity and prevent atrocity crimes within states.

Strengthening national architectures

To put an end to atrocity crimes, we need to forge a world of states capable of and committed to protecting their own populations. In the long run, therefore, the success of our endeavors will be determined not by whether we succeed in responding effectively to

today's major emergencies such as those in Syria and Burundi – though that is important – but by whether the world's states and societies establish effective national systems for preventing atrocities from occurring in the first place.

The long-term vision and underlying logic of the responsibility to protect (R2P) is relatively straightforward.

The concept envisages a world of responsible and capable sover-



Australian Government
Department of Foreign Affairs and Trade



THE UNIVERSITY
OF QUEENSLAND
AUSTRALIA

eign states that protect their own populations from atrocity crimes as a matter of routine (Pillar I).

This vision is to be achieved through a combination of mutual assistance and collective action:

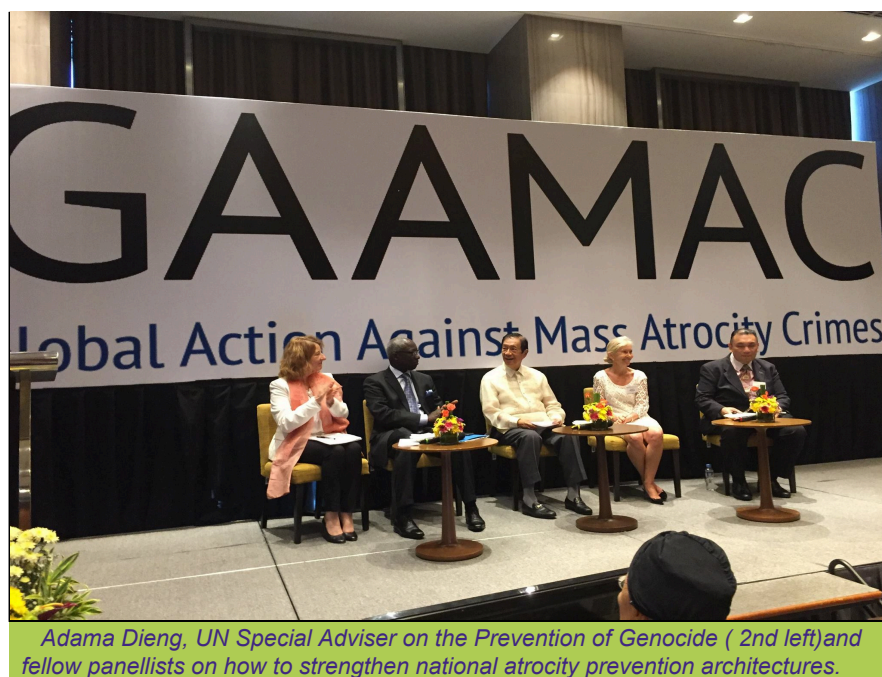
Assistance (Pillar II) designed to strengthen the capacity of states to protect their own and collective action (Pillar III) aimed at protecting populations and creating the conditions for mutual assistance.

The international community's primary underlying goal is to help states in distress to extend their presumably legitimate authority and protection over a country's entire territory.

Ultimately, though they are also concerned with providing immediate relief to populations in need, R2P's second and third pillars are concerned with helping states fulfill their primary responsibility to protect. It is in this sense that R2P is best understood as an ally of sovereignty since the concept as a whole is focused on helping states fulfill the responsibilities attached to their sovereignty.

What is more, we know that most atrocity crimes that are prevented are done so by national rather than international actors. Getting the national settings right will therefore make a huge positive difference to atrocity prevention overall.

The best way that states can help themselves – and their populations – is by building national architectures to promote atrocity prevention and fostering resilience to the forces that can tear communities apart. National architectures should strive to establish what Francis Deng, former special adviser to the UN secretary-general on the prevention of



genocide, described as the constructive management of diversity.

Because atrocity crimes are, in effect, extreme forms of identity-related conflict, the cornerstone of atrocity prevention is the building of an inclusive, non-discriminatory form of politics capable of managing diversity constructively. There is much evidence to recommend the constructive management of diversity as a key part of prevention. States and societies imbued with multiple risk factors (diversity, histories of violence, weak institutions, poor economies) that have adopted a constructive approach to managing diversity have tended to avoid atrocity crimes.

For example, post-independence Tanzania was founded on an inclusive ideology supported by strict policies to ensure equality between the country's main religious and ethnic groups, especially in the military and public sector. Following decades of military rule, Uruguay established a national human rights institution to address issues of ac-

countability and impunity. These countries have thus far escaped atrocities despite having many of the preconditions for them. Similarly positioned countries that embraced exclusionary ideologies have proven less capable of preventing atrocities. For example, successive Sudanese governments promoted an exclusionary Islamist ideology, both Tutsi and Hutu-led governments in post-independence Rwanda enacted policies that clearly favored one group over the other, and Côte d'Ivoire's path to civil war and atrocity crimes began with the spread of Ivoirité – an ethnic ideology that intentionally marginalized immigrant groups and their descendants.

At the most abstract, the constructive management of diversity requires state ideologies and constitutions that pay respect to difference and incorporate different identities into the project of the state/society itself. As Scott Straus argues, "The long-term best asset against the risk of genocide and mass categorical violence is to craft a political vi-

sion that incorporates a role for multiple identities as fundamental to the project of the state.” The key to this, Straus argues, is for national leaders to “articulat[e] a nationalist narrative of pluralism and inclusion [which] provides the greatest source of restraint.”

In practice, the constructive management of diversity requires laws and institutions designed to promote equality between individuals and groups and protect them against discrimination especially. In particular, it requires constitutional and legislative protections for human rights and the rights of groups as the principle bulwarks against discrimination. These protections should be overseen effectively by independent judiciaries and national human rights institutions or ombudsman’s offices, with vibrant civil societies capable of holding authorities to account. The establishment of formal institutions and ombudsman’s offices demonstrate a state’s commitment to protecting diversity and create spaces through which populations can hold authorities accountable. It also involves the prioritization of equality – including gender equality – across groups in fields such as education, employment (especially public sector), and health. In addition, comprehensive strategies to tackle exclusionary ideologies, combining coercive and persuasive approaches, may be needed.

Finally, there is a need to ensure that potential disputes between groups have a means of peaceful resolution. Recognizing that where there are different identities there are likely to be conflicts connected to group loyalties and contending visions of justice, states and societies

require means for managing (and ideally resolving) conflicts in a peaceful and constructive fashion. Most obviously, there is a need to prioritize the termination of any armed conflicts and beyond that a need for institutions to facilitate the peaceful management of disputes. A good example is Ghana’s National Peace Council, which promotes and facilitates the non-violent resolution of conflict, conflict prevention and sustainable peace.

This preventive work should ideally be led by national stakeholders. The international community’s principal role lies in supporting initiatives designed to enhance the constructive management of difference, especially through:

- offering diplomatic support for inclusive policies and criticism of exclusionary practices;
 - supporting institution building and the forging of the capacities needed to manage diversity; and
 - ensuring that aid programs and other forms of assistance do not inadvertently exacerbate inequalities and discrimination.
- In 2014, the UN secretary-general helpfully identified seven specific inhibitors of atrocity crimes. These, in a sense, are the specific building blocks for a national architecture for atrocity prevention.

1. Professional and accountable security sectors. Security sectors that not only refrain from committing the crimes themselves but which also protect populations, including minority populations, from them and ensure that there is no impunity.

2. Impartial institutions for overseeing transitions. Political transitions, especially elections, are fraught with dangers. It is imperative that political transitions and elections are overseen by organizations perceived by the whole community as impartial, legitimate and transparent, otherwise the results of any process are likely to be disputed, potentially giving rise to violence and atrocities.

3. Independent judicial and human rights institutions. Independent judiciaries and human rights institutions are fundamental sources of resilience to atrocity crimes and need to be protected and strengthened. The UN secretary-general has repeatedly asked states to ensure that they have signed, ratified and implemented relevant instruments of international law. Here in the Philippines, the Commission on Human Rights plays a key role in helping to resolve disputes, protecting vulnerable groups and teaching people their rights. Likewise, after the Maguindanao massacre, the capacity of the judicial system to ensure that there was no impunity helped prevent possible escalation.

4. Capacity to assess risk and mobilize early response. It is straightforward – though uncomfortable for governments – to identify general risks, but assessing risks with sufficient confidence to mobilize action is much more difficult. The secretary-general has called for every state to regularly examine its own risk factors, utilizing the UN’s own

analysis framework generated by the Office of the Special Adviser on the Prevention of Genocide (OSAPG).

5. Local capacity to resolve disputes.

Disputes are most easily resolved closest to the ground. Thus, local capacities that can help resolve disputes before they escalate into violence are immensely useful. The specific composition will differ from place to place as befits local needs but may include land councils to oversee disputes over land or interfaith processes designed to foster understanding and resolve disputes between different religious groups.

6. Media capacity to counteract prejudice and hate speech.

Hate speech can give rise to incitement and lead directly to atrocity crimes. It is therefore important that the national media have the capacity to support the positive management of diversity and counteract acts of prejudice and hate speech that can give rise to incitement and violence. Where hate speech does occur, the media must be sufficiently free, balanced and capable to challenge it and offer alternative narratives.

7. Capacity for effective and legitimate transitional justice.

Left unaddressed or given impunity, past atrocity crimes can quite often sow the seeds for future crimes. It is imperative that this cycle is broken through effective and legitimate transitional justice. It is imperative that transitional justice also deal properly with sexual

and gender-based violence.

These sources of resilience might be understood as the core building blocks for a national architecture for atrocity prevention. Therefore, it would be well worth starting a regional conversation about their status in individual national situations and priority areas that require work. From this can be developed action plans to guide concrete initiatives. To begin this process, governments should consider appointing a national R2P focal point. In our region, South Korea, Japan, New Zealand and Australia have already appointed a focal point and Cambodia's prime minister has publicly committed his country to doing the same.

In all of this, there are number of ways the region's institutions might help. I would like to see regional organizations incorporate the "atrocity prevention lens" into their regular programs of work. In particular, I would like them to:

- develop the capacity to review sources of underlying risk and resilience in member countries;
- consider how their policies and programs might strengthen the prevention of atrocity crimes within their own region;
- ensure that their policies and programs do no harm; and
- monitor developments within the region with a specific focus on the risk of atrocity crimes.

But these are long-term ambitions, more tangibly in the near term we could work on more modest goals, such as:

Early Warning – Assessing and advising on risks, and risk reduction.

The High-Level Advisory Panel on the Responsibility to Protect in Southeast Asia (HLAP) recommended the development of a regional capacity for early warning and assessment through the existing institutions, mechanisms and relevant sectoral bodies within ASEAN. There is a need to act regionally to overcome challenges at the international level, yet the region has no early warning capability for genocide, war crimes, ethnic cleansing or crimes against humanity. This makes it more difficult to anticipate crises before they emerge. It is important to foster habits of early warning and of responsiveness to it. There is a need, therefore, to cultivate a regional capacity for early warning and assessment. The work of the ASEAN Intergovernmental Commission on Human Rights (AICHR), the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), as well as the work of the ASEAN Institute for Peace and Reconciliation (AIPR) and other think tanks could provide useful starting points for monitoring emerging issues of concern with a view to addressing and finding early solutions to potential problems.

The AICHR's mandate includes helping states with capacity building. The HLAP also proposed that it consider incorporating the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity into the future agenda of the AICHR. The prevention of these four crimes is closely related to the promotion of human rights within ASEAN,

and is very much a necessary part of promoting a just and caring ASEAN community. One way of opening this dialogue about the AICHR and how the region might support individual states would be an AICHR thematic study on the implications of implementing R2P and capacity building for atrocity prevention.

In the wider region, the ASEAN Regional Forum (ARF) could also help member states build their national capacities. In 2012 the CSCAP study group on R2P issued a consensus report that contained a number of recommendations in this regard, including:

- Establishing a Regional Risk Reduction Centre to conduct early warning and assessment of the risk of genocide, war crimes, ethnic cleansing and crimes against humanity and cooperate with individual states, regional organizations and the UN.
- Encouraging ARF participants to provide voluntary background briefings on their national situations and risks in confidential and informal meetings.
- Consider strengthening and utilizing the Experts and Eminent Persons Group so that it may play a role by assisting states.

Overall, these are just small parts of the larger puzzle of establishing a global culture of prevention when it comes to mass atrocities. Broadly speaking, four challenges will need to be addressed if we are to translate our fine words about atrocity prevention into practical action.



CHALLENGES TO BE ADRESSED

1. Agreement on risk factors.

It is necessary to build a shared understanding of the factors associated with heightened risk of atrocity crimes and of ways of addressing new sources of risk such as that created by violent extremists. Only on the basis of a consensus on what the risk factors are can we expect to develop state-led action and global partnerships aimed at addressing them. The UN's Framework of Analysis for Atrocity Crimes provides a useful benchmark but we urgently need to build a consensus on these points.

2. National ownership of atrocity risk.

Arguably the key practical challenge lies in encouraging states and societies to recognize risk factors, request assistance and “own” atrocity prevention. A strong sense of mutual commitment from host states, societies and their international partners is crucial for effective atrocity prevention. Atrocity prevention is a decidedly political activity and states tend to be very reluctant to acknowledge even very imminent threats, let alone upstream risk factors which may or may not lead to atrocity crimes. Even structural prevention can therefore generate acute controversies and disputes. Practical approaches to prevention have to take this reality into account and think through ways of encouraging states to engage proactively. One obvious solution – borrowed from universal periodic review – may be to universalize the basic analysis by having all states report on their risk and resilience in some formal setting. Another alternative is that the friends of R2P – those 53 states that have appointed focal points – could lead the way by conducting their own national reviews. The focal points themselves could lead these processes and report back to the annual meeting of focal points. A third – less good – solution would be to establish a non-governmental organization to conduct this work.

3. Resource commitment to atrocity prevention

It has proven difficult thus far to generate sufficient political commitment to make atrocity prevention a daily lived reality. With that comes the failure to commit resources sufficient for the task. Part of the problem is that governments are generally reluctant to commit resources to prevent atrocity crimes in other countries. The issue here is not whether governments support atrocity prevention as a goal, but the depth of their support relative to other goals. This commitment gap can be closed only by developing more programs designed to build resilience or reduce risk in specific ways in specific parts of the world. This puts the emphasis squarely on the need for detailed analysis of risk and resilience around the world in order to establish clear guidance on what prevention work needs to be done. Once again, we might look to the R2P focal points to take the lead in this. As with national reviews, the annual focal points meeting could provide an ideal setting in which states could report on their activities to promote atrocity prevention at home and abroad, exchange ideas with peers, and share lessons. Getting a critical mass of states acting in this way would provide an incentive for others.

4. Domestic responsibility for prevention

There is an urgent need to broaden thinking and practice about atrocity prevention beyond the UN. This meeting is especially helpful in that regard. Most obviously, it is important to reaffirm that the principle responsibility for atrocity prevention lies with the state itself and that the state has a vested interest in prevention, because investing up front in that area will diminish the underlying risk of atrocities. But it is also important that in-country civil society and private sector actors be brought into the equation and empowered as agents of prevention and that international efforts be calibrated carefully to support local sources of resilience.

Over the past decade, we have reached a global agreement on the primacy of prevention. Now, our challenge is to translate those words into deeds.



Professor Alex Bellamy,
Director, Asia Pacific Centre for
the Responsibility to Protect

ASIA PACIFIC CENTRE FOR THE RESPONSIBILITY TO PROTECT

Building 39A

School of Political Science
& International Studies

The University of Queensland,
St Lucia Brisbane QLD 4072

P +61 7 3346 6435

E: r2pinfo@uq.edu.au

W: www.r2pasiapacific.org