

# Summary of the United Nations Secretary-General's Report on the Responsibility to Protect: *State Responsibility and Prevention*

The fifth report of the United Nations (UN) Secretary-General on the Responsibility to Protect (R2P) focuses on Pillar I measures to strengthen national capacity to prevent genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>1</sup> The report identifies an array of structural and operational measures to invigorate national mass atrocity prevention efforts, thereby reducing the need for coercive action under Pillar III. The report also identifies six significant contributing risk factors for mass atrocity crimes.

The Secretary-General produced the report following an extensive consultation process that included written submissions from 27 Member States, 1 regional organization and 27 civil society organizations as well as regional consultation meetings with more than 120 Member States. This briefing paper provides a summary of the report, focusing on risk factors and policy options for mass atrocity prevention.

## KEY POINTS

The Global Centre for the Responsibility to Protect would like to highlight the following key points from the report:

- By strengthening institutions that establish good governance, promote accountability and prioritize the protection of human rights, Member States can develop their capacity to build a society that is resistant to mass atrocity crimes. The development of these institutions reinforces state sovereignty and increases prospects for peace and stability.
- Mass atrocity crimes do not occur spontaneously, but rather as part of a planned process. While there is no “one-size-fits-all” approach to the prevention of mass atrocity crimes, states should be equipped with the capacity to identify risks and respond before situations deteriorate.

- Although mass atrocity prevention and conflict prevention are related, the two require separate approaches in order to identify appropriate policy responses.
- Numerous states have already adopted various domestic policies to prevent atrocity crimes. These might serve as possible models for best practice.
- Section V of the report identifies seven policy recommendations for Member States. Among those recommendations, states should prioritize the appointment of a national R2P Focal Point and the creation of a national assessment of the risk and resilience to mass atrocity crimes.
- In addition to the UN General Assembly's annual Informal Interactive Dialogue on the Responsibility to Protect, the UN Secretary-General intends to organize a follow-up meeting to discuss implementation of this report's recommendations.

## SECTION III: RISK FACTORS

This section of the report identifies and assesses six risk factors that may contribute to mass atrocity crimes, as outlined in the Analysis Framework developed by the UN Special Adviser on the Prevention of Genocide.

1. A **history of discrimination** including identity-based crime in political, social, sexual and economic forms. The risks are heightened where past atrocity crimes have not been adequately addressed through individual criminal accountability, reparation, truth-seeking and reconciliation.
2. The **motivation of actors**, often demonstrated through the use of “exclusionary ideology” and the construction of divisive identities, which can be deepened through hate speech and propaganda campaigns.

3. The **presence of armed groups** that may be allied to the state or to a particular population. The risk to populations is exacerbated by the proliferation of small arms and the ability of some groups to support their operations through the exploitation of natural resources and transnational crime.
4. **Circumstances that facilitate perpetration** include an unnecessarily relying upon the security apparatus, supporting militia groups, attempting to reduce diversity within the security forces, preparing a section of the population to perpetrate crimes, adopting legislation derogating rights or imposing emergency or extraordinary security laws.
5. **Government lack of capacity** increases risks, particularly when it exhibits weaknesses in legislative protection for human rights, the judiciary, national human rights institutions and the security sector. The risk is also associated with governments that unduly restrict the right to participate in public affairs.
6. The **commission of acts that may be elements of genocide, war crimes and crimes against humanity**, including extrajudicial killings, enforced disappearance, torture, sexual violence and child recruitment.

The six risk factors can be exacerbated by **mass atrocity triggers or drivers**, including an unconstitutional change of government, crisis spillover from a neighboring country, armed hostilities or mass displacement, internal unrest, assassination of symbolic personalities, security vacuums, unrestrained hate speech and propaganda.

## SECTION IV: POLICY OPTIONS FOR ATROCITY PREVENTION

This section of the report looks at the structural policies and operational measures states are currently using to prevent mass atrocity crimes.

### *Building national resilience*

**Constitutional protections** can contribute to building pluralist societies that recognize diversity and guarantee minority protection.

- Canada's Charter of Rights and Freedoms affirms that every individual in Canada is considered equal.
- Croatia's Constitutional Act on the Rights of National Minorities paves the way for representation of minorities in governmental institutions at the local, national and regional level.

- South Africa's constitution recognizes the harmonization of customary law with human rights principles.

Democratic **electoral processes** help to provide legitimacy for governments and can assist in managing social tensions.

- Guyana's peace-building initiatives contributed to the prevention of an outbreak of violence during their 2006 elections.

**Ensuring accountability** for past crimes contributes to prevention of further mass atrocities and builds the credibility of institutions.

- Bolivia, Portugal, Seychelles and Viet Nam have criminalized mass atrocity crimes in their national legislation.
- Central African Republic, Democratic Republic of the Congo, Mali and Uganda have referred situations occurring in their territories to the International Criminal Court.
- Since 2003 Argentina has convicted over 400 people for crimes against humanity committed during the military dictatorship.

An **inclusive transitional justice process** helps to address the root causes of conflict and facilitate reconciliation by promoting truth-telling, addressing past grievances and ensuring access to accountability and justice.

- Timor-Leste's Commission for Reception, Truth and Reconciliation facilitated truth-seeking and community reconciliation for crimes committed during 1974-1999.

An effective **security sector reform** process can deter security forces from committing crimes. The outcome of reform may legitimize the security sector through increased transparency, civilian oversight, inclusion of diverse staff and promotion of professionalism.

- Austria, Estonia and Slovenia have civilian oversight of their armed forces, which encourages accountability.

Political, economic and social measures taken to improve the equitable **distribution of resources** may help prevent economic discrimination and deprivation.

- Australia's "closing the gap" strategy has reduced disparities between indigenous and non-indigenous populations.
- Ecuador's constitution serves as a foundation for social protection policies.

Through the **strengthening of national institutions** states can establish foundations for good governance and accountability.

- The legislative chambers in France, Luxembourg and Romania produce annual public reports on their activities.
- Botswana's Directorate on Corruption and Economic Crime is mandated to prevent corruption in public bodies.

### *Promoting and protecting human rights*

Maintaining a national infrastructure for the **protection of human rights** strengthens state resilience to atrocity crimes and enhances capacity to mitigate social tensions.

- Afghanistan's Independent Human Rights Commission investigates grave violations of human rights.
- Indonesia's National Human Rights Institution is equipped with extensive legal powers.
- Kenya's National Cohesion and Integration Commission promotes coexistence and the elimination of discrimination.

Allowing an **active civil society** to operate freely contributes to ensuring accountability, respect for the rule of law and promotion of political diversity.

- Mexico passed a law in 2012 to protect journalists and human rights defenders, which includes the creation of a special advisory board to involve civil society in implementation of the law.

**Independence of the media** and the promotion of the right of national, racial, religious, and ethnic minorities to have their own media should be encouraged.

- The Netherlands' constitution safeguards freedom of expression in the media.
- Malawi's constitution guarantees freedom of the press.

### *Challenges*

While there is a broad range of policy options available to strengthen preventive capacity, there are still challenges that states face in upholding their responsibility to protect. First, states need political will and leadership to translate commitment into practice, particularly for early preventive action. Second, since atrocities stem from a range of risk factors, lack of capacity and understanding of the causes of atrocity crimes can create barriers to taking appropriate action. Finally, since R2P entails both national and international responsibilities, states must make a national effort to prevent atrocities within their

own country and also an international effort to assist other states when needed.

### *Adopting targeted measures to prevent atrocity crimes*

**The designation of R2P Focal Points or Inter-Agency Mechanisms** can contribute to the coordination of national efforts to mainstream R2P.

- Denmark and Ghana launched the R2P Focal Points initiative in 2010. Australia and Costa Rica have since joined the organizing group. Over 30 states have appointed R2P Focal Points.
- The United States of America established the inter-agency Atrocities Prevention Board in 2012.
- Kenya, Rwanda, Tanzania and Uganda have established National Committees on the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes against Humanity and all forms of Discrimination.

**Early warning mechanisms** with an atrocity prevention focus can alert decision-makers by identifying risks to vulnerable populations and monitoring developments. These mechanisms can also assist in developing recommendations for early preventive action.

**Institutionalized processes for dialogue between the State and different communities** are also a form of prevention.

- Ghana established the National Peace Council in 2011 to mediate local tensions. The Council has been instrumental in managing tensions during closely contested elections.
- Singapore has a variety of institutional arrangements that bring together religious leaders to build inter-faith trust and dialogue.

**Education** can promote tolerance and understanding of the value of diversity.

- Since 2009 Argentina has provided education on the Holocaust in a manner that reinforces an understanding of the importance of accountability and building an inclusive society in order to avoid grave abuses of human rights.

**Commemoration acts and memorials** promote greater recognition and understanding of atrocity crimes.

- Cambodia, Germany, Iraq, Paraguay, Poland and Rwanda have established memorials or remembrance ceremonies to promote understanding of past atrocity crimes.

## *Building Partnerships for Prevention*

States can strengthen their national atrocity prevention efforts through partnerships with the UN, other Member States, regional organizations and civil society.

- In 2012 eighteen states launched the Latin American Network for Genocide and Mass Atrocity Prevention.

## **SECTION V: THE WAY FORWARD**

This section of the report recommends a range of steps Member States should consider to build preventive capacity.

1. **Appoint a senior-level R2P Focal Point** with atrocity prevention responsibilities and adequate resources.
2. **Conduct a national assessment of risk and resilience** using the Analysis Framework developed by the UN Special Adviser on the Prevention of Genocide as well as the risk factors outlined in this report and tools developed by civil society. Civil society should be included in the review process.

---

<sup>1</sup> The three-pillar approach originates from the Secretary-General's 2009 report on implementing R2P. The first pillar notes that the primary responsibility belongs to the state, while the second explains that the international community should assist states with this responsibility. The final pillar holds that if

3. **Sign, ratify and implement relevant international legal instruments** such as the Convention on the Prevention and Punishment of the Crime of Genocide, the Rome Statute of the International Criminal Court and the Arms Trade Treaty.
4. **Engage with and support other Member States and regional arrangements** to share experiences, enhance cooperation and promote the effective use of resources.
5. **Participate in peer review processes**, including the Universal Periodic Review of the Human Rights Council, regional review processes and other options for monitoring the effectiveness of measures already undertaken.
6. **Identify and form partnerships** with other Member States, regional arrangements or civil society for technical assistance, capacity building, exchange of lessons learned and mobilization of resources.
7. **Participate in international, regional and national discussions** on how to continue to advance R2P.

a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action in a timely and decisive manner and in accordance with the UN Charter.