

Summary of the Report of the UN Secretary-General: *Implementing the Responsibility to Protect: Accountability for Prevention*

The ninth report of the United Nations Secretary-General on the Responsibility to Protect (R2P) highlights the importance of strengthening accountability for the implementation of R2P and the prevention of mass atrocity crimes. This is the first report on R2P by the new Secretary-General, António Guterres, and it highlights how R2P fits within his wider prevention agenda. The report asserts that a new approach to international peace and security, including atrocity prevention, is needed. The report outlines practical steps that can be taken by member states, intergovernmental bodies and the UN system to bolster mass atrocity prevention, and explains how to strengthen accountability via legal, moral and political approaches.

Three consultations were organized with member states to provide them with an opportunity to contribute to the report, including two in New York and one in Geneva. Member states and civil society organizations were also invited to provide written submissions ahead of the report's publication.

KEY POINTS

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

- Atrocity crimes impose a devastating toll upon humanity and their prevention is at the heart of the Secretary-General's agenda. Member states have made numerous political commitments to prevent mass atrocity crimes, and yet the international community spends far more time and resources responding to crises where mass atrocities occur than on preventing them. A new approach is needed

which closes the gap between commitment and reality and prioritizes meaningful preventive efforts. To meet this challenge, the international community must strengthen accountability for implementation of the Responsibility to Protect.

- The appointment of a senior government official as an R2P Focal Point is a practical step states can take to improve national accountability for prevention. Fifty-nine states from every region of the world, as well as the European Union, have already done so. The Secretary-General welcomes plans to develop a manual for R2P Focal Points that will assist them in their work and help other states take the decision to appoint their own Focal Point. Through their ongoing efforts, R2P Focal Points can assist one another in the design and implementation of policies and practices that build national resilience to atrocities.
- R2P is based upon obligations under international human rights and humanitarian law, and the duty to prevent atrocity crimes is a clear legal obligation for states. All member states should immediately sign, ratify and implement key international treaties and protocols associated with the prohibition and prevention of genocide, war crimes and crimes against humanity, and provide assistance to victims of these crimes. Member states should also ensure that domestic law criminalizes atrocity crimes as well as their incitement.
- The Responsibility to Protect populations from atrocity crimes is the obligation of the entire UN system. To make mass atrocity prevention a practical program of action there must be greater synergy across the UN. The Secretary-General highlights the importance of effectively incorporating the Human Rights Council, human

rights treaty bodies and Special Procedures mandate-holders into a comprehensive atrocity prevention strategy. Among other things, these bodies assist in the identification of potential risks through their monitoring role. Additionally, the Universal Periodic Review (UPR) process can help support atrocity prevention efforts, and could be better utilized to encourage states to develop strategies to address longer-term risks, as well as mobilize international support for national initiatives to address them.

- Efforts to mainstream R2P across the whole UN must continue so that all the tools and capacities available can be utilized to prevent atrocity crimes and protect vulnerable populations. To achieve this, cooperation and coordination between UN entities on mechanisms that address atrocity risks must be strengthened and internal accountability for atrocity prevention improved. The Special Advisers on the Prevention of Genocide and R2P should provide stronger research evidence regarding the structural and operational measures that can be taken within the UN to prevent atrocities.

SECTIONS I AND II: THE RESPONSIBILITY TO PROTECT AND ACCOUNTABILITY

Section I introduces the theme of accountability for atrocity prevention, and provides background on the commitments member states have made since the adoption of the World Summit Outcome Document in 2005. The report notes that despite consensus that the protection of populations from atrocities is both a national and international responsibility, the number of civilians subjected to war crimes, crimes against humanity and genocide has increased significantly over the past few years. The international community spends far more time and resources on responding to crises than on preventing them. The Secretary-General emphasizes that an approach that brings the prevention of atrocity crimes back to the fore, and closes the gap between rhetoric and reality, is necessary. One of the principal ways in which that can be achieved is through ensuring the rigorous and open scrutiny of practice.

Section II of the report outlines UN member states' legal, moral and political responsibilities regarding R2P.

Legal Accountability relates to obligations member states have under national and international law. Under

international human rights and humanitarian law states have a legal obligation not to commit violations of fundamental human rights and to protect individuals and groups from such violations. The Secretary-General also notes that most national constitutions and legal codes include provisions guaranteeing the fundamental rights of populations. The report argues that states should continue to develop institutions that are legitimate, respect human rights and strengthen the rule of law.

Moral Accountability. This section contends that national moral responsibility for atrocity prevention stems from universal values. The report states that the international community's moral responsibility to contribute to the protection of populations is intrinsically linked to notions of human solidarity and the shared values of humanitarianism.

Political Accountability stems from the commitments reflected in paragraphs 138-140 of the World Summit Outcome Document and subsequent UN Security Council, General Assembly and Human Rights Council resolutions referencing R2P. Political accountability also refers to the relationship between national governments, sovereign parliaments and other statutory bodies, as well as the populations that they serve. Internationally, political accountability refers to the need for those invested with authority and to be answerable to their peers.

SECTION III: STATES AND NATIONAL MECHANISMS

This section of the report outlines steps that member states can take to strengthen accountability for atrocity prevention.

Ratify and implement the core instruments of international human rights and humanitarian law, in particular the Convention on the Prevention and Punishment of the Crime of Genocide; the Additional Protocols I and II to the 1949 Geneva Conventions; the Rome Statute of the International Criminal Court; the 1951 Convention on Refugees and the subsequent 1967 Protocol; and the Arms Trade Treaty.

Conduct periodic self-assessments to ascertain how national efforts to prevent atrocity crimes can be strengthened. National authorities should ensure that they have an accurate understanding of the sources of potential domestic risks, the mechanisms and

policies needed to reduce or mitigate those risks, and the capacity to protect vulnerable populations should be the need arise. Self-assessment exercises should be comprehensive, utilizing the UN Framework of Analysis for Atrocity Crimes.

Utilize existing national political accountability mechanisms to support atrocity prevention. Specifically, parliaments should hold their governments accountable for fulfilling their commitment to R2P, as they provide a valuable forum for scrutinizing and debating national policies. The establishment of an annual parliamentary debate on the implementation of R2P or the creation of all-party working groups or committees could help achieve this aim. In addition, mainstreaming atrocity prevention in national aid programs and prioritizing support for such programs is particularly important for states to meet their responsibilities under Pillar 2 of R2P.

Integrate atrocity prevention concerns into the work of national human rights mechanisms. National mechanisms should integrate atrocity prevention into their reports for their government, the public and UN human rights mechanisms. States that have not yet established domestic mechanisms for protecting and promoting universal human rights should do so. All existing mechanisms should comply with the Paris Principles relating to the Status of National Institutions.

Guarantee the accountability of security forces and those that control them. Ensuring accountability for the actions of security forces and those that control them increases their capacity to serve as an inhibitor, rather than a potential perpetrator, of mass atrocity crimes. National accountability mechanisms must ensure that personnel under the control of the state uphold their obligation to respect universal human rights, and fulfill their responsibility to protect populations from violations of international human rights and humanitarian law. The removal of statutory limitations, amnesties or immunities that prevent prosecution of state officials and other individuals responsible for atrocities can help strengthen national legal frameworks for accountability.

Ensure accountability and redress for past and present atrocity crimes in order to prevent their recurrence. Addressing past violations helps to restore the dignity of victims, facilitates redress of violations, and enables reconciliation. States must ensure that those responsible for genocide, war crimes or crimes against humanity in their territory are prosecuted, and if

they fail to do so, the international community should consider all legal options available to ensure justice for victims and to prevent recurrence.

Promote open reflection on atrocity crime risks, inhibitors and the actions necessary to strengthen prevention. Diverse perspectives, including those of women and youth, should be included in risk assessments. R2P Focal Points, in particular, can push to improve intra-governmental and intergovernmental efforts to prevent and halt atrocities. An active, diverse and robust civil society that can operate freely and openly without fear of harassment, persecution or reprisal also contributes towards facilitating open and transparent national dialogue on human rights, peace and security.

SECTION IV: INTERGOVERNMENTAL BODIES

In this section the Secretary-General emphasizes the importance of facilitating collaboration between national, regional and global actors to achieve effective prevention strategies.

The report emphasizes that collective international action to prevent mass atrocity crimes must be well crafted and utilize impartial and evidence-based assessments. The assessments must be conducted without political interference. The Secretary-General notes that through implementation of “Human Rights Up Front,” the UN system has endeavored to meet such expectations.

Specific to the UN Security Council, the report notes the need for robust monitoring of the regional or sub-regional organizations to which the Council has granted mandates, so as to ensure their respect for international humanitarian, human rights and refugee law. All mandates granted by the Council to protect civilians must be strong, achievable and context specific. States and intergovernmental organizations assigned responsibility for implementing such mandates must be held accountable. The Secretary-General recommends the Council consider issuing mandates that include a time limitation or request regular progress reports.

The report also emphasizes that member states should continue to voice their expectation that the Security Council take timely and decisive action to protect populations from mass atrocity crimes. Member states can endorse various proposals for strengthening the

effectiveness of the Council's working methods regarding the prevention and response to atrocities, including the Accountability, Coherence and Transparency Group's Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes, and the French and Mexican Political Declaration on Suspension of the Veto in atrocity situations. The Secretary-General recommends the Security Council hold an annual thematic debate on R2P and atrocity prevention to provide states with an opportunity to review the Council's actions on these issues. Such a debate should involve Security Council members, other interested member states, the Special Advisers on the Prevention of Genocide and R2P, and the other relevant actors. Security Council members could also establish an informal or working level committee to facilitate an exchange of perspectives and information.

Regarding the wider UN membership, the report suggests the inclusion of the prevention of atrocity crimes and implementation of R2P as an item on the UN General Assembly's formal agenda, so as to expand the opportunity for states to consider the subject. Additionally, the practice of holding informal thematic panels, introduced in preparation for this report, should continue.

The Secretary-General also highlights the important role that the UN in Geneva has to play in accountability for atrocity prevention. The Human Rights Council, human rights treaty bodies and Special Procedures mandate-holders encourage the accountability of member states in relation to their compliance with international human rights and humanitarian law. This adds a layer of transparency to the identification of potential risks regarding atrocity crimes. Member states should provide the Special Procedures with open invitations to visit and assess their national situation, engage openly and frankly in dialogue, and give serious consideration to implementing any resulting recommendations. The Secretary-General's Special Advisers on the Prevention of Genocide and R2P should be invited to brief the Human Rights Council more regularly.

The report specifically notes the role that the Human Rights Council's UPR process can play in supporting member states' national responsibilities through its focus on actionable recommendations, their implementation and follow up. The process should be better utilized to facilitate systematic reflection of atrocity risks, encourage states to develop strategies to address longer-term risks, and mobilize international support for national initiatives to address them. The

Secretary-General suggests four steps for the improved utilization of the UPR in this regard:

1. Atrocity crimes risk assessments and preventive measures should be included in the preparatory materials for the UPR.
2. Issues related to mass atrocity prevention should be included in the UPR's peer-to-peer dialogue, including in the questions, recommendations and oral updates provided by states.
3. Discussion about the risk of atrocity crimes and preventive measures should be reflected in the outcome document and its actionable recommendations.
4. Where relevant and appropriate, other states should provide assistance to help countries under stress prevent atrocity crimes and protect their populations. Additionally, UN field operations, the Office of the High Commissioner for Human Rights, the Special Advisers on Genocide Prevention and R2P and other relevant entities should offer support for implementation of these recommendations.

Finally, the report underlines that regional or sub-regional human rights mechanisms, as well as other forms of peer-to-peer exchange and mutual assistance, should be better utilized to support states and to strengthen their atrocity prevention efforts. The Secretary-General specifically highlights the Global Network of R2P Focal Points in this regard and welcomes plans to develop a manual for R2P Focal Points that will assist them in their work.

SECTION V: THE UNITED NATIONS SYSTEM

This section emphasizes the importance of mainstreaming R2P across the whole UN system, and provides suggestions on how that can be achieved. The Secretary-General emphasizes the contributions to atrocity prevention by UN Country Teams, particularly their programs in support of good governance, the rule of law, education, sustainable development and women and children's rights. He also highlights the need for peace operations to have the capacity to effectively implement their protection mandates. Among other things, member states can help contribute to the effective implementation of peacekeeping mandates by committing themselves to the Kigali Principles on the Protection of Civilians.

The report also notes the importance of early warning. The Secretary-General pledges to bring to the Security Council's attention any matter that may threaten the maintenance of international peace and security, asserting that he will seek to ensure that all relevant briefings on country situations include an analysis of atrocity crimes risks. Additionally, he recommends that those with mandates for protection, including the Special Advisers on the Prevention of Genocide and R2P, be given greater opportunities to speak on behalf of vulnerable populations at the Security Council, Human Rights Council and General Assembly.

SECTION VI: CONCLUSION AND RECOMMENDATIONS

Throughout the report the Secretary-General explains how practical action for the prevention of atrocity crimes relies upon bonds of trust and transparency. He outlines five practical steps for all member states to take to strengthen accountability:

1. Appoint a senior official to serve as an R2P Focal Point to coordinate national activities, share good practices and cooperate on capacity building.
2. Sign, ratify and implement key international treaties and protocols associated with the prohibition and prevention of genocide, war crimes and crimes against humanity, and provide assistance to victims of atrocity crimes.
3. Issue open invitations to the UN Human Rights Council-mandated Special Procedures to visit and assess your national situation. Utilize their recommendations to develop atrocity prevention strategies.
4. Conduct regular domestic risk assessments and take the necessary action to build social and institutional resilience.
5. Establish domestic mechanisms to ensure that national authorities can be held accountable in relation to their commitment to uphold their responsibility to protect all populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

The Secretary-General also recommends that states support five initiatives designed to strengthen accountability for international action:

1. Place a specific item on the prevention of mass atrocities and the implementation of the

Responsibility to Protect on the agenda of the UN General Assembly.

2. Put the UPR of the Human Rights Council to better use in preventing mass atrocity crimes.
3. Utilize available procedures to ensure that states, as well as regional and sub-regional organizations, that are mandated by the Security Council to uphold the international community's Responsibility to Protect remain accountable to the Council.
4. Promote collective reflection on the role the Security Council should perform with regard to protecting populations from atrocities.
5. Further develop the capacity of regional and sub-regional arrangements to evaluate atrocity crime risks and to promote shared commitments to prevention.

The Secretary-General ends his report by pledging that the United Nations will take the following steps to uphold R2P:

1. Fully include atrocity prevention in the UN's integrated prevention platform.
2. Provide stronger evidence-based insight into the structural and operational measures that can be undertaken to prevent atrocities and support the provision of policy guidance for practitioners through the Special Advisers on the Prevention of Genocide and R2P.
3. Improve the activities and capacity of UN entities to contribute more effectively to mass atrocity prevention.
4. Continue to provide honest assessments to member states on collective efforts to implement the Responsibility to Protect.