R2P IDEAS in brief

Asia Pacific Centre for the
Responsibility to Protect

Operationalizing the Responsibility to Prevent

A Renewed Focus on Prevention

UN Photo/Mark Garten

While the principle of the responsibility to protect (R2P) has evolved significantly in its first decade, the rhetorical commitment to prevention has remained a key feature. Scholars and policymakers alike have consistently agreed that it is both normatively and politically desirable to act to prevent mass atrocity crimes from being committed – rather than to react after they are already underway.

Marking 10 years since the principle was conceived by the influential International Commission on Intervention and State Sovereignty (ICISS), UN Secretary General Ban Ki-moon declared 2012 'the year of prevention', designating it as one of the five generational themes for the UN. Nonetheless, this declared intention to prevent has yet to be operationalized.

Mass atrocity crimes remain high impact, yet low probability events, making it challenging to substantiate arguments and claims about what preventive strategies work best. In addition, the tendency to conflate the prevention of mass atrocities with the more general prevention of armed conflict has contributed to conceptual confusion over the appropriate scope and aim of the preventive dimension of R2P. Our research clarifies the aim of prevention, develops a strategic framework for preventing mass atrocity crimes, and assesses what we call systemic and targeted approaches to prevention.

Clarifying the Aim of Prevention

While R2P-crimes frequently occur within the context of violent conflict, it cannot be assumed that efforts to prevent or resolve conflict will simultaneously reduce the likelihood of mass atrocity crimes. At least a third of the cases of mass killing observed since 1945 occurred outside the context of armed conflict. It is also critical to highlight that strategies for prevention may require the use of armed force.

The Path of Escalation

The current 'prevention agenda' for R2P has been created through an amalgamation of tools from conflict prevention and the prevention of genocide; it has not engaged sufficiently with existing knowledge on the nature and dynamics of the four R2P crimes. Research shows that crimes against humanity do not occur randomly, but often reflect a complex interaction of different factors over a long period of time. There are three stages over which conditions usually escalate to produce mass atrocity crimes (see Figure 1[2])

> **What Acts does R2P Seek to Prevent?**
> Of the four specific international crimes referred to in the 2005 UN World Summit Outcome Document, crimes against humanity represents the best characterisation of what the principle of R2P was designed to halt or address. Preventive strategies associated with R2P should therefore be aimed at **"attacks directed at any population, committed in a widespread or systematic manner, in furtherance of a state or organizational policy, irrespective of the existence of discriminatory intent or an armed conflict"**[1].
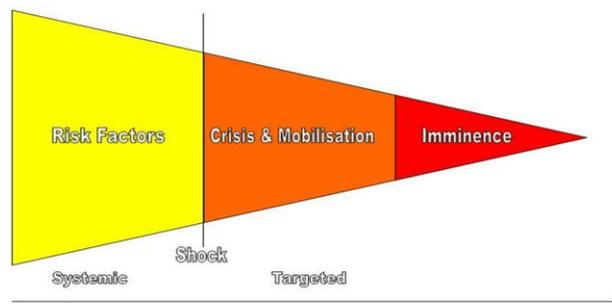
[1] *This definition is drawn from the widely accepted definition of crimes against humanity found in Article 7 of the Rome Statute*
[2] *This figure is an adaptation drawn from: Asia-Pacific Centre for the Responsibility to Protect, 'Preventing Genocide and Mass Atrocities: Causes and Paths of Escalation', 8 June 2009, p. 17.*

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Figure 1. A Temporal View of Systemic and Targeted Prevention

Different measures are needed to address the distinct dynamics and logic of each stage. During the second stage, general risk is transformed into likelihood. Most often it is facilitated by a shock or crisis which increases the probability of atrocity crimes, for example: an election (Kenya 2007/08), the assassination of a president (Rwanda 1994), a large-scale protest against the ruling government (Libya 2011), the beginning of an armed conflict or a turn of fortunes in such a conflict (Srebrenica 1995), or a severe economic crisis. Addressing the first stage requires long-term, systemic strategies, while the subsequent stages call for more targeted measures:

> ➢ **Targeted strategies** are designed to change either the incentives or situation of those contemplating or planning mass atrocity crimes, as well as the vulnerability of potential victims; they seek to shift the consequences of a potential course of action in a particular context.
> ➢ **Systemic strategies**, by contrast, seek to mitigate risk factors and build resilience in a broader group of states, which exhibit some of the so-called root causes of mass atrocity crimes.
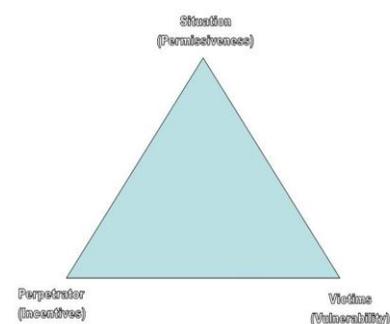
Systematising Preventive Tools – A 'Crimes' Approach

The sequence above may not unfold in the same way for every potential situation of mass atrocities. There have been cases – such as Libya in 2011 – when societies have not been identified as 'at risk', yet spiral very quickly into an imminent emergency. This suggests that policy-makers should focus on developing strategies for both systemic and targeted prevention.

The first task is to acknowledge three distinct dimensions involved in the commission of an atrocity crime: a perpetrator, a victim, and a permissive environment or situation (Figure 2). Positive changes in any of the three dimensions of the triangle can assist in the prevention of crime.

Understanding the preventive dimension of R2P in terms of crime prevention has important implications for policy-makers. First, many of the actions required to change the incentives of perpetrators and the vulnerability of victims require the UN, regional organisations, and national governments to relinquish the principle of impartiality which has often dominated approaches to conflict prevention and resolution. Second, the prevention of mass atrocity crimes requires a willingness and capacity to deal with individuals – as perpetrators or victims – rather than sovereign states. This too challenges some of the core principles that have governed inter-state relations in the past, such as non-intervention and sovereign equality. Finally, while the crimes framework set out above helps policymakers to focus on particular agents, it also risks creating overly rigid categories of 'perpetrators' and 'victims'.

Figure 2. The Three Dimensions of Crime

Source: Ken Pease, 'Crime Reduction', The Oxford Handbook of Criminology (2002)

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Assessing Preventive Tools

Figure 3 sets out a series of targeted measures that can be employed by third parties to change the behavior of perpetrators, reduce the vulnerability of victims, and create a less permissive environment for the commission of atrocity crimes.

Figure 3. Targeted prevention tools

	Perpetrators (Incentives)	Victims (Vulnerability)	Situation/ Environment (Permissiveness)
Imminent Emergency	• Targeted sanctions (asset freezes, travel bans) • Threat of international criminal prosecution • Security Council Resolutions naming or warning individuals • Breaking diplomatic relations or economic ties	• Opening borders to allow refugees to escape • No-fly zones or safe havens • Physical protection of camps • Strengthening victims' capacity to defend themselves • Recognizing opposition groups • Supporting exiles	• Mediation/negotiations • Satellite surveillance and intelligence sharing • Provision of mobile communications technology • Radio jamming • Spreading of alternative views through UN broadcasts • Emergency summits • Peace operations
Crisis & Mobilisation	• Statements of concern (e.g. UN Secretary General or Human Rights Council) • Travel advisories • Economic incentives to adopt alternative behaviors (trade policy alterations, aid conditionality, debt relief)	• Preventive deployments of military force (consensual or non-consensual) • Deployment of human rights monitoring missions • Challenging dangerous speech	• Reducing the availability of weapons (bilateral and multilateral measures) • Ambassador recall • Increased NGO scrutiny • Visible international engagement (e.g., Security Council agenda) • Dissemination of relevant norms and legal obligations

Examples of targeted preventive tools, examined in our case study research, include:

Mediation– Political mediation gained traction after the 2007-08 post-election crisis in Kenya, where an African Union led mediation process helped facilitate a political solution to the crisis and end the widespread violence. The unanimous support of the international community was key to this success. The process in Kenya was also accompanied by informal, coercive pressure on the parties throughout the crisis and arguably went beyond 'impartial' mediation. Therefore, in order for mediation to be effective, it may need to be applied in a manner that is distinct from traditional conflict resolution.

Referrals to the International Criminal Court (ICC) - The threat of punishment arguably has the potential to change the incentives of those actively planning mass atrocity crimes, although there is little empirical evidence to support this claim. The ICC is also intended to function as a more general deterrent. However, referrals will only be effective if heads of state or leading officials both fear prosecution and believe this is a real possibility, and ultimately this is dependent on the willingness of governments to cooperate with the Court and on the steadfast commitment of international organizations to ensure that 'side-deals' (like asylum and exile) are not available.

No-Fly Zones – The effectiveness of no-fly zones depends on the provision of a clear, but specific Security Council mandate, as well as a carefully conceived exit strategy. In order to achieve their desired effect –

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protection of civilians – no-fly zone missions must quickly neutralize ground-based air defenses (of a state or non-state group) and allow for the potential need to facilitate the delivery of humanitarian assistance. A key question is whether civilians can be protected from the air without the support of ground forces, which carries the risk of politicising what is otherwise intended to be a humanitarian mission. In order to avoid 'mission creep', and the potential erosion of its legitimacy, the Security Council must develop stronger mechanisms for ensuring the accountability of those to whom it delegates the right to use force, and enhanced procedures for monitoring and assessing the way in which its resolutions are interpreted and implemented.

How Do We Improve the Capacity to Prevent?

The path toward developing effective atrocity prevention measures is likely to encounter a number of barriers along the way, including the lack of political will to act before a crisis develops, and the resistance of many states to preventive measures that would potentially infringe on their sovereignty. Two particular challenges to effective prevention were found to be:

Justifying the Need to Act Preventively – Creating a credible and authoritative mechanism for assessing the likelihood of these crimes, without the perception of bias, is a significant challenge. Further work is needed to identify specific risk factors, to establish the required evidence of intent, and to enhance capacity in the UN for rigorous and impartial analysis of crises to inform decision-making bodies such as the Security Council.

Building Generic Capacity for Prevention– Many of the most promising preventive tools require existing structures, skills, and technology if they are to be applied in a timely and effective fashion. Some of this generic capacity is already being established regionally and internationally, but pressure from national governments and NGOs is required in order to ensure that rhetorical commitment is matched by the allocation of real resources. National governments should follow the lead of countries such as Denmark, Ghana, Costa Rica and Australia, which have recently created specific focal for coordinating responses to R2P situations.

Prevention and the 'Three Pillars' of R2P- More broadly, the implementation of R2P rests on a concerted effort to fulfill three layers of responsibility (or 'pillars'): of each and every nation-state to protect its population from mass atrocity crimes; of the international community to assist states in doing so; of the international community to act in a timely and decisive manner if states 'manifestly fail' in this. While Ban ki-Moon has stressed that these are of equal importance, in practice the third pillar has often been perceived as the reactive and coercive aspect of R2P, and the first two pillars as the preventive and non-coercive dimensions of the principle. Our project challenges these assumptions by underscoring that preventive action does not end with the onset of Pillar 3, and that prevention and reaction may not be mutually exclusive.

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