

EVAP Special Episode: Ask Us Anything

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SPEAKERS

Elisabeth Pramendorfer, Juliette Paauwe, Jahaan Pittalwala, Liam Scott, Christine Caldera, Sarah Hunter

J Jahaan Pittalwala 00:12

Welcome to Expert Voices on Atrocity Prevention, a podcast by the Global Centre for the Responsibility to Protect. I'm Jahaan Pittalwala.

S Sarah Hunter 00:20

And I'm Sarah Hunter.

J Jahaan Pittalwala 00:21

And we're filling in for Jaclyn today. So Sarah, this is a pretty special episode of our podcast. What are we here for? Why are we doing this?

S Sarah Hunter 00:30

So, we at the Global Center are really lucky and privileged to have a very engaged following. And we receive tons of replies, and DMS, and emails from our followers, and our colleagues across the UN, and other NGOs, et cetera, about R2P and atrocity prevention. So, what it means? Where it's relevant? Why hasn't more been done on R2P? And we thought, why not tackle these questions in a podcast episode, because we can't answer everyone on Twitter every day. We can't answer everyone via email every day. And so we asked our followers, and colleagues to send us some of their burning questions, and we got so many responses from them all, and we've brought together our entire team today to try and best answer them.

J Jahaan Pittalwala 01:17

Okay, amazing. I think this is going to be really great. We've got some very strong questions

Okay, amazing. I think this is going to be really great. We've got some very strong questions lined up for today, and to help us out with the first one, we've got our Senior Human Rights Officer, Elisabeth Pramendorfer. Elisabeth, welcome to the podcast.

E

Elisabeth Pramendorfer 01:33

Hi, Jahaan. Hi, Sarah. It's great to be here. Thanks for having me.

J

Jahaan Pittalwala 01:38

Great. So, let's get right into it. So this first question is something that we see all across our social media channels, I would say, on a pretty regular basis. Here it goes. Why hasn't the Global Centre invoked R2P to help stop atrocities from happening? So, let's unpack this. Elisabeth, maybe you could walk us through some, just some of the basics.

E

Elisabeth Pramendorfer 02:05

Sure. With pleasure. I really like the wording of the question because it does allow me to start right there. I will begin by saying that there really is no such thing as "invoking" or "activating R2P", we hear activating as well a couple of times, and I think it's important to emphasize this because language matters, and it impacts the way in which we understand R2P. Invoking suggests that someone can press an activation button to immediately put soldiers on the ground or to put someone in a cell in The Hague, and that's simply not the case. R2P is a political norm through which all governments committed to protect our populations from atrocity crimes and to not look away when these are being committed elsewhere. And this means that R2P can be applied in many different ways and by different stakeholders. Now, language also matters because invoking, at least to me, suggests the use of force or other coercive measures, right. But R2P does not equal military intervention. In fact, R2P does not necessarily equal coercive measures. It includes these measures, absolutely, but viewing R2P only as Pillar III measures, which derive from the UN Charter, gives a completely distorted picture of the norm and, I think, it also makes us believe that we've failed to "invoke" R2P everytime and everywhere. Yes, for many situations the UN Security Council in New York is an essential mechanism to help atrocities. And yes, the Council is failing miserably to do it's job for most atrocity situations around the world, but R2P as the protection agenda begins at a much earlier stage than when a situation reaches the P5. All governments must build institutions and foster societies which are resilient to atrocity crimes through legislation, the protection of human rights defenders, democratic institutions, a functioning judiciary, or equal access to resources and livelihoods. And they must also help, or hold to account, other countries who are failing to do so. And so, while R2P is still very much considered a New York issue, atrocity prevention and response work takes place on so many different levels, and in so many different fora. The General Assembly is arguably the most inclusive forum because it does represent all member states. Regional organisations are vital because they come in with a very unique understanding of a specific context that requires rapid response. And the Human Rights Council in Geneva has the unique potential in producing and, ideally, acting upon early warning information to prevent situations from escalating. And so, all of that doesn't change the fact that we do fail to uphold R2P when it's most urgently needed. We failed for Myanmar, we failed for Syria, and we failed for Yemen. We are witness to declining multilateralism and states around the world continuously failing to uphold their responsibilities and their promises. But I

really think it's not the whole picture. We at the Global Centre work with governments around the clock to strengthen the protection of populations at home and abroad. And there are so many positive examples which don't make headlines and which are not understood as effective implementation of R2P.

S

Sarah Hunter 05:24

Let me, let me cut in here, Elisabeth, and kind of just elaborate a little bit about your point that R2P is not just for the UN, and not just for the P5, and not just for the international sphere, but it's so important on the state and regional level, because I think, as many states as are absolving their R2P, or ignoring their R2P, or just blatantly violating their R2P, there are so many more states that are doing things on a daily basis that upholds R2P, and whether they're thinking of it in that way or not is up for debate, but, you know, I think there's so many ways that states and regional actors are forgotten in these kind of bigger discussions, especially when we're talking about the failures of R2P, right. And, you know, while R2P is really contributing to international peacekeeping efforts, or international justice efforts, or trying to get the Security Council to do something on these protracted crises, it also includes so many things that you did mention. So, preventive efforts to build resilient societies and promote and protect human rights, you know, through constitutional mechanisms, or legal protections, or something like Ghana's Peace Council, which takes in, you know, local history, and traditional ways of resolving conflicts into modern day legal structures as well, to you know, ratifying international treaties, ensuring equal access to educational resources to kind of avoid exacerbating tensions like we see in the Sahel, and we see in Nigeria, and we see in Somalia. It's supporting efforts nationally to combat xenophobia, and antisemitism, and islamophobia, and racism, and all of those things, targeting of refugee populations and migrant populations. It's ensuring open space for us a civil society and the media to report and criticize the government in a national capacity. There's so many things that states can do, and are doing nationally and regionally that uphold R2P on a daily basis, and it's not something at the forefront of these discussions, but I think it should be, and I want to emphasize that.

J

Jahaan Pittalwala 07:18

That's a really comprehensive overview that you both gave, and it seems that international and regional bodies play a really huge and pivotal role when it comes to implementing R2P.

S

Sarah Hunter 07:29

Absolutely.

J

Jahaan Pittalwala 07:30

But, going back to what was written in the original question, what's our role? What's the role of the Global Centre? And how do we fit into this really massive, what seems like a massive, landscape?

S

Sarah Hunter 07:41

Yeah, I guess, I'll jump back in, and thanks Jahaan for kind of re-centering us, because, you know, we often get that question on social media, in our emails. I've responded to so much of that throughout my time at the Global Centre of, you know, why have we, specifically, as the Global Center not acted on these crises? Why have we, ourselves, not sent in the peacekeepers to Myanmar, to Ethiopia? What are we doing? Why haven't we, you know, taken the opportunity to stop this. And sadly, we don't have that power. And, you know, we're an NGO, with a team in New York and Geneva. We are here to do research and advocacy on R2P, to institutionalize R2P in the international and domestic and regional systems, to help operationalize R2P, but the Security Council is the only international body that has the power for stick-type interventions, like, sending in peacekeepers, like imposing sanctions, any type of intervention that has the teeth. I did want to point out that we at the Global Center, at least for me, and I think my colleagues would agree as well, that we share these frustrations, and we do get let down and just, kind of, demoralized sometimes on just a lack of international action. You know, when we see affected populations screaming out for action, we're doing that same work behind the scenes and talking to UN members. And I think for me, what's most frustrating is that we know how the Russias, and the Chinas, and the Cubas, and the Irans are going to behave. We know they're going to be opposed to any type of country situation being talked about by the Human Rights Council. We know they're going to oppose any type of human rights focused situation being discussed in the Security Council. But, what frustrates us most, I think is that states that are, you know, very outwardly, and publicly, and vocally champions of R2P, and champions of human rights, also, there comes a time standing in the way of what they're claiming to promote, and to protect. And I think that's what's most frustrating for me is they're not walking the walk when it really comes down to it, and it makes us, you know, action more difficult all across the board if you have those states, you know, also standing in the way and not helping to, you know, prevent these atrocities or act when things are happening. But I did want to assure kind of everyone listening today that you know, that come to us looking for these answers and looking for this action, that we are really truly doing everything we can to ensure that states live up to their commitments under R2P, and human rights more generally. I mean, some days are better than others, and I think our bad days are really bad, but R2P doesn't have any independent agency. It's not a sentient being, and R2P's only ever going to be as effective as those practitioners that are supposed to be acting upon it.

J

Jahaan Pittalwala 10:26

Elisabeth, do you share those frustrations?

E

Elisabeth Pramendorfer 10:30

Oh, yes, absolutely. I completely share them, and I think we're such a small team at the Global Centre, and we, I think we're all, you know, really in the same boat in terms of, you know, we try to encourage each other through the hard days, and we try to celebrate the small successes because I think in this field that we work in, it's very, very small baby steps, and then often times it's a huge step back, and then you move forward an inch or so. So, I completely agree with what Sarah reflected upon, and I also just wanted to get back to her point on champions of R2P, because one of the misunderstandings, or one of the points about R2P that often comes up is that it's a divided norm, and you have states that champion it, and you have states that just completely, you know, try to attack the legitimacy of the norm. And I think it's just not as

black and white as we may perceive it. You have countries which are openly championing the principle, which are committed to human rights, and which very proudly carrying that into the world but which still fail to either protect their own populations or to uphold R2P, you know, throughout the system, and regardless of which country situation it concerns. So, it's not black and white, and often times, our biggest supporters, our biggest champions, and the countries that we look for the most to take action, are the ones that we need to specifically push and, you know, push in the right direction.

S

Sarah Hunter 12:02

Yeah, Elisabeth, that was great. And I think that this is a really good segue into another question that we get all the time, I mean, on a daily, if not, you know, multiple times a day basis, which is, if R2P exists, then why do we see so many ongoing conflicts with so much suffering across the globe? And it's definitely a million dollar question to answer. So, I wanted to bring in a couple other colleagues to answer this with us. So, Christine Caldera is one of our Research Analysts and the Coordinator of the NGO Working Group on the Security Council, and Juliette Paauwe, our Senior Research Analyst. So, welcome guys to the podcast.

C

Christine Caldera 12:41

Thanks so much, Sarah and Jahaan, for having us. It's really exciting to have a team podcast.

J

Juliette Paauwe 12:47

Thank you, Sarah. Thank you, Jahaan. It's amazing to be here. And it's a really interesting discussion, happy to contribute to that.

S

Sarah Hunter 12:53

So, who wants to kick off and try to answer this million dollar question? Juliette, do you want to get started?

J

Juliette Paauwe 13:00

Sure. Thanks, Sarah. So, I think also building upon the answers given on the first question, I think it's good to repeat that R2P is a political commitment, and it creates more of a moral imperative for states to respond to situations where atrocities are occurring, or where there's a risk of atrocities. So it's not a legal obligation. There is no legal consequences for not upholding the Responsibility to Protect. So, in the end, it's all about the state's willingness and their capacity to use its political leverage, and the resources that it has to respond to atrocity situations. But the reality is, states are operating in a system where national interest, economic interest, historical ties, cultural connections, are unfortunately sometimes more valued than calling each other out on human rights violations. And the current level of suffering in the world is unprecedented. But as we have seen in the previous question, this does not mean that states do not try their utmost best to respond to atrocity situations, and try to alleviate the suffering

of vulnerable populations. But in some atrocity situations it has been very difficult for the international community to effectively respond to. For example, just one of the few, one of the many examples that we have is the Anglophone region of Cameroon, because multiple factors are making this very difficult. Cameroon is a relatively powerful country on the African continent. It has strong political and historical ties with other powerful countries in the world, and Cameroon is also a member of the Human Rights Council, making it difficult for the Human Rights Council to take action, and even today, Cameroon was elected for a three year term on the African Union's Peace and Security Council. And some members of the Security Council in New York are of the opinion that the situation in Cameroon is of an internal matter and not a matter of international peace and security. So they are also blocking any meaningful engagement on the Security Council. So, we have seen in the previous question, there are many tools, many measures that states can take, but sometimes the reality of the international community and the international relations, the interests that states have, make it difficult. So, it's not always guaranteed that if we implement those measures that it can also alleviate the suffering of the people.

S

Sarah Hunter 15:23

I think that's a really great point, and something we're increasingly seeing more and more, Juliette, is that if there's any type of shred of doubt, or reluctance by any member of the Security Council, or members of, you know, a regional block like the EU, or members on the Human Rights Council, it becomes immediately, in the blink of an eye, more difficult for us to, kind of, garner support for action, garner states to, you know, kind of go against each other, or go against the state that's, you know, perpetrating atrocities like in Cameroon, or like in Ethiopia, to get some type of action published, especially when the state is so actively lobbying against it.

J

Juliette Paauwe 16:01

Exactly. But also to get back to your question, like if R2P exists, then why is there still so much suffering, what is important to note is sometimes the international community is strongly engaged, and has taken effective measures to try to halt the commission of atrocity crimes. But it does not necessarily guarantee or translate into the alleviation of suffering. Like for example, in South Sudan, it has one of the most largest peacekeeping missions of the world, that is being deployed in South Sudan. It has an extensive mandate to protect civilians. The Security Council has adopted targeted sanctions against certain individuals in South Sudan, the Human Rights Council has set up a mechanism that is monitoring and reporting on the human rights violations, and yet the civilians in South Sudan continue to suffer from political and inter-communal violence. So yes, R2P has many tools in its toolbox aimed at halting atrocities and alleviating the suffering of the people, and there's a myriad of ways the international community can respond to atrocities, but in some situations, member states are unable to effectively use these tools, are unwilling to do so, and they are not legally obliged to do so, because R2P, is in the end, a political commitment. But even if the tools are used, it does not automatically mean it will immediately lead to an alleviation of suffering, because R2P and the tools are not a panacea.

S

Sarah Hunter 17:27

Oh, yeah, the ever-expanding toolbox.

C Christine Caldera 17:31

Yes, I think I'd, I'll just jump in now, and I'd like to begin by stressing Juliette's point that, the level of suffering around the world right now is truly unprecedented. So, there are a record 84 million people forcibly displaced right now from human rights violations, persecution, conflict and atrocities, and there's also a record number of active conflicts around the world. And so, I think these trends are not just a reflection of the expansion and intensification of conflicts where perpetrators are targeting civilians, but it's also a note on the longevity of crises around the world, such as Yemen, Syria, Democratic Republic of the Congo, among others, that the international community has truly failed to adequately respond to. So, I think these trends also demonstrate the need to confront intractable conflicts when we see early warning signs of atrocities or widespread human rights violations. And it also points to the international community needing to better protect vulnerable populations by using all the available tools of R2P. I think among our staff, we all really believe and recognize that R2P, at its core, is the prevention agenda, and that the fact that there is this unprecedented level of suffering around the world is not a shortcoming or fault of the Responsibility to Protect. So, I think it's made known, just by the nature of this question though, that much work needs to be done to translate R2P into consistent practice to better protect populations and alleviate long term conflicts.

S Sarah Hunter 19:12

Christine, let me jump in here. You cover the situation in the Central African Republic, which I think is a really good example of what both you and Juliette have mentioned about how one or two tools can't solve everything on its own. Can you elaborate a little bit, like in the context of Central African Republic or CAR?

C Christine Caldera 19:29

Yeah, so just in brief, populations in the Central African Republic have faced a protracted conflict and also atrocities for years despite significant engagement by the international community and regional actors. So the ongoing violence in the country, I think, truly demonstrates the need to address underlying causes of conflict, and at least in the situation in CAR, this includes a thriving conflict economy that are used by predatory armed groups and also long standing grievances among communities. It also just shows how challenging it is to build effective governance and long term stability when dealing with a protracted conflict such as the one in the Central African Republic. So, the international response to the situation has not always kept these underlying conflict drivers in mind in their international response. And similar to what Juliette mentioned, there are of course, geopolitical and like economic interests at play when the international community is framing their response to the situation. In addition to that, the Central African Republic is one of the most underreported conflicts around the world, so this is also just an added challenge to making sure it's on people's minds, and a priority, as it should be. I think with all that said, I want to shift my focus to a more positive one though, and highlight some of the tools of R2P that have been used to address the situation in the Central African Republic, and that would be the UN peacekeeping mission, MINUSCA. While

it does have its shortcomings, and of course, some challenges that have been highlighted but, they are the primary protection actor in the Central African Republic right now. They are mandated by the Security Council with a robust civilian protection mandate and that includes monitoring and responding to early warning signs of violence or atrocities. The mission also helps implement other R2P tools such as working with communities in reconciliation programs and transitional justice, among many others. But one of the areas under the work of the human rights division of the peacekeeping operation is on the prevention of incitement to violence and hate speech. And so the reason I'm raising this issue, in particular, is because I think it's really important work for upholding the Responsibility to Protect for the situation in the Central African Republic because incitement to violence against ethnic and religious groups has been one of the primary drivers and defining features of the long standing conflict in Carr, and it has also facilitated the commission of atrocities, and this was in the previous conflict between 2013 and 2015, and now, as we've seen, since violence has renewed in December 2020. But the Security Council has also recognized hate speech and incitement to violence as an atrocity risk in the Central African Republic, and has included it as a criteria for sanctions and several resolutions in the past few years, and has mandated the peacekeeping mission to monitor and report on hate speech and incitement. And then, kind of on top of that international action, Central African Republic authorities themselves have adopted a national action plan for the prevention of incitement to hate and violence, back in June 2018, and then subsequently launched this the next year in 2019. Its existence demonstrates a political will to combat hate speech and incitement to violence at the highest level, and national buy-in, which is really important. But, I think this example also demonstrates how multiple actors can implement tools of R2P that are mutually reinforcing, that also serve to address long term atrocity risks in the Central African Republic.

S

Sarah Hunter 23:17

Jahaan, do you want to jump in?

J

Jahaan Pittalwala 23:19

Yeah, thanks Sarah. Everything Christine and Juliette has said is one thousand per cent correct, and I think the example of hate speech and incitement to violence that Christine mentioned in the Central African Republic context, is something that we should really be using to fuel other early warning responses and attention to risk factors in other situations. You know, Juliette made a really fascinating point earlier about how any doubts that come from member states, and you, Sarah, also said it, it makes action and response way more difficult, and I think that that is amplified when we're dealing with early warning and risk factors for atrocities because there really isn't a sense of urgency among states because crimes aren't necessarily very visible, they aren't necessarily being committed on a wide scale yet, but the early warning signs are there, so, when member states have resistance, it makes action a lot more difficult. And effectively using the tools at its disposal, that's something the international community has to improve on in responding to situations at an early stage. I think Syria and Afghanistan are two great examples here, because in 2011, when the Syrian war really started to escalate and broke out, it's not as though that was the first time Assad was perpetrating violations and abuses against his people - that had been going on for years prior, and the international community did not respond effectively, early enough, to prevent the catastrophe that we've now been seeing for over a decade. I also think Afghanistan is fascinating in this context

because, it was a twenty year war that had been ongoing with cycles of war crimes, likely war crimes and crimes against humanity, and when the Taliban militarily took over the country in August of last year, that was viewed as a shock by many people, but if the international community had been paying attention to the early warning signs, that takeover would have been predicted, and the civilian casualties, the scores of deaths and injuries that took place as a result of the military offensive, could have been mitigated or prevented. And so these are sort of textbook examples that we've seen over and over again throughout history, and that's why we often hear that very, sort of alarming quote that 'never again has become again and again'.

S

Sarah Hunter 25:55

Yeah, Jahaan. Those both are really great examples of, you know, how inaction has fueled some of the world's worst protracted crises that are still ongoing today.

J

Jahaan Pittalwala 26:06

Yeah, and you know, with these protracted conflicts, there is so much more that we could elaborate on, but unfortunately, we have a long list of other questions to get to, so I think we should move this right along. I think the next question that we have touches on some really key elements of our work. Who decides what is and is not an atrocity crime? Juliette, is it as simple as this? Is there someone who just decides?

J

Juliette Paauwe 26:36

I wish it was that simple. And it's a really good question, and maybe, first of all, I think I should start by saying that there is no legal definition of atrocity crimes. The framework of the Responsibility to Protect is about protecting populations from four international crimes, which are genocide, war crimes, crimes against humanity and ethnic cleansing. And instead of constantly spelling out the four crimes all the time, we just refer to them as atrocity crimes. So the first three crimes of genocide, war crimes and crimes against humanity, are legally defined in various international legal documents such as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide - well known as the Genocide Convention - the 1949 Geneva Conventions, and their 1977 additional protocols, and the 1998 Rome Statute of the International Criminal Court. And ethnic cleansing, the fourth crime, which falls under R2P, means something like "rendering an area ethnically homogenous, by using force or intimidation, to remove persons of given groups from an area". But this has not been recognized as an independent crime under international law, and it's considered as a subset of crimes against humanity. So, to your question, is there someone who decides? Well, these legal instruments, including the definition of those crimes, are products of years of deliberations between a large number of member states, legal experts, academics, et cetera. So, in some way, you could say that these people have decided what an atrocity crime is.

J

Jahaan Pittalwala 28:17

So those were the legal frameworks and instruments that lay out sort of the definitions of the crimes, and the parameters of the crimes, and thanks for flagging also about ethnic cleansing because I think that's really fascinating to keep in mind that we say four crimes but ethnic

because I think that's really important to keep in mind that we say four crimes, but crime cleansing sort of holds a special status when it comes to the four, the four acts that we consider atrocity crimes. So, do organizations like ours just apply these definitions? What does that look like in practice?

J Juliette Paauwe 28:46

So, we at the Global Centre look at situations from the atrocity perspective. Right, so are populations suffering from atrocities, or is there a risk of atrocities? So when we are assessing country situations, we constantly have to keep the legal definition of the four crimes in mind. For example, like the killing of thirty civilians in a village in Jonglei state in South Sudan, is it an isolated incident? Or is it part of a widespread or systematic attack against the civilian population, or a particular ethnic group? If so, it could qualify as a crime against humanity? Do these killings, for example, take place in the context of a protracted armed conflict, then it could potentially qualify as a war crime. So for something to be considered an atrocity crime, it has to meet a specific threshold of gravity, and it needs to be in line with the specific definitions and the so-called contextual elements of the international crimes that were defined by those legal instruments. So that is how the Global Centre is assessing country situations to see if those conditions are met.

J Jahaan Pittalwala 29:52

Right, so our work is guided by those legal definitions. Are there times when we struggle with deciding an atrocity situation? Are there times when it becomes complicated, or challenging?

J Juliette Paauwe 30:07

So, for all of us at the Global Center, I think the definitions of those crimes are pretty clear, but it does not mean that it's always easy to determine what happens on the ground also fits within these definitions. That requires real on-the-ground investigations by experts. We at the Global Centre don't do that. But sometimes these terms are also not used in the right way. Like the crime of genocide is often used in situations where the crimes committed can never qualify as a genocide. Like the definition of genocide is very particular, very precise, and includes acts that are committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. So for example, the conflict in Cameroon is about the marginalization and exclusion of the Anglophone population by the Francophone dominated governments. This is linguistic and cultural in nature, and does not clearly fit within the four groups of national ethnical, racial or religious, included in the Genocide Convention. So this does, in no way mean, that the crimes committed in the Anglophone regions are less grave because the term genocide is difficult to use, but these crimes committed, they clearly amount to crimes against humanity or war crimes, but it shows that the legal definitions are very specific, and that you have to be careful in which to use when.

S Sarah Hunter 31:31

So, building off of Juliette's really expert translation from a lot of the legal aspects around the four crimes, I want to emphasize that there's like really no set-in-stone path for who or what

part of the UN or international system like gets to decide what these atrocity crimes are and what they aren't. And I think it really depends on what the crime is. For example, in, you know, in our work, we do look to the UN and other colleagues at NGOs with, kind of, vast legal teams, to make more difficult decisions on certain crimes, and I'm thinking mainly genocide in this case, because there must be this clear criminal, legal decision made to prove the intent to destroy a population, whole or in part, that makes genocide, which is often labeled, you know, like the crime of crimes, it's like the most, you know, grave crime under the four crimes, but it also makes it the most difficult to label, and I think that also makes it the most difficult to act upon. It's not a crime that's assessed, and, you know, a determination that comes out, you know, a week or two months, or even sometimes two to five years after crimes have been committed, it's a longer term, kind of, legal definition that's made. And, you know, genocide is a crime, that really garners, kind of widespread, international shock and condemnation, and so some populations, especially populations, you know, for, you know, Juliette mentioned Cameroon, the Anglophone population, in my work, the Tigray population, or really a lot of the different ethnic groups in Ethiopia believe that there's a genocide against their population, and that frustrates them because this formal decision-making process is not a quick turnaround.

J Juliette Paauwe 33:11

Sarah said "the crime of genocide is considered as the crime of crimes," and that's absolutely true. This does, however, not mean that when finally being prosecuted in a court of law that it leads to higher sentences. So, it's not that there is like an increased pressure on proving genocide because it leads to higher sentences and longer imprisonment - they're as grave, eventually, in a court of law, as crimes against humanity, war crimes, or any other international crimes.

S Sarah Hunter 33:43

No, and that's a really great point, and something that I think is often forgotten when some groups are trying to really attain this genocide determination, is that, if you are only focused on this end goal of assuring, you know, genocide determination, you're kind of ignoring the fact that war crimes and crimes against humanity are part of this genocide determination, and are just as horrible and just should be stopped as well.

J Jahaan Pittalwala 34:05

Those are some really great points that you both have brought forward, and I think it touches on something that's debated often in the international community about this sort of ranking of crimes and I'm glad that you both provided some clarity on that. But what about the other three crimes? You know, you both have touched on it a little bit, but I'd love to hear some more detail.

S Sarah Hunter 34:27

I guess I could kick off on the start of the second most difficult crime to name which is ethnic cleansing. You know, as Juliette mentioned, there really isn't an internationally agreed upon legal definition of ethnic cleansing on its own. and it bears certain aspects to other parts of

international crimes like, you know, it can fall under crime against humanity for example. And personally, I feel like that holds up, because when we see it used, it's usually when there are other broad stroke war crimes and crimes against humanity being deployed in a population. The Rohingya in Myanmar, for example, before they made the genocide determination there, you know, Israel's forced removal of Palestinians and settlements, what's happening in Western Tigray, also in sort of the ethnic restructuring happening in Syria. I think ethnic cleansing is another crime that's, you know, both easy and difficult to prove at the same time because you can see mass displacement of persons coming out of a region, like we saw, you know, in 2017 with the Rohingya, but the international community is, again, really reluctant to call ethnic cleansing what it is without clear, verifiable evidence, and also, the fact there's no definition I think, really impedes it being used in a more strategic way. And when it comes to crimes against humanity and war crimes, I think these decisions are much easier. We ourselves, as the Global Center can look at, you know, the bombing of the market in Togoga, Tigray, and quickly decide that's a war crime based on the definition of war crimes and the lists of, you know, specific crimes under those definitions. When the Ethiopian government blocks aid in Tigray, or Al-Shabab blocks aid to populations in Somalia, we can easily label those acts as acts of possible crimes against humanity. Many times, you know, the UN High Commissioner for Human Rights and other high level figures will kind of name these crimes as they're happening in a more ongoing nature, and so will international NGOs, like I said, some of our colleagues at Human Rights Watch and Amnesty will make, will be on the forefront of making these demarcations as well, like our colleagues at both Human Rights Watch, and now Amnesty International, who have clearly defined aspects of Israel's treatment of the Palestinians as apartheid, which is a crime against humanity.

J Juliette Paauwe 35:28

So, besides NGOs, like Amnesty, Human Rights Watch, and many others and the Global Centre, to some extent, there is, in the end, like an entire system of international criminal courts, international or hybrid criminal tribunals, investigative mechanisms, as well as domestic courts that have the authority to apply these international legal instruments, like the Rome Statute and the Genocide Convention, and they ultimately can, and will make that determination whether one or more of the atrocity crimes have been committed. So to answer your question, who decides if a crime has been committed, the work of these judicial institutions will lead eventually to indictments and ultimately the prosecution of perpetrators.

S Sarah Hunter 36:25

So, I'm going to, kind of, pivot a little bit from that discussion and talk about another question that we received, that also touches on a lot of key elements of our work at the Global Center, and that's namely, you know, why do we focus on justice and accountability efforts, instead of just focusing on halting atrocities and saving lives? You know, why are we thinking about these longer term things when people are still continuing to suffer right now? Juliette, Elisabeth, what do you guys think here?

E Elisabeth Pramendorfer 37:09

So, I can absolutely see how that question came in, because if you do look at our website, our Twitter and social media account and also on the R2P Monitor and the kind of

Twitter and social media account and also on the R2P Monitor and the kind of recommendations that we give, so much is focused on accountability and justice. Accountability and justice is an essential part of the Responsibility to Protect. First and foremost, victims have a right to justice, and they have a right to know what happened to their loved ones. In addition to that, I will also say that accountability may, in fact, be a deterrent for future atrocity crimes. It signals both perpetrators and victims that there will be consequences, and accountability can also help to re-establish an accurate historic record of atrocity crimes. This is something that we think is essential to address grievances among individuals and communities, and to foster societal reconciliation. And so, in our work at the Global Centre, we do focus a lot on accountability and on investigative mechanisms because of their unique potential in identifying what led to violence in the first place, and what needs to change on an institutional, structural level within a country to prevent recurrence. And I will say that, it is largely because of the work of such investigative mechanisms - who by the way also regularly utilized the UN framework of analysis for atrocity crimes - that we actually understand the root causes of atrocity crimes in situations like South Sudan, in Venezuela, in Burundi, or in Syria, and we understand what needs to change to end the cycle of violence.

S

Sarah Hunter 39:15

Elisabeth, those are really great points on recurrence, but I think a lot of these crises aren't resolved enough for recurrence, right. The atrocities are ongoing on an almost daily basis in some cases. Can you give us some examples of how international progress on justice has halted atrocities that are taking place?

E

Elisabeth Pramendorfer 39:32

Sure, and I will begin by emphasizing that most times it's actually impossible to prove that progress on international justice or accountability has halted atrocities or has in any way changed patterns of behavior of perpetrators. It's very, very difficult to prove, but there is a linkage, and there is a connection between fighting impunity and preventing the recurrence of atrocity crimes. We do know today, that the Commission of Inquiry on Burundi had a very big impact on essentially avoiding a bloodbath during elections in 2019 because what they did is, they came out six months prior to that, warning that the risk of atrocity crimes is at a peak, and the government knew that all eyes are on them. We have equally seen the tremendous efforts by the Ethiopian government who, as Sarah mentioned before, is one of the perpetrators of atrocity crimes in Tigray and elsewhere in the country, to block the Human Rights Council from establishing an investigative mechanism, because they knew that evidence will be collected that points directly to them. And I will say we've been very surprised by Venezuela which, rather than withdrawing from the Rome Statute, actually signed a Memorandum of Understanding with the Office of the Prosecutor of the International Criminal Court to essentially save themselves from potential future arrest warrants. Now, in none of these situations that I've just mentioned, we have seen genuine long term improvement in the human rights record, but what we do see is that perpetrators are worried that at some point the cost of violating human rights will actually become too high. Now, in an ideal case, first steps, such as the creation of investigative bodies that we actively advocate for, can lead to follow up action. We've seen the establishment of bodies like the IIM or the IIMM for Syria and Myanmar, which prepare files for judicial proceedings with the information coming from investigative mechanisms, and we also see states taking action under universal jurisdiction for perpetrators for atrocities, in both Syria and Myanmar. So we do know that if there's political will, one step

may actually lead to another. But it also goes the other way. Since the mandate of the Group of Eminent Experts on Yemen was terminated, we have actually seen an increase in casualties on the ground, and I think that that's the flip side, and that's where often we still fail. Accountability mechanisms only produce information, and it is up to us, it is up to governments, it is up to other stakeholders, civil society organizations, regional organizations to do something with that information, and this is what will actually determine whether accountability can prevent recurrence or not.

S

Sarah Hunter 42:26

So thanks for that, Elisabeth, and I want to bring in our colleague, Liam, who covers the situation in Myanmar, to kind of expand on some of the points you were talking about regarding the ICJ case and the different mechanisms that the international community has used to subvert the Security Council's deadlock on the crisis and try to bring justice for the Rohingya. Liam.

L

Liam Scott 42:52

Hi, Sarah, thanks so much for having me. Well, I think, first and foremost, obviously, justice and accountability are really important whenever, for any case that you're talking about, but I think they're especially relevant when it comes to understanding Myanmar, you know, largely because the ongoing crisis in Myanmar, post-coup, is really anchored in the international community's failures to hold the Tatmadaw accountable for past atrocities, you know, notably, including the 2017 genocide against the Rohingya, but also previous decades of human rights abuses that that the Tatmadaw has perpetrated throughout the country.

S

Sarah Hunter 43:27

Liam, really quickly for some of our listeners that might not know kind of the specifics of Myanmar - the Tatmadaw is Myanmar's military, correct?

L

Liam Scott 43:36

Yes, the Tatmadaw is Myanmar's military. But you know, even, there are still, you know, several mechanisms that are in place that are working toward accountability. So for instance, the UN Human Rights Council established a fact finding mission on Myanmar in 2017, and then that essentially, kind of, turned into the Independent Investigative Mechanism for Myanmar, which we call the IIMM, and that replaced it in 2019, and it's still ongoing, and it's collecting and preserving evidence of crimes that the Tatmadaw has committed since 2011, and so it's only investigating crimes that have been committed since 2011, so nothing before 2011, but that's so important because it can be, it's investigating crimes that the Tatmadaw is continuing to commit today. And then another really important development in accountability was in 2019 when The Gambia filed an ICJ case against Myanmar for committing genocide against the Rohingya. That case is actually ongoing, there's a hearing scheduled for later in February, in which the Tatmadaw will seek to challenge the court's jurisdiction in the case actually, you know, the fact that The Gambia is the country that brought the case against Myanmar is really

important in showing that, you know, really any country can lead these efforts. And then another really important development was actually recently in 2021 when Argentina's judiciary announced that they would be pursuing a universal jurisdiction case against Myanmar's military, the Tatmadaw, for the genocide. I think broadly speaking, the international community hasn't used all of the routes available to them when it comes to justice and accountability in Myanmar. For instance, the Security Council could still refer the situation to the ICC, and I think they should do that, but at the same time, all of the mechanisms that are currently ongoing are still necessary.

S

Sarah Hunter 45:30

Juliette, do you have any thoughts to add to this discussion?

J

Juliette Paauwe 45:33

So, let me bring us back to the question, because like while R2P is ultimately about the prevention of atrocity crimes, our focus at the Global Center on justice and accountability is equally important. Because what we have seen recently is that it is sometimes easier for states to effectively respond to the aftermath of atrocities instead of preventing them. Somehow prevention remains difficult, even though it is much more useful to invest in prevention. But once a situation has escalated, and once atrocities have been committed, the international community seems to suddenly wake up and is willing and able to invest in justice and accountability. There are a lot of innovative ways, as already mentioned before, and the past decade in the context of this justice and accountability for past atrocities, like new mechanisms are set up by the General Assembly, the Human Rights Council mandated mechanisms that are mandated to address justice and accountability issues, and collect and preserve evidence, and there are several high level universal jurisdiction cases in several countries. So these developments are all very important, commendable and also comforting, in a way, because justice will eventually catch up with perpetrators, even though sometimes it takes years and years for perpetrators to be held accountable, but they will not remain unpunished forever. However, I also wish that states would start investing equally in preventive mechanisms and measures, as they currently are in justice and accountability mechanisms, so we can avoid having long term trials and expensive international courts and tribunals, because we simply are able to prevent those crimes from happening in the first place.

S

Sarah Hunter 47:15

That's a great point, Juliette. I feel like we talk about that all the time that prevention is so much cheaper than response to atrocities, right? Whether we're talking about responding to humanitarian crises, or the cost of these long, you know, decades long, sometimes legal mechanisms. But I also feel like we're seeing these justice processes pick up the pace as well, with other states, kind of, using universal jurisdiction to prosecute atrocity perpetrators in their countries from abroad, and I think it feels like we're making progress here.

J

Jahaan Pittalwala 47:45

Progress is a really great word to describe what we're sort of seeing on the international scale

Progress is a really great word to describe what we're sort of seeing on the international scale when it comes to establishing mechanisms, but I would also say that we're actually seeing a lot of really fascinating innovations from the international community when it comes to pursuing justice. We're seeing this multi-level, multi-track, multi-stakeholder pursuit of justice and accountability, and like Juliette said, it's very comforting in a way, and it also gives us lots of hope that there are still ways to spur decision-makers and policy-makers into making the right choice for humanity, even if it's a bit piecemeal. But I don't think we should be complacent in that hope and comfort, we should sort of use it to fuel our continued work and dedication, which I know that we all do. And we actually received quite a few questions from our friends and partners, colleagues at other organizations, and even some very prominent diaspora groups, asking us, "what can we do to help the international community better prevent and halt ongoing atrocities?" Now, I know we've all got a lot of strong thoughts for this one. So maybe, Christine, you can kick us off? What are your reflections when you hear a question like this?

C Christine Caldera 49:02

I think it almost goes without saying that it's easy to identify failures of the international community in protecting populations and preventing atrocities. I think our team has highlighted many of these examples throughout this episode. And I also think it can be easy to get overwhelmed by the levels of human suffering that we hear and that, you know, we're witnessing, and with the populations that we're working with on a daily basis. But I think there's also been a lot of positive developments since the global commitment to R2P in 2005, including several examples related to the norm development and support for international justice. In recent years we've also seen the power of activists and coalition's to mobilize change on a range of issues, and I really believe we need to celebrate these small victories in order to sustain motivation for larger ones. And so on this note, one key aspect of our work at the Global Centre is influencing decision makers to act to prevent, and respond to atrocity crimes, and we could not do this work without collaborating with others, and that includes amplifying the experiences and expertise of the affected communities, and also bridging the gap between them and policymakers, and for us, that's primarily with the UN Security Council and the UN Human Rights Council. So, for the Global Centre, I cover our research and advocacy for populations at risk of atrocities in Burkina Faso, Mali, and Niger, which is also known as the Central Sahel. So much of our advocacy on the Central Sahel is guided by our participation in the People's Coalition for the Sahel, which is an informal and diverse alliance of over fifty local, regional, and international NGOs that aim to amplify Sahelian voices and expertise. Community driven initiatives often offer greater potential of being sustainable and solution oriented, which really the international community should buy into if we want these long term solutions to crises, such as the one in the central Sahara which is becoming one of the worst conflicts in the world currently.

J Jahaan Pittalwala 51:14

That really resonates with me and the work that I also do at the Global Centre, but I'm curious, Juliette, does that resonate with you?

J Juliette Paauwe 51:26

Absolutely. I could not agree more with Christine. Like, the most effective way of influencing decision-making processes is by amplifying voices from affected communities. And one

decision making processes is by amplifying voices from affected communities. And one question we received for this podcast was about the role of the diaspora communities. And I think they have a very important role to play, because directly bridging the gap between affected communities, that live in countries where atrocities are being committed, and policymakers is sometimes difficult, because you can't just easily fly people from affected communities to New York, Geneva or elsewhere. Besides that, being logistically a challenge, there's also a serious risk of reprisals for when they return. And it's not always safe for them to speak to the international community via virtual meetings from their own home, and they risk being arrested, detained, tortured, or worse. So, the diaspora communities have the advantage of being at a location where they may feel more empowered to speak out on these issues happening in their country. Even though the fear of reprisal may always be present, it is maybe easier for the diaspora to directly access policymakers, to build international networks with other diaspora communities and NGOs, and together form a joint force that can be extremely powerful. And one of the most rewarding parts of my work at the Global Center is actually being able to facilitate that dialogue between the diaspora communities and grassroots organizations, with policymakers and multilateral fora.

J Jahaan Pittalwala 52:57

Precisely, and that facilitation, that work, acting as a bridge between grassroots organizations and policymakers is something I know all of us place very strong emphasis on. And Elisabeth, it's something that you do quite a bit as well through your country work, and through your work at the Human Rights Council. What are your reflections for this question?

E Elisabeth Pramendorfer 53:18

I really love how all of us started with the emphasis on really changing the very elitist top-down decision-making process that we see in the multilateral system. So, I just really, I couldn't agree more with Christine and Juliette on this point. I will add that for me, something I see in the UN system is that there is a tendency to invite victims of atrocities or human rights violations, survivors or human rights defenders to participate in panels, to participate in discussion so that they can give testimony of what happened to them, but we really fail badly to actually include them in decision making processes at every level, not just locally or nationally, but in all the big presidential palaces, when peace deals are signed, or in the sacred chambers of the Human Rights Council or the Security Council. We fail to genuinely listen to what they actually want us to do. And that brings me to my second point. I really believe we don't need more mechanisms. We don't need better legal frameworks or more institutions or experts. We just need to better utilize the information that is out there. For every single country that we monitor at the Global Centre, there are thousands of human rights activists and defenders, NGOs and experts who continuously provide us with information and recommendations. They actually already do the work for us. They tell us what needs to be done and how to do it. All we have to do - decision makers, politicians, diplomats and us in Geneva and in New York - is to go to that very last section of every report, where the heading says recommendations, read them carefully, and actually do our best to implement them.

J Jahaan Pittalwala 55:10

It is actually all of our local partners and friends and colleagues that are so often trying so hard

nationally to get their governments to implement those recommendations that are already written and the Global Centre, now as the Secretariat for the International Coalition for R2P - which is a network of 50+ civil society organizations around the world working together to prevent atrocity crimes - that's one of our primary objectives, to more locally and centrally place the voices of these powerful civil society actors in implementing those recommendations and making them a reality. So, Liam, do have some thoughts on this theme that we're all pitching in on?

L

Liam Scott 55:57

Yeah, I have a lot of thoughts on this. Yeah. I mean, first, I completely agree with what everyone has said about the importance of centering voices on the ground, and I think to contextualize that, you know, since R2P was established, there's been almost a kind of an opening up of the principle, from being something that has been primarily used by elites at the UN and by government officials, but, I think, in recent years, R2P has really opened up beyond that constrained sphere, into the realms of civil society and even into the realm of the individual, and I think Myanmar demonstrates that, you know, really well. You know, for instance, in the weeks following last year's coup, the February 1st coup, protesters evoked R2P on really an unprecedented scale, with signs and with T shirts and things like that, really demanding the protection that they deserve, and I think that underscores the significance of centering the voices of those who are, you know, actually being impacted by the violence on the ground. I think something else that I think of, regarding this question, is how we often talk about the role of civil society in combating atrocities, but I think one facet of civil society that's often forgotten in that conversation is the role of the media. You know, there's a lot of discourse on how media can prompt atrocities through hate speech, and through disinformation and things like that, but there isn't much discourse on how media can actually work to prevent atrocities. You know, reporting from journalists on the ground is usually where we first hear about, you know, atrocity warning signs and atrocity risks and ongoing atrocities, but journalists, I think, can more concertededly report through an atrocity prevention lens.

J

Jahaan Pittalwala 57:38

Sarah, what's resonating with you as we reflect on this question about our role in helping the international community halt atrocities?

S

Sarah Hunter 57:47

So, I think, you know, speaking as one of, or the last person to follow all of the great interventions of my colleagues, they touched on so many extremely important points, so because of that, I'm going to kind of stick to something, you know, a bit more closer to my area of work at the Global Centre, which is really the power of social media, and how the power that we have nowadays that we didn't have even twenty years ago, by the interconnectedness of, you know, societies and the international community. So, when we're grappling, what I think we could all agree on, is a general lack of political will, and kind of the retreat of multilateralism that we're living through and working through today, there's no amount of pressure that is enough pressure, or there's no amount of pressure that's too much pressure to get states to try to act on on these crises. And I think our generation and the generations that have followed us

have more power than we realize to influence that, and I think that's one of the good things that has come out of the interconnectedness. And we do see that play out currently across the globe with narratives calling for action on Myanmar, the presence of civilians from Myanmar calling out for action after the military coup last year, the presence of Tigrayians, mainly diaspora because there's no internet or communications access in Tigray right now, calling for action to let aid in, to end the atrocities, to end, you know, the de-facto blockade on the region. I think like Christine said, we really do truly need to listen to the voices from the ground and act when they're screaming for that help. Consistently so much conversation we had about, you know, what is early warning and how do we do it? And like Elisabeth said, I don't think we need to create more institutions and create new fora to have these discussions, we have the tools, we just need to implement them more effectively, listen to the communities at risk and those enduring atrocities, and really act on their calls. That should be the best and first place that we start.

 Jahaan Pittalwala 59:43

On that very powerful note, thank you for joining us for this very special episode of Expert Voices on Atrocity Prevention. If you'd like more information about the Global Center's work on R2P, mass atrocity prevention, or populations at risk of mass atrocities, please visit our website at globalr2p.org and connect with us on Twitter and Facebook at GCR2P.