



THE RESPONSIBILITY TO PROTECT IN THE AMERICAS:

Exploring Sources of Mass Atrocity Risk and Best Practices for Response

Elisabeth Pramendorfer

The Global Centre for the Responsibility to Protect seeks to prevent and halt mass atrocity crimes – genocide, crimes against humanity, war crimes and ethnic cleansing – by working with governments, civil society and international and regional organizations to effectively and consistently implement the principle of the Responsibility to Protect (R2P). The Global Centre, an independent organization with offices in New York and Geneva, is a trusted guide to governments from the global North and South, as well as senior UN officials, and serves as a close collaborator with leading civil society advocates and non-governmental organizations on the prevention of mass atrocity crimes.

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Cover Photo:

An elderly woman looks at soldiers patrolling a street in Mixco, Guatemala, on January 17, 2020. Guatemala's President Alejandro Giammattei declared on Friday a state of alert for two municipalities near the country's capital, restricting some constitutional rights and deploying police and military to deal with gangs and crime.

(Photo by Orlando Estrada/AFP via Getty Images).

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Glossary of Abbreviations

BNP	Bolivarian National Police
EU	European Union
FAES	Special Action Forces
FFM	Fact-Finding Mission
FSLN	Sandinista National Liberation Front
GHREN	Group of Human Rights Experts on Nicaragua
HNP	Haitian National Police
HRC	UN Human Rights Council
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
MESENI	Special Monitoring Mechanism for Nicaragua
MSS	Multinational Security Support Mission to Haiti
NGOs	Non-governmental organizations
OAS	Organization of American States
OHCHR	Office of the UN High Commissioner for Human Rights
R2P	Responsibility to Protect
UN	United Nations
UNGA	UN General Assembly
UNHCR	UN Refugee Agency
UPR	Universal Periodic Review
UNSC	UN Security Council
US	United States

Executive Summary

Over the past four decades, countries throughout Latin America and the Caribbean have made important strides – transitioning from dictatorship to democracy, exploring avenues for transitional justice, reconciliation and memorialization of past atrocities, and becoming champions of the human rights norms and multilateral institutions that safeguard humanity. Despite this progress, today the region has once again become one of the most violent in the world and governments around the region are systematically curtailing human rights.

Independent UN investigations have documented possible crimes against humanity in Venezuela and Nicaragua. Similar patterns of systematic violations are unfolding in El Salvador. Escalating urban and gang-related violence in Brazil and Haiti resemble conflict zones and have resulted in unprecedented casualties. Meanwhile, the structural marginalization of Indigenous Peoples across the region, the militarization of security strategies and attacks against judicial independence are emblematic features of many countries in the Americas. Despite documentation of how phenomena like gang violence and structural marginalization of Indigenous Peoples may facilitate an environment conducive to the commission of atrocity crimes, atrocity prevention frameworks have not sufficiently considered the unique risks associated with these threats.

While varying in scope and severity, democratic backsliding has further exacerbated the risks associated with these patterns in recent years. Instead of addressing such institutional risk

factors, governments have gradually eroded the rule of law and have resorted to violating human rights, curtailing, and, in some cases, repressing and criminalizing civic space. Disproportionate and violent responses to street protests in Chile, Colombia and the United States further demonstrate that atrocity prevention should become both a domestic and foreign policy imperative.

This Occasional Paper assesses recent protracted and emerging atrocity crises by examining various institutional and hybrid risk factors present in Venezuela, Nicaragua and El Salvador. This paper also provides recommendations for governments to identify gaps and opportunities to address atrocity risks in their own country, as well as how to strengthen the region's atrocity prevention capacities by presenting options available on the regional and multilateral level to ensure robust and time-sensitive response.

It is not too late to ensure effective, holistic and coordinated response to emerging situations in the Latin America and Caribbean region. Doing so will require the requisite political will, a steadfast commitment and the courage to prioritize human rights by countries in the region and beyond.

Introduction

The Responsibility to Protect (R2P) constitutes a solemn pledge by individual states and the wider international community to never again fail to act in the face of genocide, war crimes, crimes against humanity and ethnic cleansing.

Since the adoption of the principle of R2P at the 2005 United Nations (UN) World Summit, many governments in North, Central and South America (“the Americas”) have championed and supported norm development around mass atrocity prevention.¹ To date, 10 countries in the region – Argentina, Canada, Chile, Costa Rica, Guatemala, Mexico, Paraguay, Peru, the United States (US) and Uruguay – have appointed an R2P Focal Point, a senior government official who facilitates national mechanisms for atrocity prevention and promotes international cooperation to respond to situations at risk. In 2019 the Organization of American States (OAS) became the second regional organization to appoint an R2P Focal Point and also subsequently appointed a Special Adviser on R2P. Argentina, Canada, Chile, Costa Rica, Guatemala, Mexico, Panama, Peru, US and Uruguay are also long-standing members of the Geneva and New York-based Group of Friends of R2P, an informal inter-governmental platform at the UN which aims to promote dialogue and encourage member states to advance the effective prevention of genocide, war crimes, ethnic cleansing and crimes against humanity. In addition, Costa Rica and Peru were part of a cross-regional core group that led the adoption of the first UN Human Rights Council (HRC) resolution on R2P in 2020, while Costa Rica and Guatemala successfully led the process on a similar thematic resolution that was adopted at the UN General Assembly (UNGA) in 2021. In addition, Brazil has championed the concept of “Responsibility while Protecting,” contributing to further discussion and work around the norm.

The long-standing leadership of countries in the Americas in advancing R2P is significant in light of the region’s own history of atrocity crimes. In the mid-1970s, military rule was the dominant form of government across much of Latin America and the Caribbean – including in Argentina, Brazil, Chile, Peru and

Uruguay – and was marked by systematic state led-violence. During Argentina’s military dictatorship from 1976–1983, 9,000 cases of disappearances were documented, although the real number is likely considerably higher.² A national truth commission subsequently found that torture, disappearances and secret detention were systematic and ordered by the highest levels of military command. In Chile, General Augusto Pinochet’s brutal regime resulted in the execution of almost 3,200 Chileans.³ An estimated 970 individuals disappeared while thousands more faced arbitrary detention and abductions or had to flee the country during his 17-year rule. The common view around the world was that Latin America and the Caribbean was a zone of conflict, with bitter and bloody civil wars in Colombia, El Salvador, Nicaragua and Guatemala during the 1980s exposing civilians to war crimes and other egregious abuses by state and non-state actors.

A dramatic political change took place from the late 1980s onwards as almost all regional states engaged in democratic reform. Latin America and the Caribbean became, as its diplomats liked to point out, “a zone of peace,” and tremendous efforts were undertaken domestically to address past atrocity crimes through holistic processes of accountability and redress.⁴ In Argentina, the National Commission on the Disappeared provided important recommendations on how to reform the legal system in order to ensure stronger adherence to human rights norms. The information collected by the Commission was also crucial in the trials of the former military junta. In Chile, the Truth and Reconciliation Commission put forward a strategy to ensure greater harmonization of national laws with international human rights obligations. In Colombia, the Commission for the Clarification of Truth, Coexistence and Non-Repetition forms part of a much broader transitional justice and accountability strategy, including the Special Jurisdiction for Peace Tribunal, which prosecutes those responsible for war crimes.

Similar efforts were undertaken on a multilateral level, and Latin America and the Caribbean also became a zone of “norm

entrepreneurship.” Since the arrest of General Pinochet in London in 1998, the principle of universal jurisdiction signaled a major step towards ending the cycle of impunity for perpetrators of mass atrocity crimes. Since then, individual governments have utilized universal jurisdiction to respond to the commission of atrocity crimes irrespective of the citizenship of the perpetrators or victims, or where the crimes were committed. In recent years, prosecutors in Argentina have launched investigations into crimes committed against the Rohingya population in Myanmar (Burma) and into possible crimes against humanity in Nicaragua and Venezuela.⁵ Many states in the Americas also played a crucial role in advancing international justice through support for the founding of the International Criminal Court (ICC) and through championing action for human rights crises in the region at the HRC in Geneva, including advocating for the establishment of robust UN investigative mandates to document atrocity crimes in Nicaragua and Venezuela.

Despite the remarkable leadership and political will to advance R2P and atrocity prevention – and tremendous efforts to reconcile with the past – the Americas continue to face significant challenges to protect and promote human rights and address emerging and protracted atrocity risk factors.

Across the Americas, countries have struggled to address long-standing and deep-rooted social and economic inequality, marginalization, poverty and insecurity. The UN Development Programme warns that “despite the progress of recent decades, countries in Latin America and the Caribbean are more unequal than countries in other regions with similar levels of development, and their social indicators are still below those expected for their average income level.”⁶ Latin America and the Caribbean is considered one of the most violent region in the world.⁷ These challenges – often paired with corruption and lack of good governance – not only cause significant and prolonged human suffering, but also raise public discontent. Street protests have demonstrated growing frustration, and in many instances, governments have responded to such protests by labeling them as security crises, justifying a response by force rather than reflecting on long-term policies to initiate necessary reform.

The legacies of dictatorships and military rule remain deeply entrenched in the institutional set-up of many countries in Latin America and the Caribbean and, to some extent, impact the ways in which governments respond to protests and other forms of dissent. Many governments across the region – on all sides of the political and ideological spectrum – have swiftly and brutally cracked down on their citizens when they decide to demonstrate against inequality or insecurity. This has further deepened an

existing mistrust in state institutions due to corruption, excessive force and a history of atrocity crimes.

Independent regional and UN-mandated investigations have warned of the commission of possible crimes against humanity in Nicaragua and Venezuela. President Nayib Bukele’s administration in El Salvador has demonstrated similar patterns of repression and systematic human rights violations, raising serious concerns about growing atrocity risks. While Colombia officially ended five decades of armed conflict through a historic peace accord in 2016, irregular armed groups and criminal gangs, border violence and illicit economic trade all pose serious security and human rights challenges, including risks for human rights defenders, social leaders and other civil society actors.⁸ In Mexico, militarized security strategies, cycles of corruption, violence and impunity facilitate ongoing extrajudicial killings, torture, enforced disappearances and other serious human rights violations, including against independent journalists and activists exposing rampant impunity for the conduct of state and non-state actors. In recent years, country-wide social protests and demonstrations in Chile, Colombia, Ecuador and Peru have highlighted the urgent need for dialogue and system-wide reform to address deep rooted social inequality, rampant poverty, insecurity and corruption. Police brutality and the militarization of policing has also raised questions about how to address systematic, institutionalized racism and social tensions in the US. All of these examples serve as a dangerous reminder of how quickly the erosion of human rights can reverse decades of progress.

The Americas is also facing the largest migration crisis in its recent history. Since 2014 more than 7.7 million people have left Venezuela, the majority of whom sought refuge in the region.⁹ According to the International Organization for Migration, over four million Venezuelans dispersed across the region struggle to access basic needs. Dangerous migration routes are leaving many Venezuelans at risk of exploitation, violence, trafficking or deportation. The Darién Gap – connecting Central and South America – has become one of the primary migration routes for Venezuelans, which together with Haitians and Ecuadorians, make up 85 percent of the more than 400,000 migrants who crossed the jungle in 2023 alone.¹⁰ According to International Crisis Group, one in five are children. Migrants and refugees are exposed to extreme vulnerabilities while en route due to the lack of regulated migration and the absence of law enforcement. Human trafficking, sexual exploitation, the presence and control of armed groups and organized crime are some of the challenges migrants face when attempting to cross the Darién Gap from Colombia into Panama, resulting in an unknown number or

rapes, murders and other forms of extreme violence.¹¹ Soaring levels of violent crime, including transborder gang violence, as well as the absence of accountable state institutions across Central America's Northern Triangle – Guatemala, Honduras and El Salvador – has also forced hundreds of thousands of people to flee north. They often end up along Mexico's border with the US, where many face risks of arbitrary detention and ill-treatment by Mexican or US law enforcement officials or are exposed to exploitation and violence at the hands of criminal groups. Meanwhile, increasing urban violence, state repression and democratic backsliding across large parts of Latin America and the Caribbean are expected to result in even higher levels of irregular migration.

This Occasional Paper is intended to provide perspective on human rights and atrocity crises in and across the Americas, compare successes and failures in responding to warning signs and risk factors, and identify opportunities for strengthening the region's atrocity prevention capacities. This paper will provide an assessment of various institutional and hybrid risk factors for atrocities, from drug and gang-related violence to vulnerabilities of Indigenous Peoples and rising militarization of security strategies, as well as an assessment of the conditions that resulted in certain situations escalating into atrocity crimes. It will also discuss follow-up action on a regional and multilateral level to different crises, including successes and failures in preventing further escalation or atrocity crimes. Lastly, the paper will also provide a set of key recommendations on how to ensure robust and time-sensitive responses to emerging crises, as well as necessary long-term structural prevention efforts for protracted situations.

Thematic Areas

Atrocity crimes do not occur in a vacuum, nor are they isolated or random incidents. Rather, they are typically the consequence of a broader process. In order to adequately prevent and respond to the threat of atrocity crimes, there is a need to understand the early warning signs, risk factors and aggravating conditions that may culminate in their perpetration.

In the current context in the Americas it is thus crucial to understand how broader processes of democratic backsliding, instability and insecurity, as well as long-standing discrimination and marginalization of certain groups, contribute to an environment which – if paired with other risk factors – may

be conducive to the commission of atrocity crimes. Patterns of violations against Indigenous Peoples, urban and gang-related violence and the militarization of security strategies have been defining and long-standing features for many countries in the Americas. In recent years, increasing attacks against democratic institutions have further exacerbated the risks associated with these patterns, creating greater protection gaps in national prevention architectures across the region. Despite documentation of how patterns of systematic abuses against Indigenous Peoples may constitute atrocity crimes and of how urban and gang violence and organized crime may culminate in large-scale indiscriminate violence, atrocity prevention frameworks have not paid sufficient attention to unique risks associated with these threats.

Although these phenomena are not unique to the Americas, they constitute some of the region's greatest challenges in the context of human rights protection and atrocity prevention. Utilizing the regional context of the Americas, this section will demonstrate how these phenomena contribute to an environment conducive to atrocity crimes.

Indigenous Populations

Historically and at present, Indigenous Peoples around the world have suffered atrocity crimes – including crimes against humanity and genocide – at the hands of states, including colonization and the invasion and confiscation of Indigenous territories. While systematic violence has taken different forms over the past centuries, it is often specifically aimed at intentionally destroying Indigenous Peoples communities, culture and heritage. Although the persistent impunity for past and ongoing systematic violations and abuses against Indigenous Peoples in all regions of the world has garnered more attention in recent years, prospects of accountability, justice and redress remain elusive. Moreover, resistance movements initiated by indigenous groups to protect their territory or populations from discriminatory government policies have sometimes served as a trigger for violence against them and other broader violations of their rights.

Similar to other regions, Indigenous Peoples across the Americas have been significantly impacted by abuses and violence for centuries due to a complex combination of circumstances, including discriminatory policies and practices, forced displacement and targeting on the basis of ethnicity and gender. Dispossession and denial of territorial rights has been identified as one of the key drivers of forced relocation and displacement of Indigenous Peoples. This is particularly

concerning as the identity of Indigenous Peoples – not just in the Americas, but across the world – is often intrinsically connected to their territory, which has also ensured centuries of traditional knowledge over natural resources.

Although there is no universally agreed upon definition, the UN Department of Economic and Social Affairs describes Indigenous Peoples as “inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live.” The UN Refugee Agency (UNHCR) has warned that historically and at present, Indigenous Peoples have been among the most marginalized, discriminated and vulnerable groups across the world.¹² According to the International Labour Organization, the Indigenous Peoples population across Latin America and the Caribbean includes an estimated 55 million people, representing 8.5 percent of its total population.¹³

Crimes against Indigenous Peoples may meet the legal and conceptual thresholds of atrocity crimes, including crimes against humanity or genocide. For example, a report in 2019 by the National Inquiry into Missing and Murdered Indigenous Women and Girls determined that Canada’s policies towards first nations during colonization, as well as subsequent decades of discriminatory policies “constituted an ongoing race, identity and gender-based genocide.”¹⁴ In instances where Indigenous Peoples are intentionally targeted during an armed conflict, such attacks may constitute war crimes. Indigenous Peoples often face systematic and institutionalized restrictions in accessing their civil, political, social, economic and cultural rights. This often takes place as a deliberate attempt to attack or disparage their cultures, identities and ways of life. Schools for Indigenous Peoples in Canada and the United States encouraged assimilation through erasure of cultural practices, histories, languages and more while separating Indigenous children from their families, peoples and ancestral lands.

In Brazil, Human Rights Watch documented how policies implemented during former President Jair Bolsonaro’s administration, including the deliberate weakening of state institutions tasked with the protection of Indigenous Peoples rights and regulations, enabled systematic violations against Indigenous Peoples.¹⁵ These policies helped facilitate territorial encroachment and related abuses, which have continued to affect Indigenous Peoples for decades. In November 2022 a group of non-governmental organizations (NGOs) requested the Office of the Prosecutor of the ICC to open an examination into alleged

crimes against humanity in the context of illegal exploitation of the country’s Amazon region.¹⁶ According to the submission, Indigenous Peoples and other land users have been victims of murder, persecution and other inhumane acts committed since at least 2011 in what is described as an “organizational policy to facilitate the dispossession of land, the exploitation of natural resources, and the destruction of the environment.”¹⁷ Under Bolsonaro, the government also lifted environmental restrictions and protection measures to enable exploitation. Reprisals and the criminalization of Indigenous leaders further facilitated an environment conducive to systematic abuse in a context of impunity.¹⁸

In Nicaragua, more than 30 percent of the country’s territory is home to Afro-descendant and Indigenous Peoples. Illegal farming by settlers has exposed Indigenous Peoples to severe violence, including killings, kidnappings and disappearances. At least five Indigenous persons were killed during an attack by settlers in March 2023.¹⁹ In response, the HRC-mandated Group of Human Rights Experts on Nicaragua (GHREN), urged for further investigations into violations against Indigenous Peoples.

The presence of abusive state or non-state actors also leaves Indigenous Peoples at grave risk. In Venezuela, Indigenous Peoples in various parts of the country have been exposed to extreme violence and systematic abuses by state agents, armed groups and criminal gangs. Illegal mining of gold, diamonds and coltan in Bolívar state –the traditional home of 16 Indigenous Peoples – has resulted in unprecedented levels of extrajudicial killings, sexual and gender-based violence, torture, corporal punishment and disappearances. Indigenous leaders and human rights defenders have been at particular risk of persecution in attempts to defend and protect their territory. According to the Venezuelan NGO Odevida, 32 Indigenous leaders were killed between 2013 and 2021 by state and non-state actors.²⁰ In July 2022 Indigenous leader of the Piaroa people, Virgilio Trujillo Arana, was killed, leaving community members in fear of condemning continued violence and repression.

In many instances where Indigenous Peoples speak out against injustice, government repression is swift and brutal. Protests that erupted in Peru in December 2022 originated in parts of the country that are populated by Indigenous Peoples who have been affected by decades of institutionalized discrimination, poverty and barriers to social and political participation. In a brutal crackdown on the demonstrations, dozens of protesters died by firearm projectiles which, according to leaked autopsy reports, indicate the deliberate use of lethal ammunition by security forces.²¹ According to Amnesty International, “while

the regions with majority Indigenous Peoples represent only 13 percent of Peru’s total population, they account for 80 percent of the total deaths registered since the crisis began. The evidence suggests that the authorities acted with a marked racist bias, targeting populations that have historically been discriminated against.”²² This demonstrates how in moments of crisis or increased tensions, structural discrimination of specific groups can rapidly deteriorate and exacerbate their vulnerabilities to systematic abuses and violence.

Legal constraints and language barriers make access to justice difficult for Indigenous Peoples, enabling most abuses to go unpunished. In addition to existing structural discrimination, denial of past atrocity crimes committed against Indigenous Peoples – including through colonization and historical invasion of their territories – has prohibited the establishment of sufficient processes for justice and accountability, including criminal proceedings, reparations, truth-seeking and reconciliation. Alongside persistent impunity, which facilitates and enables further abuses and neglect, intergenerational trauma also increases the vulnerability of Indigenous Peoples.

The Special Rapporteur on violence against women and girls has documented how Indigenous women and girls are uniquely vulnerable to sexual violence, trafficking and other forms of exploitation by state agents, armed or criminal groups or private companies.²³ This underlines the need for intersectional approaches to the protection of Indigenous Peoples.

These cases show how Indigenous Peoples are uniquely vulnerable to the commission of atrocity crimes in the Americas due to the presence of several interlinked risk factors. These include:

- Persistent lack of accountability for past atrocity crimes committed against Indigenous Peoples.
- Deliberate and institutionalized marginalization from socio-economic or political life, including lack of legal protection, leaving them more vulnerable to abuse.
- Violence against Indigenous Peoples, including by non-state actors and national security forces, creating a permissive environment for further abuses and fostering grievances among communities.
- Economic interests in land encroachment and contamination, as well as resource extraction by state actors and private entities serve as a key driver of violence against Indigenous Peoples.²⁴

- Inflammatory rhetoric by political actors that often blames Indigenous Peoples as obstacles to development projects.

Urban and Gang-related Violence

Urban and gang-related violence pose unique threats to populations around the world. Gangs often control territory and populations by imposing strict rules and harsh punishment. Sexual violence against women and other vulnerable groups has been documented as a strategic method to enforce social control, or as punishment for disobedience.²⁵ In violent clashes with rival gangs, civilians are often caught in the crossfire, or are deliberately used as human shields. Abuses such as human trafficking or extortion are also common among criminal gangs, leaving communities under their control in constant fear and vulnerability. Pervasive impunity and the absence of state authorities in areas under criminal control further emboldens perpetrators.

Although every context is different, countries across Latin America and the Caribbean often share similar root causes of persistent insecurity due to violent and organized crime. Lack of accountable, strong and independent state institutions, the absence of the rule of law, entrenched inequality and high levels of corruption and poverty have all contributed to urban violence. Today, the lack of employment opportunities and widespread poverty continue to draw large numbers of young men (and women) to join the drug-business or other criminal enterprises.

Gangs often have high social enforcement capacity in their respective area by replacing the government in providing basic services, such as electricity or food supplies.²⁶ Deeply embedded corruption across the public sector has impeded a successful long-term crackdown on urban violence. In Brazil and Mexico, documented cases of police forces selling weapons to gangs demonstrates that the problem is more systemic than simply combating urban violence.

In 2021 Mexico’s *Consejo Ciudadano para la Seguridad Pública y Justicia Penal* (the Citizens Council for Public Security and Criminal Justice) reported that out of the 50 most violent cities in the world, 38 are found in Latin America and the Caribbean.²⁷ The first eight cities are located in Mexico, which the Council referred to as “the world epicenter of urban homicidal violence for the last three years.” The Global Conflict Tracker by the Council on Foreign Relations has documented the deaths of at least 150,000 individuals in crime-related violence in Mexico since the declaration of a “war” on organized crime in 2006.²⁸

Since Haiti’s President Jovenel Moïse was assassinated in July 2021, an estimated 300 gangs have expanded their presence to compete for control of profitable and/or strategic resources.²⁹ At the time of writing, the UN estimates that gangs control an estimated 80 percent of the capital, Port-au-Prince, while 2 million Haitians live in areas under gang control. The unprecedented levels of gang violence – comparable to countries in armed conflict – has contributed to mass displacement, severe food insecurity and widespread abuses, including systematic sexual violence, indiscriminate killings and disappearances. The Office of the UN High Commissioner for Human Rights (OHCHR) documented at least 3,960 people killed and over 2,950 kidnapped in 2023, a sharp increase compared to the previous year, highlighting multidimensional and growing security gaps.³⁰ Tired of constant violence and insecurity, a civilian self-defense movement – known as “Bwa Kale” – emerged in April 2023. Videos and pictures shared on social media show citizen vigilante groups assaulting men – alleged gang members – with large rocks and setting fire to gasoline-soaked tires placed around or on their bodies. Videos have also shown Haitians sharpening machetes and blocking entrances into neighborhoods as they pledge to rid the capital of gangs and protect their families and communities. The emergence of such vigilante groups has heightened tensions and fears over indiscriminate lynching.

Amidst growing insecurity, the Haitian National Police (HNP) has lacked the capacity to combat the territorial expansion of gangs and adequately protect communities. For over a year, Prime Minister Ariel Henry openly called on the UN to intervene.³¹ On 2 October 2023 the UN Security Council (UNSC) authorized a new international security mission to Haiti with the aim of stemming gang violence and re-establishing security. The Multinational Security Support (MSS) mission to Haiti has a two-fold mandate, including providing operational support to the HNP to counter gangs and to protect critical infrastructure sites, such as airports, ports, schools, hospitals and key intersections. The MSS will also help to ensure unhindered and safe access to humanitarian aid, as millions of vulnerable Haitians have little or no access to basic necessities due to gangs blocking essential transport routes and looting humanitarian supplies.

Some Haitians have expressed concerns over the deployment of another international force due to misconduct and serious abuses that resulted from previous international interventions, including documented sexual exploitation and abuse, and emphasized the need for a multifaceted response that addresses the root causes of the soaring gang violence and also accounts

for Haitian’s expertise and ownership on a way forward. The MSS thus needs to establish civilian harm mitigation mechanisms and guarantees of human rights due diligence, and the international community must also invest in strengthening rule of law institutions and national ownership.

Across Brazil, drug gangs possess weapons of war, including mines, grenades, antitank rockets, mortars and sub-machine guns.³² In Rio de Janeiro, Brazil’s second largest city, a dramatic increase in drug and crime related violence, including in the city’s *favelas*, or shantytowns, led to a presidential authorization of a federal military intervention in early 2018. This was the first time the military was officially in control of the security situation in Brazil since the military dictatorship ended in 1985.³³

An ill-prepared state response also increases the vulnerabilities of the local population to violence and abuse. The government in Brazil has been accused of serious and large-scale human rights violations and abuses in responding to urban violence, including extrajudicial killings and arbitrary detentions. Young black men in poor neighborhoods have been deliberately targeted for executions, arbitrary arrests and torture, often without any evidence of connection to criminal gangs. Both military and police forces have used lethal force against unarmed individuals, often young boys, manipulated crime scenes and police reports following the use of lethal force, and intimidated witnesses and family members of victims.³⁴ This pattern of behavior has created a glaring accountability gap. Notably most killings by police have been filed as “self-defense” incidents that do not require formal investigations.³⁵ Similar patterns of targeting and abuse have been documented throughout the Americas, such as in Venezuela to El Salvador.

These cases show how urban and gang-related violence may increase the risk of atrocity crimes, including through:

- Exposing populations to high levels of violence between state and non-state actors, including armed confrontations in densely populated areas, both indirectly and as a deliberate tactic by different actors.
- Creating a security vacuum without respect for the rule of law, civil-military relations or accountable state authorities, enabling violations and abuses without risk of consequences.
- Leaving citizens at risk of abuse by state agents pursuing generalized policies of mass arrests, extrajudicial executions or other forms of violations and abuses in neighborhoods or territories associated with urban and drug-related violence.

In areas controlled by non-state agents and in the absence of state authority, populations are particularly vulnerable to human rights abuses, exploitation, coercion and other forms of social control.

- Further marginalizing affected communities and certain populations in a context of existing socio-economic inequality, poverty and discrimination, thereby fostering social grievances and facilitating recruitment by non-state agents.
- Mass forced displacement, consequently increasing civilian security vulnerabilities and creating significant assistance and protection gaps.

Militarization of Security Strategies

The separation between the military and domestic law enforcement is critical for democratic governance. While armed forces are tasked with national security and territorial defense against external threats, police and other security forces are responsible for the safety and security of a country's citizens. Yet, research has shown that since the 1990s, around the world armed forces have increasingly performed tasks usually ascribed to civilian policing.³⁶ At the same time, this has been accompanied by the growing militarization of police forces – including through the use of military equipment, heavy weapons and combat tactics – including in the context of so called “wars on drugs,” as well as in response to street protests and peaceful demonstrations.

Relying on armed forces to perform civilian policing bears a multitude of risks for increased abuses. By their nature, the military is trained and tasked with offensive targeting and equipped with weaponry designed to ensure maximum impact and disruption against perceived threats. Furthermore, while the purpose of police and other civilian law enforcement is – at least in theory – aimed at “developing relations with the community, de-escalating conflict, and exercising restraint on the use of force,” armed forces are specifically trained for combat, leaving them ill-equipped to conduct arrests or perform other policing tasks in compliance with human rights standards.³⁷ This increases the risk of abuse and excessive use of force, including against civilians, as demonstrated by allegations of torture, killings, sexual violence and other abuses by military agents.³⁸

While a global phenomenon, this is particularly relevant in the context of the Americas. The Stanley Center and CRIES warned that “the presence of military or gendarmerie-type police forces has been a constant feature of public security

policy throughout Latin America and the Caribbean,” and the distinction between national and public security “has always been blurred” across the region.³⁹ Similarly, according to the Geneva Centre for Security Sector Governance, “The war on drugs, the operation of non-state armed groups and criminal organizations, and the need to control social unrest amid the recent demonstrations against local governments organized by the civil society across Latin America and the Caribbean, have reinforced the excessive militarization in policing.”

In order to address its security crisis and reduce excessively high levels of crime, Mexico's government has taken a variety of measures that increase the functions and capacity of the security sector. President Andrés Manuel López Obrador announced the creation of a new National Guard in 2018, which was supposed to be composed of both federal police agents and soldiers under military command.⁴⁰ However, its operationalization further militarized public security.⁴¹ In September 2022 police functions were officially transferred to the Ministry of Defense, giving exclusive authority over federal policing to the armed forces.⁴² Under President López Obrador, the armed forces have received significantly more resources and autonomy and are now in charge of most public security tasks, including being authorized by law to conduct arrests.⁴³ In 2022 Mexico's Congress approved measures to ensure that members of the armed forces engaged in public security are bound by the Military Code of Justice, instead of domestic civilian law.⁴⁴ Human Rights Watch has reported that investigations into violations committed by soldiers are frequently obstructed by senior military officials.⁴⁵ There has also been evidence of crime scene and evidence manipulation, which facilitates further abuses and impunity, and the country's corrupt and politicized justice system has been complicit in violations and abuses committed by Mexico's state apparatus. According to Human Rights Watch, complaints against the National Guard and armed forces have consistently increased during President López Obrador's tenure, with more than 900 complaints in 2021 alone.⁴⁶

Data released by the Mexican government documented the killing of more than 5,000 civilians by armed forces between 2007 and 2022.⁴⁷ Mass graves of mostly unidentified victims continue to be discovered. Between 2006 and 2021 at least 4,000 such graves were located throughout the country.⁴⁸ Perpetrators not only include criminal groups but also armed forces and the police. Human Rights Watch has documented more than 105,000 missing citizens as of September 2022, with the majority of them disappeared after the war on organized crime was declared in 2006.⁴⁹ The UN Committee on Enforced Disappearances

warned in April 2022 of “near total impunity” by the Mexican government, further emboldening both state and non-state agents to continue to commit widespread abuses.⁵⁰ The country also ranks among the most dangerous environments for journalists and human rights defenders reporting on ongoing violence.

Increased militarization of security strategies has widened the accountability gap. In various countries across the Americas, armed forces have a record of systematic abuses against civilians, including torture, extrajudicial executions and enforced disappearances.⁵¹ In most cases, these are being committed in a context of pervasive impunity, as the lack of civilian oversight often impedes genuine and transparent investigations within military ranks. In Colombia, the military’s history of atrocity crimes, including during decades of armed conflict with the *Fuerzas Armadas Revolucionarias de Colombia* (the Revolutionary Armed Forces of Colombia, FARC) has left deep wounds, trauma and mistrust with local populations.⁵² Thousands of civilians were killed by the armed forces. Various military units also allegedly directly engaged with paramilitary groups with records of abuses against populations. Following the 2016 peace agreement, a Special Jurisdiction for Peace was established to ensure accountability for war crimes and other abuses committed by its military. While this mechanism is an important step to contribute to long-delayed justice for victims, and as of September 2022 more than 3,400 soldiers have cooperated, it will require a much larger and broader process to restore trust in Colombia’s military apparatus.⁵³

The militarization of security strategies has also resulted in states systematically deprioritizing building capacities and expanding training for civilian law enforcement institutions, including police forces.⁵⁴ In other instances, the militarization of federal and local police and other civilian law enforcement has impacted their capacity to conduct crowd control measures in compliance with international human rights standards and civilian harm mitigation techniques. Once trigger factors – such as demonstrations, street protests or other forms of social unrest – emerge, these structural protection gaps can quickly widen and result in excessive and disproportionate use of violence against civilians. Government responses to protests in Chile, Colombia and the US have exemplified how countries considered as relatively stable can swiftly resort to practices that significantly increase the risk of atrocity crimes.

In Chile, nationwide protests erupted in October 2019 as a result of an increase in public transportation fares and persistent social inequality. Security forces, including the army and national police, swiftly responded to the protests with excessive use

of force, in what some human rights groups have described as a policy of collective punishment. At least 23 people were killed and more than 7,000 detained between October and November 2019.⁵⁵ According to Chile’s National Human Rights Institute, over 2,800 people were injured, many with gunshot wounds. The reported reckless use of projectiles also resulted in at least 232 people suffering serious eye injuries, including permanent blindness.⁵⁶ In November 2019 the Global Centre for the Responsibility to Protect warned that the use of disproportionate and deadly force against protesters, as well as widespread allegations of sexual violence, torture and ill-treatment, signaled a growing risk of potential atrocity crimes, as the severe wounding, blinding and killing of protesters may indicate a policy of extreme measures authorized at the highest level of government.⁵⁷

Protests in Colombia, which started in late April 2021, exposed similar patterns of excessive use of force by law enforcement officials. While protests originally spread in response to a government-proposed tax reform, police violence contributed to further mass demonstrations against inequality, rampant poverty, insecurity and corruption. They also exposed structural problems within policing in Colombia, including militarization, the occasional use of deadly and excessive force by the Colombian National Police and a lack of institutional oversight and accountability for past human rights violations and abuses. Between April and June 2021 at least 25 people were reportedly killed, while OHCHR raised concerns about police officers opening fire on demonstrators.⁵⁸ Colombian human rights organizations identified almost 3,500 cases of abuse, including killings, excessive use of force, torture, disappearances and sexual violence. Subsequent efforts to ensure credible investigations, prosecutions and other disciplinary measures into police conduct remained limited, as did efforts to address the underlying root causes of the protests.⁵⁹

The disproportionate, violent response to peaceful protests by US law enforcement has led to widespread debate about the militarization of policing in North America. During May 2020 mass protests erupted across the US in response to the murder of an unarmed black man, George Floyd, by a police officer. In many cities across the country the police responded with disproportionate force, including the reckless use of rubber bullets and tear gas, while in several instances state militias and the national guard were also deployed. The response to these peaceful protests often contravened international human rights standards, including the rights to peaceful assembly and association and freedom of opinion and expression.

These cases show how the militarization of security strategies may create and facilitate an environment conducive to the commission of atrocity crimes, including through:

- Justifying violent means and other forms of state-led repression in the name of combating crime, confronting non-state armed groups or quelling protests, all labeled as “threats to national security.”
- Systematically resorting to the deployment of armed forces or militarizing federal or local police agents by sanctioning the use of heavy combat weapons and tactics while conducting law enforcement operations, increasing the likelihood of serious violations and abuses and excessive use of force.
- Fostering social grievances by resorting to violent means rather than prioritizing dialogue and emphasis on necessary long-term reform in close coordination with civil society and the public.
- Creating a permissive environment for racial and ethnic profiling and disproportionately punishing or targeting populations on the basis of identity.
- Creating an environment of fear and deepening pre-existing mistrust in state institutions and law enforcement.
- Reducing the relevance, resources and capacity of local and federal police and law enforcement to develop and foster relationships of trust with local communities and engage in effective civilian policing.

Dismantling of Democratic Institutions

Democratic backsliding and – at least in some cases – a rapid descent into authoritarianism – constitutes one of the greatest challenges to Latin America and the Caribbean, with far reaching implications for populations in these countries. While they vary in scope and severity, across the region there have been growing attacks on independent institutions, growing mistrust in electoral independence, attempts to politicize independent state institutions and violations of constitutional rights. The repression of civic space – including through threats, harassment and attacks against human rights defenders or the imposition of legislation effectively criminalizing the work of independent civil society organizations – has become a defining feature in a number of countries across the region, including, but not limited to, Venezuela, Nicaragua and El Salvador. Similarly, attempts to undermine the independence of the judiciary has

raised serious concern in Brazil, Argentina, Bolivia and Peru,⁶⁰ as have attempts by Guatemala’s political establishment to challenge the victory of an outside candidate, who has pledged to fight endemic corruption, in the 2023 election.

Functioning democratic institutions, societal trust in state authority and a vibrant and flourishing civic space all constitute key mitigating factors to prevent possible atrocity crimes, foster societal resilience to systematic violations and abuses and ensure robust and effective response when warning signs emerge. On the other hand, deliberate attacks and dismantling of democratic checks and balances – if paired with other risk factors – can swiftly increase the vulnerability of populations to atrocities.

In an article entitled “Latin America is under authoritarian threat,” the Economist warned in February 2023 that the region had recorded “the biggest democratic recession of any region over the past 20 years,” with some of the most powerful governments either “governed by authoritarian or hybrid regimes,” or at best, “flawed democracies.”⁶¹ So-called “hybrid regimes” which, according to the Democracy Index, have mushroomed across the region, indicate a gradual decline in democratic parameters and are “often plagued by political polarization and a loss of faith in the ability of democracies to maintain order and have a penchant for choosing leaders who flout democratic norms.”

Militarized security strategies, iron-fist policies against crime and violence and the suspension of democratic guarantees appear as effective measures for politicians to achieve immediate results while maintaining perceived stability. In El Salvador, President Nayib Bukele’s approval rating skyrocketed following the reduction in official homicide rates amidst his policies of mass detentions in an alleged attempt to curb gang violence, which has allowed many citizens to feel a false – yet understandably reassuring – sense of security. Despite vast evidence of mass violations and abuses, many states in the region have remained silent vis-à-vis President Bukele’s *mano dura* policies. President Bukele has carried out a systematic attack on the country’s democratic institutions since taking office in June 2019, effectively moving the country towards authoritarianism. Human rights protections and checks and balances have been undermined, including through President Bukele’s steps to severely curtail judicial independence and, in one instance, deploying heavily armed soldiers to the Legislative Assembly to force legislators to approve a draft bill.⁶² Since then, the judicial system has been filled with his allies, which has further expedited the imposition and regular renewal of emergency measures that have facilitated the arbitrary detention of more

than 68,000 citizens in the first fourteen months following the imposition of a state of emergency in March 2022. In July 2023 the Bukele-controlled Legislative Assembly formally approved holding trials and mass sentencing of up to 900 alleged gang members per trial, in violation of due process rights.⁶³

In Brazil, the Bolsonaro government left a legacy of a deeply polarized society and eroded trust in state institutions. During President Bolsonaro's tenure, hate crimes spiked, and the presidential elections held in October 2022 were marked by misinformation campaigns and deliberate attempts to undermine trust in the electoral system and the country's democratic institutions. On 8 January 2023 far-right supporters stormed federal government buildings in Brasília to protest the election of his opponent and current President, Luiz Inácio Lula da Silva, and called for a military coup.

Each of these cases show how the dismantling and undermining of democratic institutions may create and foster an environment conducive to the commission of atrocity crimes, including through:

- Facilitating state-led violence, including the commission of serious human rights violations and abuses at the hand of state agents or through coordination with non-state actors, under the justification of providing security or fighting crime.
- Creating and fostering an environment of pervasive impunity, which shields perpetrators from consequences and perpetuates further violations and abuses.
- Removing institutional checks and balances – including at the legislative or judicial level – which could counter or prevent senior government officials from imposing and pursuing policies of repression or mobilizing state and non-state agents to commit violations and abuses.
- Enabling state agents, including at the highest level, to impose measures and legislation facilitating or justifying further violence against civil society, including through a state of emergency, control over communication channels and expulsion of independent media.
- Deepening societal mistrust in state institutions and growing popular discontent.

Country Situations

In order to understand the drivers of atrocity crimes it is important to highlight that they are usually the consequence of a broader process. To be able to engage in the level of systematic repression and violence associated with atrocity crimes, perpetrators need time to develop the capacity to do so, mobilize resources and take concrete steps that will help them to achieve their objectives. This also means that such processes are marked by warning signs, risk factors and early indicators that atrocity crimes may occur.

The following section will elaborate on the root causes and hybrid and structural conditions which, over time, contributed to an environment conducive to the commission of atrocity crimes, including crimes against humanity, in Venezuela and Nicaragua. This section will also provide an assessment of the successes and failures in responding to both crises through bilateral, regional and multilateral action, and what lessons can be learned and applied to emerging crises in the region, including towards the situation in El Salvador. The assessment of warning signs and conditions that may facilitate atrocities is based on risk factors outlined in the UN Framework of Analysis for Atrocity Crimes.⁶⁴

Venezuela

Background

For almost a decade, Venezuela has experienced an unprecedented multidimensional crisis marked by systematic human rights violations, protracted political conflict, economic collapse and a disastrous humanitarian emergency, leaving an estimated 19 million people inside Venezuela in need of assistance.⁶⁵

The situation in Venezuela first escalated in 2014 when mass protests erupted in response to insecurity, hyperinflation and a lack of essential services. Security forces reacted with disproportionate force, torture and sexual violence. Similar patterns of violations and abuses were perpetrated by state agents during subsequent mass protests, including in 2019 when the start of President Nicolás Maduro's second term sparked an intense struggle with the opposition, causing an ongoing protracted political crisis. In its crackdown on protests, the government has also relied on pro-government militias – known as *colectivos* – which International Crisis Group refers to as “chavismo's backbone through coercive control over street protests and influence in low-income communities.”⁶⁶ The mobilization and arming of these *colectivos*, with the alleged

intent to reinforce social order – including at the local level – has allowed the government to pursue repressive state policies through a quasi-para-police force.

In a systematic policy to repress political dissent, the Venezuelan government, including its security and intelligence apparatus, has perpetrated arbitrary detention, torture and ill-treatment, sexual and gender-based violence and short-term enforced disappearances targeting actual and perceived opponents. The HRC-mandated independent Fact-Finding Mission (FFM) on Venezuela – established in 2019 to investigate systematic state-led repression – has established that some violations and abuses committed since at least 2014 were part of a “widespread and systematic attack” against the civilian population that may amount to crimes against humanity. Evidence collected by the FFM implicated President Maduro and other high-level government officials and members of his inner circle in directly selecting and framing targets to be arbitrarily detained and tortured.⁶⁷ In September 2022 the FFM warned that patterns of detention, torture and other violations continue “as part of a plan orchestrated at the highest levels of the government to repress dissent through crimes against humanity.”⁶⁸

Various security forces have also allegedly perpetrated tens of thousands of extrajudicial killings in the name of combating crime. Venezuelan human rights project *Lupa por La Vida* documented 355 alleged extrajudicial executions in the first half of 2023 alone.⁶⁹ The majority of victims were between 18 and 30 living in low-income neighborhoods.

Communities across Venezuela are also at heightened risk of egregious abuses by non-state armed groups or criminal gangs, acting at times with the consent and direct involvement of Venezuelan state agents identified as perpetrators of possible crimes against humanity. Clashes between armed groups along the border with Colombia have resulted in mass displacement, civilian fatalities, disappearances and the forced recruitment of children. In other parts of the country, including the *Arco Minero del Orinoco* gold mining region, state agents and armed criminal groups are committing killings, sexual and gender-based violence, torture, corporal punishment and disappearances, including against Indigenous Peoples, to ensure control over profitable territory.

Although the crisis escalated in 2014, it was preceded by decades of the deliberate erosion of the rule of law and democratic checks and balances, as well as the dismantling of independent institutions and human rights violations and abuses.

Structural Risk Factors

Record of Serious Human Rights Violations

Human rights violations occurring in a context of inadequate human rights protections can elevate atrocity risks, as perpetrators of atrocity crimes require an environment that enables them to mobilize and commit violations without consequence. Late President Hugo Chávez promised an end to corruption and inequality, including reform of the country's political system to allow for greater political participation. However, his time in office was marked by a gradual erosion of human rights protections and the weakening of democratic institutions. Between 2000 and 2007 alone, more than 6,000 investigations were opened into law enforcement officials for alleged abuses.⁷⁰ Following an unsuccessful coup attempt against Chávez in 2002, he prioritized consolidating power, including through harassment, discrimination and intimidation of alleged or actual opponents.

Weakness of State Structures

In 2004 Chávez took over the country's Supreme Court, which has since been unable to perform as an independent government institution.⁷¹ It laid the foundation for imposing measures aimed at curtailing independent media, including through tougher legislation to limit free speech, which fostered self-censorship. Human rights defenders and wider civil society were targeted, harassed and intimidated in order to attack and shrink civic space. Over time the Supreme Court became a key tool for an oppressive state apparatus to expand its powers. Starting in 2015, the Court would discredit draft legislations by the then opposition-controlled National Assembly while the government increased its persecution of legislators. Since 2016 the Supreme Court also upheld the imposition of states of emergency – in the absence of legislative approval – and would become the primary organ to lift parliamentary immunity to allow for the criminal prosecution of political opposition.⁷²

Capacity to Commit Atrocity Crimes

Venezuela's military and intelligence apparatus play a central role in the commission of crimes against humanity. The FFM investigated chains of command within the country's military and civilian intelligence services, finding that both institutions “function as well-coordinated and effective structures in the implementation of a plan orchestrated at the highest levels of the government to repress dissent through crimes against humanity.”⁷³

This capacity was built long before the crisis escalated in 2014, when “the military turned away from protecting the state and its

citizens and toward defending the *chavista* regime,” effectively “moving them closer to economic and political power.”⁷⁴ Chávez also established a parallel centralized police force, the Bolivarian National Police (BNP). The BNP would later be identified as one of the key perpetrators in ongoing systematic repression.

Since 2014 the government has continued to modify and strengthen the security apparatus without legislative approval, including through policies, legal reforms or executive orders. The majority of these changes have given even greater powers to the military, including through the involvement of the armed forces in civilian policing and security tasks which facilitated abuses and violence.⁷⁵

Absence of Mitigating Factors

The Venezuelan state apparatus has a long history of deliberately cracking down on civic space, which constitutes a key mitigating factor to counter emerging state repression. Amongst other measures, in July 2010, the Supreme Court attacked the financing of civil society organizations by determining that obtaining resources from foreign states with the intention of using them to the “detriment” of the Venezuelan state could amount to treason.⁷⁶

In recent years, the government has further engaged in systematic attempts to restrict civic space and limited the work of human rights defenders, independent media, civil society and union workers, including through harassment and persecution. On 24 January 2023 the ruling-party dominated National Assembly provisionally approved draft legislation aimed at essentially criminalizing the work of civil society organizations. A second draft on International Cooperation Law is also pending approval. On 22 March the FFM warned that if approved, the regulations will consolidate state control over the work of NGOs, many of whom have become the primary provider of assistance and relief.

Both regional and multilateral fora can serve as a key mitigating factor by monitoring violations and abuses and assisting the government in implementing necessary reform. In contrast, Venezuela has systematically isolated itself from human rights protection mechanisms. The government withdrew from the American Convention on Human Rights in 2013 and continues to refuse to genuinely and fully engage with the UN human rights system.⁷⁷ While the Venezuelan government has attempted to appear cooperative in recent years by allowing OHCHR presence in Caracas – which constitutes a key opportunity for engagement and progress – this decision was primarily driven by a strategy to deflect international scrutiny rather than a genuine

commitment to human rights reform.⁷⁸ Numerous Venezuelan civil society organizations have meticulously documented the lack of implementation of dozens of recommendations made by various UN human rights mechanisms.⁷⁹

Motives or Incentives

Concentration of political power – marked by a gradual erosion of the rule of law and democratic space – was a defining feature of the Chávez presidency. The subsequent collapse into an unprecedented economic crisis – and desperate attempts to maintain political control – was accompanied by even greater government repression under President Maduro, when the government embarked on a systematic policy to silence political dissent. Extrajudicial killings by security forces are part of a systematic strategy to reinforce social control under the auspices of combating crime and urban violence.

Enabling Circumstances

Venezuela’s judicial system is perpetuating impunity for possible atrocity crimes committed by security and intelligence forces. The judicial branch has been identified by the FFM and others as a key instrument for the commission of crimes against humanity. Domestic investigations – undertaken to minimize international scrutiny – remain limited in scope and only target low-level perpetrators. Since at least 2017 civilians have also repeatedly been tried in military courts, in breach of international law. The FFM determined that, “The weakening of democratic, judicial and institutional accountability mechanisms resulted in increasing impunity, which exacerbated the violations.”⁸⁰ Members of the executive, intelligence and security services, as well as the judiciary, all contributed to systematic violations and possible crimes against humanity. Evidence of the lack of judicial independence and persistent impunity also led the Office of the Prosecutor of the ICC to open and continue its investigation into possible crimes against humanity in Venezuela.

Amnesty International documented how government-linked media outlets also play a key role in state repression and persecution.⁸¹ The shrinking of civic space, absence of accountable state authority along Venezuela’s border and other areas across the country – where armed groups and criminal gangs are rampant and, at times, act in consent with state agents – constitute severe risk factors for further crimes against humanity.

Hybrid Risk Factors and Trigger Events

The gradual erosion of the rule of law and democratic space, paired with political incentives to crush dissent, first facilitated the escalation of state-led violence during protests in 2014, which took place in a context of intensified efforts by the Venezuelan

opposition to end *chavismo* rule and address the country's economic crisis.⁸² The FFM subsequently found that, “human rights violations were higher in periods in which the protests were related to the political crisis. The periods of particular intensity were February to April 2014; April to July 2017; and January and February 2019,” highlighting how triggering factors such as social unrest seriously exacerbated existing state-repression.⁸³

The country's economic crisis and resulting humanitarian emergency has further facilitated government repression. As the FFM documented in their 2020 report, the government has imposed more than 25 states of emergency since 2016, “authorizing the President to take broad economic, social and security measures,” including attacks and limitations on constitutional rights. These were imposed without legislative approval, further removing control on checks and balances and included severe restrictions on the work of civil society.⁸⁴

At the time of writing, Venezuela scheduled to hold presidential elections in 2024, and parliamentary, governorship and municipal elections in 2025. This poses a serious risk factor for further escalation of state-led repression. Attacks against civil society and independent media intensified during previous election and campaign periods, and current efforts by the government to impose legislation aimed at restricting civic space is a clear indicator that government repression and resulting human rights violations and abuses are likely to increase. On 15 June 2023 the government announced the replacement of the National Electoral Council in what human rights organizations warn constituted an attack on an autonomous institution, further jeopardizing the upcoming electoral process.⁸⁵

On 17 October the government and groups of opposition parties announced the signing of the Barbados Agreement, which includes an electoral roadmap ahead of presidential elections in 2024. The US responded by temporarily lifting a set of non-targeted sanctions, tied to the future release of political prisoners, among others. While the agreement provides an important opportunity to advance minimum electoral guarantees, key issues, such as the government's banning of the leading opposition candidate and winner of the October 2023 opposition-organized primaries, María Corina Machado, pose a serious risk of jeopardizing the upcoming electoral process.

International Response

Failure to respond to early warning signs of emerging atrocity risks facilitated the escalation of state-led violence in 2014 and subsequent years. However, since then, a multitude of governments and institutions have responded to the complex crisis in Venezuela with a mixed record of success.

Individual, targeted sanctions against senior officials – one of the most immediate measures available to respond to atrocity risks – were put in place by cross-regional governments, including Canada, Switzerland and the European Union (EU). EU sanctions include measures against 54 senior government officials. Under President Barack Obama, the US government imposed asset freezes and travel restrictions against members of the Maduro government in 2015, which continued during the Donald Trump administration.⁸⁶ While individual sanctions can be an effective measure to put pressure on high-level perpetrators, a gradual shift by the US from individual to sectoral sanctions in 2017 has exacerbated the country's pre-existing humanitarian crisis.⁸⁷ Even though US sanctions did not cause the crisis, the Venezuelan government has instrumentalized – sometimes with significant success – the narrative that imperialist actions by the US have caused ongoing suffering. Such measures have raised important questions about the purpose, impact and consequences of sectoral sanctions when imposed in situations of distress, including severe humanitarian crises, as they directly affect many humanitarian organizations providing lifesaving relief and assistance to Venezuelans. At the same time, temporary lifting of general sanctions must continue to be tied to concrete human rights parameters.

In attempts to increase political pressure on the Maduro administration, a group of countries from the region – including Brazil, Argentina, Peru, Chile, Mexico and Canada – established the *Lima Group* in 2017. During that time, Argentina, Peru and Brazil also banned access to Venezuelan officials, among other measures.⁸⁸ Members of the Group also decided to refer the situation to the ICC in September 2018, which was already under Preliminary Examination by the Court. By requesting the Chief Prosecutor to open a formal investigation into possible crimes against humanity, Argentina, Canada, Chile, Colombia, Paraguay and Peru became the first countries to refer a situation to the ICC for crimes that took place in the territory of another state party, which added political weight to the previous decision by the Chief Prosecutor to open an examination.

In early 2019 the EU, Costa Rica, Mexico and Uruguay created the International Contact Group, a separate multilateral forum used to pressure the Maduro government to end state-led repression, identify a political solution to the crisis and ensure free and fair elections. The EU has remained a key actor in efforts to respond to the crisis, including through the deployment of an electoral observer mission ahead of municipal and regional elections in 2021. Its recommendations provided a roadmap toward electoral reform. Many hope that a similar observer mission – ideally with support, active engagement and perhaps parallel leadership by regional governments – will be present for the 2024 vote.

Individual governments, including Norway, have led mediation efforts between the Venezuelan government and opposition groups through different processes, most recently through the so-called “Mexico Dialogue” and the subsequent Barbados Agreement. As a promising first step, on 26 November 2022 government and opposition delegates signed a first “social agreement,” which aims to ensure UN supervision of unfrozen funds directed to address the dire humanitarian needs; however, implementation has since stalled. Nevertheless, ongoing political dialogue supported by key international stakeholders constitutes a critical opportunity to address the country’s multidimensional crisis.

During 2018 an OAS-mandated panel of independent experts accused the Venezuelan government of perpetrating crimes against humanity. While the government had previously announced its decision to withdraw from the regional bloc in 2017, the report by the independent experts was instrumental in shedding light on the magnitude of the country’s crisis and sparked further regional and multilateral discussions on an effective response.

The Lima Group also influenced the establishment of the HRC-mandated FFM on Venezuela – arguably the only effective operational measure the Group was able to achieve during its existence. In September 2019, after weeks of heated negotiations among member states, and extensive advocacy by civil society, the establishment of the FFM as an independent investigative mechanism sent a strong signal to both perpetrators and victims that past and ongoing crimes will not remain unpunished. The findings of the FFM can form the basis for future processes of legal and political accountability, and further contribute to the ongoing investigation of the ICC. It also demonstrated that the HRC can be a key player in addressing atrocity crimes if there is sufficient political will and determination by its members and observers, including in situations where other

mechanisms, such as the UNSC or regional organizations, remain less effective.

While it is always difficult to prove correlation, the HRC’s response may have impacted patterns of behavior by high-level individual perpetrators. Venezuelan NGOs have documented that since the release of the FFM’s first report in September 2020, the number of extrajudicial executions reduced by more than 50 percent from January 2020 to December 2021.⁸⁹ In 2020 the FFM also specifically highlighted the role of the Special Action Forces (FAES) in patterns of extrajudicial executions, calling for their dismantling. In 2021 the participation of the FAES in security operations significantly reduced in an effort by the government to deflect international attention. While a state policy of extrajudicial executions remains in place, it underlines the possible deterrent effect of independent investigations and public reporting on individual high-level perpetrators in charge of security operations. However, it is important to acknowledge that the Venezuelan government has mastered deflecting international attention without being seriously committed to improving its human rights record. In their September 2023 report, the FFM documented that despite the alleged dissolution of the FAES, the subsequent establishment of a new Directorate of Strategic and Tactical Actions displays “similar functions and uses the same modus operandi as the FAES,” including the presence of senior individuals previously alleged to be involved in the commission of possible crimes against humanity. Public reporting by the FFM is vital to maintain international engagement and pressure on the government to commit to system-wide reform and prevent recurrence of crimes against humanity.

Venezuela’s failure to secure a seat at the HRC in 2022 – when competing with Costa Rica and Chile for the two open seats for incoming Latin American members – also sent a powerful message to the government that systematic state-led repression comes at a price. This constituted a significant blow to Venezuela’s efforts to leave its pariah status behind.

Regional mobilization of the international system – including the HRC and the ICC – also partially incentivized the government to open windows of engagement with the international community. On 3 November 2021 the Chief Prosecutor announced the opening of an investigation into possible crimes against humanity and signed a Memorandum of Understanding with the Maduro government. On 13 June 2023 Chief Prosecutor Karim Khan announced the opening of a country office in Caracas. If materialized, this would constitute an important next step in formalizing an international judicial presence in the country. At the same time, the government’s

continued efforts to simultaneously block and delay ICC investigations into crimes against humanity – most recently through launching an appeal with ICC judges in November 2023 – demonstrates the lack of genuine will to ensure accountability and justice for victims.

Although the government has refused to fully cooperate with HRC mechanisms, including the FFM, it maintains a technical cooperation agreement with OHCHR which is a crucial step toward gradual change in Venezuela. During his first visit to Caracas on 26 January 2023 the UN High Commissioner for Human Rights, Volker Türk, announced the extension of OHCHR presence in Venezuela for two years. Venezuela’s willingness to cooperate with OHCHR is arguably linked to the establishment and presence of the FFM, which has acted as an important mechanism to maintain pressure on the government.

The example of Venezuela also shows how too much, rather than too little, international engagement, if focused on political change rather than addressing a human rights crisis, can sometimes lead to subsequent paralysis on effective response. Despite some successes, such as the establishment of the FFM, the formation of various cross-regional governmental coalitions has also led to some deep polarization within the international community, including among alleged like-minded states, on how to respond to the crisis in Venezuela. In addition, between 2019 and 2021 discussions on which government was considered legitimate in Caracas overshadowed the country’s humanitarian and human rights crisis, and growing protection needs of populations inside and outside the country. In 2019, following allegations of electoral fraud that challenged the legitimacy of the Maduro administration, more than 50 countries recognized the then leader of the opposition-controlled National Assembly, Juan Guaidó, as interim President. Although then seen by many as an effective measure to isolate Maduro and incentivize domestic change, in hindsight the recognition of an interim government led to a protracted political crisis and exacerbated a dangerous focus on political control instead of prioritizing the imminent protection needs of vulnerable populations. It also led to growing confusion and a dangerous misperception about the applicability of R2P as a tool for regime change. The Trump administration and Lima Group countries pursued an overly aggressive, and counterproductive, strategy to isolate Maduro, which, behind the scenes, even many like-minded governments viewed as taking a step too far.

In recent years the Lima Group has dissolved as elections have ushered in new administrations in many countries in the region. In stark contrast to 2019, most of the regional

governments that had previously challenged the legitimacy of Maduro’s second term are now on a path towards reestablishing diplomatic, political and economic relationships with Caracas. This has increased concerns among human rights activists about shrinking visibility and engagement on the country’s multidimensional crisis. In September 2022 Peru withdrew its participation in the group of countries leading on the HRC resolution to ensure ongoing UN investigations on Venezuela. In May 2023 Brazil’s President Lula da Silva – whose country was among the hardliners against Maduro under former President Bolsonaro – referred to the country’s human rights crisis as a “constructed narrative.”⁹⁰

Opportunities for Engagement

Addressing ongoing atrocity crimes in Venezuela, and reducing the likelihood of their recurrence, will require a holistic approach by regional and multilateral stakeholders, including by ensuring that human rights and atrocity prevention frameworks are at the heart of bilateral and multilateral engagement, including through the re-establishment of diplomatic relations and discussions surrounding sectoral sanctions relief. A human rights-based framework for ongoing political negotiations between the government and members of the opposition – which started in Mexico and resulted in the Barbados agreement – is also vital to ensuring long-lasting, effective and meaningful reforms and processes of democratization. Ensuring that the information provided by OHCHR and the FFM is fed into future negotiations would strengthen possible political agreements and enhance their legitimacy.

Wherever the Venezuelan government is willing to engage, including through technical cooperation with OHCHR or engagement with the ICC, it will be of vital importance to ensure that such cooperation and support focuses on structural atrocity risk factors and necessary institutional reform. In this regard, the work of the FFM should also serve as a foundation for further technical cooperation through OHCHR, as well as the technical assistance the ICC country office aims to provide. The FFM has outlined necessary system-wide reform, including of the country’s judiciary and security sector, and provided concrete recommendations on how to close human rights protection gaps. Further technical cooperation should focus on closing these gaps and addressing institutional weaknesses enabling ongoing human rights violations. The vast information collected by the FFM should serve as a basis for effective technical cooperation.

Increased avenues for political engagement also offer an opportunity for regional actors to exert pressure on the Maduro government to commit to human rights reforms and

demonstrate a principled position in light of ongoing atrocity crimes. If there is one lesson to be learned from Venezuela, it is that isolation can be counterproductive. In fact, direct channels of communication with counterparts in Venezuela and renewed influence of democratic leaders on the Maduro government will be instrumental in incentivizing further progress. Embassies in Caracas – some of which had been outsourced to neighboring Bogotá in recent years or downgraded their diplomatic representation in the country – can also significantly help governments in the region and beyond to better understand the needs and demands of Venezuelans. Country embassies can also provide a safe environment to meet, exchange and hear directly from Venezuelan civil society actors and to gain an understanding of rapidly evolving dynamics, including in the context of upcoming elections. In this regard, countries which maintain a strong position vis-à-vis the Maduro government, including Canada, should evaluate a possible return to Venezuela.

All of this will require a holistic strategy based on clear human rights benchmarks. Rather than operating in silos, there needs to be an understanding of how any response to various aspects of the country's multidimensional crisis – including agreements to secure humanitarian relief, targeted sanctions, accountability initiatives or political dialogue – are interlinked, complimentary and require a coordinated approach to be effective.

None of this can be achieved without strong, persistent and far-reaching engagement by countries in the Americas. It will require significant and sustained efforts to insist and ensure that human rights scrutiny and political rapprochement are complimentary, rather than contradictory – and that, given the magnitude and impact of Venezuela's multidimensional crisis beyond its borders – prioritizing human rights protection and humanitarian assistance are in the interest of the region as a whole.

Nicaragua

Background

For more than five years, Nicaragua has been experiencing an unprecedented human rights crisis caused by the gradual erosion of democratic space and the rule of law and a rapid descent into authoritarianism. The situation first escalated in April 2018 when tens of thousands of people took to the streets to protest severe pension cuts. In some instances, police, sometimes in coordination with pro-government armed elements, were accused of using disproportionate force against

protesters, triggering an escalation in the demonstrations. At least 320 people were killed and 2,000 injured between April and September 2018.⁹¹ The UN High Commissioner for Human Rights and an Interdisciplinary Group of Independent Experts mandated by the Inter-American Commission on Human Rights (IACHR) both documented widespread and systematic violations and abuses of human rights on behalf of state authorities and pro-government actors between April and May 2018. This included murder, persecution and arbitrary deprivation of liberty. The government responded to these reports by expelling both entities from the country

Since 2018 the government has launched a broader campaign of repressing dissenting voices, including human rights defenders, journalists, students and academics, business owners, women's rights groups, political opponents and community and religious leaders, including prominent figures of the Catholic Church. A systematic crackdown on civic space resulted in the forced shut down of NGOs and independent media outlets and the prosecution of independent journalists on charges of hate crimes and terrorism. Repression further intensified ahead of the 2021 presidential elections, when the Supreme Electoral Council – controlled by President Daniel Ortega – banned large parts of the opposition from participating in elections, including through criminal prosecutions of presidential candidates. The removal of term limits in 2014 subsequently allowed President Ortega to be re-elected in a vote that was condemned by a large number of governments from around the world.

In a report released on 2 March 2023 the HRC-mandated GHREN found that since 2018, the government has been committing widespread human rights violations and abuses against civilians amounting to crimes against humanity, including persecution, murder, imprisonment, torture and sexual violence, deportation and politically motivated persecution.⁹² According to the GHREN, these violations – accompanied by arbitrary deprivation of nationality – are part of a systematic campaign to dismantle democratic institutions and civic space on behalf of President Ortega and his wife, Vice-President Rosario Murillo. Members of various government structures and institutions, as well as pro-government groups, have been identified as perpetrators. Similar to Venezuela, the Nicaraguan government has utilized pro-government groups to brutally crackdown on dissent, and the GHREN found that these groups acted with the consent and authorization from senior government officials.⁹³

Political persecution has forced many Nicaraguans to flee. According to UNHCR, in 2022 Costa Rica hosted

253,800 refugees and asylum-seekers, of which 88 percent were Nicaraguans.

Nicaragua’s rapid descent into authoritarianism – accompanied by the ongoing commission of atrocity crimes – did not happen overnight. While the country was considered relatively peaceful before the crisis escalated, the government’s success in systematically crushing dissent in 2018 was a direct result of years of dismantling democratic checks and balances and independent state institutions, which facilitated an escalation into atrocity crimes.

Structural Risk Factors

Record of Serious Human Rights Violations

Serious human rights violations and abuses at the hand of state agents were documented in Nicaragua before 2018. According to the GHREN, this included attacks and harassment of human rights defenders, arbitrary detentions, extrajudicial killings and excessive use of force, including attacks on protesters by government-affiliated non-state groups. These violations took place in a context of general impunity, which later “enabled and facilitated the escalation of violence and of the persecution of real or perceived Government opponents.”⁹⁴ Widespread corruption, attempts to curtail civic space and deeply flawed electoral processes also constituted a defining feature of Nicaragua’s political landscape before 2018. Arbitrary or unlawful killings by state agents – both politically motivated or in the context of law enforcement operations – constituted a key human rights concern. Human rights organizations also documented arbitrary arrests and detention of alleged opponents, torture and ill-treatment and attacks on freedom of speech and independent media through harassment, threats and intimidation by the Ortega administration.

Weakness of State Structures

Since taking office in 2007 President Ortega further entrenched the Sandinista National Liberation Front (FSLN) as the dominant political and economic power in the country, and undertook deliberate steps to ensure absolute control over the country’s legislature, courts and electoral system.⁹⁵ The dismantling of separation of powers and the removal of other democratic safeguards have created and strengthened a state apparatus with the institutional capacity to implement policies that help in systematically silence dissenting voices. Social control was achieved through political patronage for large parts of the population living in poverty. The instrumentalization of independent state organs, including the judiciary and legislature, subsequently allowed the Ortega government to

“develop and implement a legal framework designed to repress the exercise of fundamental freedoms and to persecute real or perceived opponents.”⁹⁶

Capacity to Commit Atrocity Crimes

The enormous concentration of power, which created an environment of pervasive impunity, facilitated serious human rights violations and abuses starting in April 2018 as it enhanced the capacity of the state to commit atrocity crimes. The country’s courts, police force and the Public Prosecutor’s Office, as well as the legislature, the Ministry of Interior and the National Penitentiary System have all acted as key instruments in the commission of crimes against humanity.⁹⁷

President Ortega has also created a “parallel army” to crush opposition.⁹⁸ The government relied on parapolice forces or other non-state groups to violently crush dissent in 2018, when extrajudicial executions and other violations during protests were committed by state agents – mainly police officers – and members of pro-government armed groups. Earlier documentation by IACHR found that non-state groups acted with the knowledge of state authorities, significantly increasing their capacity to brutally crush protests.⁹⁹ The GHREN documented that these groups acted in a joint and coordinated manner, and that the “groups were integrated by FSLN sympathizers, including Sandinista Youth, employees of public institutions, ex-military, and gang members, and that they were recruited and coordinated by persons trusted by high-level government officials.”¹⁰⁰

Absence of Mitigating Factors

Since 2018 arbitrary criminal prosecutions of dissenting voices were used as an instrument of political persecution, which has expanded over time and now targets a broad range of dissenting voices. Voces del Sur, a regional network for press freedom, warned in April 2023 that at least 185 journalists have fled Nicaragua since April 2018.¹⁰¹ No independent media outlet can operate within Nicaragua, and the collapse of civic space further exemplifies the government’s descent into authoritarian rule.

Since the expulsion of OHCHR and IACHR in 2018, no independent human rights monitoring body has been able to access Nicaragua. The country’s isolation from regional and international institutions, persistent impunity and the complete instrumentalization of state institutions to repress dissent facilitate the commission of further atrocity crimes.

In the absence of an independent national judicial system, domestic avenues to ensure justice and redress for victims

of state-led violence were elusive. Rampant impunity for extrajudicial killings, torture, arbitrary detention and the persecution of human rights defenders served as an early warning sign ahead of the crisis in 2018. The political landscape of Nicaragua before 2018 – marked by corruption, the de facto concentration of power by the Ortega administration and impunity for human rights violations and abuses committed by state agents – all provided an environment that facilitated an escalation of violence when protesters took to the streets.

Motives or Incentives

Absolute control over the country, its institutions and population are the primary political motives of President Ortega and Vice President Murillo. Nicaragua’s descent into authoritarianism is aimed at “eliminating, by different means, any opposition in the country.”¹⁰² Initial incentives to crack down on protesters and independent media reporting on state-led violence gradually expanded to a full-blown, widespread crackdown on any alleged or actual political opponents.

Enabling Circumstances

The dismantling of the country’s judiciary prior to 2018 allowed the instrumentalization of domestic criminal law for political persecution. This included the subsequent passing of legislation that severely curtailed fundamental freedoms and civic space, as well as permitted arbitrary criminal prosecutions, systematic violations of due process rights and instrumentalized detention, reprisals, intimidation and harassment against family members and legal representatives of victims.¹⁰³ Absolute control over judicial action also enabled criminal law to be systematically used against different target groups. While victim profiles in 2018 included leaders and members of street protests, it would later expand to a wide range of actual or alleged opponents. It also facilitated persecution of presidential candidates ahead of the 2021 election.¹⁰⁴

Hate speech and the stigmatization of actual or alleged opponents was also used as a deliberate strategy to share disinformation and defame any political opposition as “traitors” in public discourse and the media. This has significantly contributed to normalizing and justifying acts of violence against actual or perceived opponents.¹⁰⁵

Hybrid Fisk Factors and Trigger Events

An environment conducive for the commission of systematic violence was gradually built and expanded over the past decade and facilitated escalation during social unrest. The 2018 protests sparked a sudden deterioration in Nicaragua, during which possible crimes against humanity were perpetrated. The period

ahead of the presidential elections in 2021 was equally marked by increased and systematic repression, while throughout 2022 and early 2023, the government further intensified its crackdown on civic space. Official numbers provided by the GHREN and OHCHR suggest that more than 3,000 NGOs have been forcibly shut down since December 2018 – more than half of which since September 2022 alone.

Since early February 2023 the government has revoked the citizenship of more than 300 alleged political opponents. On 9 February Nicaraguan authorities forcibly deported 222 of these individuals, who had been arbitrarily detained for political reasons, and sent them to the US. The decision is perceived as a new tactic of intensifying government repression. On the fifth anniversary of protests, Amnesty International warned that “far from ending its policy of repression, the Nicaraguan government continues to expand and reinvent it and incorporate new patterns of violations,” including through “excessive use of force, use of criminal laws to unjustly criminalize activists and dissidents, attacks on civil society and forced exile.”¹⁰⁶ On 3 May at least 40 government critics, including political opponents, independent journalists, human rights defenders and peasant activists, were detained in a massive police raid in which “the highest number of detentions were registered on a single day since the 2018 paramilitary operation known as ‘Operation Clean-Up.’”¹⁰⁷

In June 2023 the UN Deputy High Commissioner for Human Rights warned that the silencing of critical voices persists in a context of widespread fear and harassment by authorities. As a sign of further intensifying repression, between March and December 2023 at least 119 civil society organizations and eight universities had their legal status cancelled and many prominent members of the Catholic Church were arbitrarily detained.

International Response

Various regional and international mechanisms responded to state-led repression soon after violence escalated in April 2018, contributing to high visibility of the unfolding crisis. However, attention toward the protests soon decreased, and while certain steps were taken by regional governments and the wider international community to respond to the country’s protracted crisis, it has fallen short of a strong, coordinated and long-term strategy which would provide incentives to the Nicaraguan government to revert its descent into authoritarianism.

Following the eruption of protests, in mid-May 2018 IACHR spent five days in Nicaragua and provided an initial set of recommendations to address ongoing violence.¹⁰⁸ A month

later, following an invitation by Nicaraguan authorities, IACHR designated a Special Monitoring Mechanism for Nicaragua (MESENI) mandated to monitor the situation, provide technical assistance to government authorities and follow-up on the recommendations made by the Interdisciplinary Group of Independent Experts. In December 2018 the government “temporarily suspended” its presence in Managua. Since then, MESENI has been operating remotely.

In June 2019 the General Assembly of the OAS adopted a resolution calling on the government to engage in negotiations with the opposition and revoke the expulsion of human rights monitoring mechanisms.¹⁰⁹ The resolution mandated the Permanent Council of the OAS to designate a commission to help find a solution to the ongoing crisis, but the Ortega government refused the commission entry to the country. Following condemnation of the 2021 elections, the government announced it would withdraw from the OAS.¹¹⁰

The US swiftly imposed sanctions on Nicaraguan officials allegedly implicated in abuses, which remain active and have subsequently been expanded, including a decision in October 2022 to impose visa restrictions against 500 individuals and the country's mining authority.¹¹¹ The EU, Canada and the United Kingdom, among others, also imposed targeted sanctions that remain in place.

In September 2018 the UNSC held a briefing on the situation in Nicaragua, during which Costa Rica highlighted the international community's responsibility to protect populations facing human rights abuses and violations in Nicaragua. In March 2019, under the leadership of a number of Latin American and Caribbean countries, the HRC adopted a resolution to ensure monitoring of the human rights situation.

Early into the crisis, many observers hoped that quiet diplomacy and possible high-level mediation, in addition to the imposition of targeted sanctions, would worry the Sandinista government enough to initiate dialogue with opposing voices.¹¹² Instead, the country has taken steps to effectively isolate itself from multilateral engagement. In addition, the government strengthened its ties with like-minded rights abusers in the region and beyond. Russia and China have both provided critical economic and diplomatic support. The imposition of a rigorous targeted sanctions regime has been instrumentalized by the Ortega government to demonstrate imperialist endeavors by western nations, a narrative which enjoys broad support among likeminded states. The governments in both Venezuela and Nicaragua have a shared perspective that condemnation of

serious human rights violations, especially by the US and its regional allies, as well as other western states, serves as a pretext for regime change and interventionist policies. The Venezuelan and Nicaraguan governments have joined a vocal group at the UN – the Group of Friends in Defense of the Charter of the United Nations – alongside serious rights violators, including Belarus, China, the Democratic People's Republic of Korea, Eritrea, Iran and Russia.¹¹³ This Group regularly delivers joint statements at the HRC and UNGA deploring western imperialism and interference.¹¹⁴

Similar to Venezuela, the HRC has emerged as an important mechanism in ensuring robust monitoring and investigations into the crisis in Nicaragua despite the country's refusal to engage with regional and international bodies. In March 2022, under the leadership of a group of Latin American and Caribbean countries and Canada, the GHREN was created and mandated to establish the facts and circumstances of alleged abuses, collect and preserve evidence and identify perpetrators, and provide recommendations to ensure justice and accountability. The GHREN is also tasked with identifying the structural causes of systematic violations. An investigative mechanism is one of the strongest ways in which the HRC can respond to an emerging or protracted crisis, and its establishment demonstrated strong political will and decisive leadership by regional governments to address Nicaragua's crisis. The existence of the GHREN also ensured and enhanced international attention and formal discussions by UN member states on the situation and the conduct of high-level perpetrators.

Opportunities for Engagement

Immediate, genuine and long-lasting steps by the government of Nicaragua are needed to revert its rapid descent into a protracted crisis. This must include an immediate cessation of persecution of actual or alleged opponents, the full re-opening of civic space for NGOs, independent media and human rights defenders, and the release of all individuals arbitrarily detained. Full and meaningful cooperation with regional and international human rights monitoring mechanisms, including the GRHEN, is indispensable to prevent renewed violence. Lastly, system-wide reform of the country's repressive state apparatus is imperative to ensure the protection and promotion of the human rights of all Nicaraguans. This would include a complete overhaul of the country's judiciary to ensure independent and thorough investigations into crimes against humanity.

It seems unlikely that President Ortega and his administration will commit to any of the above actions in the near future. Too much is at stake for a government that is desperate to retain its

power, and incentives to reverse its track are limited at best. A coordinated response by the wider international community – including key actors in the region – will be essential to counter Nicaragua’s descent into authoritarianism. While measures such as authorizing investigations and imposing sanctions have been important, the international community has so far failed to apply a coordinated, holistic and robust strategy to respond to Nicaragua’s crisis. Therefore, it is essential that the analysis and recommendations issued by the GRHEN form the basis of any bilateral or multilateral economic, political or diplomatic engagement with the Ortega government. Regional and international stakeholders – including EU member states and the US – should work on a joint action plan to identify pressure and leverage points with the Ortega government. Among others, the GHREN recommended that any future development cooperation or investment plans negotiated with the Nicaraguan government be accompanied by clear benchmarks of progress surrounding human rights protection. Human Rights Watch has further called on regional governments part of the Central American Bank for Economic Integration to independently audit the current loans for Nicaragua to ensure that none of the funds are used to pursue state-led repression.¹¹⁵ Human Rights Watch’s proposal for the establishment of a regional Group of Friends is another strong measure available to states to maximize their pressure on the government to end human rights violations, and create a space for continual dialogue, analysis and strategic planning on how to respond to ongoing atrocity crimes.¹¹⁶

Persistent impunity is a key enabling factor that emboldens high-level perpetrators to continue violence and repression. Accountability for atrocity crimes must expand beyond criminal proceedings and include reparation, truth-telling and reconciliation processes, as well as comprehensive reform of the security and judicial sectors. It can also incentivize, and facilitate, other states and institutions to expand targeted sanctions regimes against the Ortega government, or rethink development and other financial investments in Nicaragua. As prospects for holistic accountability efforts remain elusive on a domestic level, UN member states should utilize the evidence collected by the GHREN to initiate judicial proceedings under universal jurisdiction. The GRHEN requires adequate resources and support to continue investigations and implement its broad mandate, and UN member states – including countries that have led on and supported its establishment – must prioritize operational support for the GHREN, as well as follow-up action based on its recommendations.

El Salvador

Since the imposition of a state of emergency on 27 March 2022 to allegedly curb a spike in gang violence, President Bukele has overseen more than 70,000 detentions, often accompanied by torture and ill-treatment, short-term enforced disappearances and the widespread violation of due process rights. More than 7,900 complaints of human rights violations against prisoners were received by the country’s national human rights institution between March 2022 and March 2023 alone.¹¹⁷ The NGO Cristosal has verified 153 deaths in state custody as of April 2023, although the actual figure is likely much higher. Cristosal also warned that ongoing serious violations and abuses, including torture by prison guards and other state officials, are carried out as a state policy authorized at the highest level of government with the deliberate and systematic targeting of a “specific segment of the population, including mostly young residents of communities in conflict,” referring to El Salvador’s soaring levels of violence and insecurity. Cristosal concluded that these violations and abuses may amount to crimes against humanity.¹¹⁸ At the time of writing, the state of emergency remains in place.

Family members and relatives of victims have repeatedly expressed fear of reprisals from state authorities for sharing information with NGOs. OHCHR documented at least 182 incidents against human rights defenders in 2022 alone.¹¹⁹ On 14 April 2023 El Faro – a well-known independent news outlet – announced its relocation to Costa Rica due to ongoing harassment. On 26 July El Salvador’s Legislative Assembly passed legislation which formally allows courts to hold mass trials of up to 900 individuals if accused of belonging to the same criminal group or coming from the same region.¹²⁰

Systematic abuses in El Salvador have raised serious concerns that yet another human rights emergency is slowly unfolding in the region. But warning signs of increased state-led violence emerged long before the imposition of the state of emergency.

The case of El Salvador demonstrates how the erosion of democratic space and rule of law can gradually create an environment that is conducive to the commission of atrocity crimes. It also exemplifies how, despite the presence of warning signs and risk factors, the lack of outside engagement and attention facilitated deterioration. While President Bukele utilizes repressive state policies and egregious violations to allegedly curtail gang violence, he is driving the country into an unprecedented crisis that leaves citizens at heightened risk of

abuse by state agents. His increasing grip on power, the pervasive culture of impunity and the prolonged state of emergency are a disastrous combination with the potential to further deteriorate the human rights situation in the country.

Record of Serious Human Rights Violations

The current crisis follows decades of serious human rights violations and high levels of insecurity in El Salvador, which has created an enabling environment for state-led repression. Security forces have been accused of extrajudicial executions, sexual violence and torture in the context of fighting violent crime. According to Human Rights Watch, gangs and police were involved in some of the 13,000 disappearances recorded between 2014-2020 alone.¹²¹ Impunity for past and ongoing violations – including for atrocities committed during the country’s 12-year civil war that ended in 1992 – constitutes one of the key enabling circumstances of violence and emboldens state agents to perpetrate systematic violations. Human Rights Watch has documented persistent attempts to block and delay accountability efforts for massacres committed between 1980-1992, including atrocities committed in El Mozote village, where more than 900 civilians – at least half of whom were children – were brutally murdered by a US-trained battalion.¹²² At the same time, gang violence has been a defining feature of daily life in El Salvador for decades, resulting in exorbitant numbers of killings, as well as rape and sexual violence, recruitment of children, abductions and forced displacement of civilians on behalf of gang members.

Weakness of State Structures

Since President Bukele took office in June 2019, he has severely undermined human rights protections, as well as the independence of the country’s institutions, and now effectively controls the legislative branch. In 2021 Supreme Court judges and the country’s Attorney General were removed from office.¹²³ Since then, the judicial system has been filled with Bukele allies, which has further expedited the imposition and regular renewal of emergency measures. It has also paved the way for his expected re-election in 2024, despite constitutional term-limits. President Bukele has also successfully instrumentalized social media to intimidate and block dissent and popularized a single narrative among his growing fanbase.

The July 2023 decision by the Legislative Assembly to authorize mass trials not only effectively denies due process rights and leaves tens of thousands at risk of arbitrary prison sentences, but also underlines how the deliberate dismantling of democratic safeguards constitutes one of the main risk factors of atrocity crimes. The absence of independent state institutions that can

guarantee the rule of law and ensure good governance leaves populations in El Salvador particularly vulnerable to violence at the hands of a state apparatus acting without institutional checks and balances.

Motives or Incentives

President Bukele is driven by political motives to maintain and consolidate power through state repression. In 2015 El Salvador was ranked as the country with the world’s highest homicide rate, largely caused by extreme levels of gang violence.¹²⁴ The sharp increase in detentions was accompanied by a dramatic decrease in murder rates, spiking Bukele’s approval rates across the country as many Salvadorans have felt safe from gang violence for the first time in decades. His popularity – already at unprecedented levels for a Latin American country – is expected to grow further as violence remains at an all-time low. As a result, governments in the region have looked to Bukele for inspiration on how to curb urban violence in their own countries, and this has translated into silence from democratic leaders in the region despite evidence that flagrant human rights abuses are consistently on the rise.¹²⁵ In order to prevent an escalation to atrocities, El Salvador needs a long-term strategy to address gang violence and ensure justice for victims, in line with its obligations under International Human Rights Law.

Triggering Factor

The country’s Legislative Assembly initially imposed the state of emergency in response to alleged gang violence that killed at least 62 people on 26 March 2022. Since then, mass arrests have targeted marginalized and low-income neighborhoods without any evidence that the individuals arrested were involved in gang activity. According to reporting by Amnesty International, the large-scale arrests are being carried out at an unprecedented speed while journalists and human rights defenders speaking out on the crisis – including on secret deals between the government and violent gangs – have faced harassment and criminalization. Amnesty International has also documented “the holding of expedited hearings – mostly virtual – where a judge, whose identity is withheld, can simultaneously try up to 500 people with virtually no evidence implicating them in the commission of an offence.”¹²⁶ According to Amnesty International, the country’s executive, legislative and judiciary are “exercising a key function within the state machinery,” committing violations that “are systematic in nature due to the widespread and sustained manner in which they are occurring.”

Opportunities for Engagement

International scrutiny, including by regional states, is needed to confront El Salvador’s rapid erosion of the rule of law, growing

authoritarianism and commission of possible crimes under international law. Systematic violations are likely to continue in the absence of concerted engagement by UN member states with influence over the Bukele administration. Democratic leaders in the region and beyond – including the EU – should strongly and publicly condemn President Bukele’s descent into authoritarianism and exert bilateral pressure on the government to revert the suspension of democratic guarantees. This should include a combination of confidential, quiet diplomacy and clear and decisive public condemnation of ongoing state-led repression, including by countries which have direct access to Bukele. Options such as an extensive targeted sanctions regime against Bukele and his inner circle, as well as the withholding of related financial support should be on the table.

Governments should also consider proposals brought forward by Human Rights Watch and others that seek to strengthen safeguards on financial support provided through the Central American Bank for Economic Integration, with the aim to stop funds used to pursue repressive state policies.¹²⁷ This would include the suspension of existing financial support for state agents responsible for serious violations and abuses – including the country’s security sector and judicial institutions – thereby cutting the financial means of perpetrators to carry out possible atrocity crimes.¹²⁸

Signals from within the UN system also have the potential to contribute to deterrence. The dispatch of emergency teams by OHCHR has previously been utilized to respond to emerging crises in the region, including during Chile’s protests in 2019, and could be mobilized to monitor the unfolding crisis and signal to the Bukele administration that the multilateral system is on high alert. If denied access to the country, such a team may be able to operate from within the region. Embassies in both San Salvador, as well as in neighboring states should explore concrete measures to contribute to protection and assistance for civil society organizations and independent media, and work on a coordinated and strategic cross-regional diplomatic strategy to push the Bukele government to revert its policies. Lastly, cross-regional governments – including key stakeholders in the region, as well as the EU, US, Canada and others – should continue their demonstrated and decisive leadership on atrocity situations in this region by exploring options to ensure formal HRC reporting mandates on El Salvador.

Lessons Learned in Responding to Situations at Risk of Atrocity Crimes

The Latin America and the Caribbean cases in this paper demonstrate that governments, and the wider international community, are still failing to prevent atrocities before they occur despite substantial progress made around identifying and monitoring risk factors and early warning signs of possible atrocities. Although prevention is often considered an apolitical and easier step than response, it is inherently political. On a national level, governments are sometimes unable to engage in effective prevention or are often involved in the commission of atrocity crimes themselves. On a regional and international level, political dynamics between a concerned state and international stakeholders often inhibit preventive action. While a lot of “early warning” information is available, relationships with a concerned state can reduce the appetite of other states to engage in prevention and acknowledge risk factors in another country. This section addresses the questions of what action can lead to deterrence and how can UN member states – including in the Americas – better use regional and international mechanisms to respond to emerging or protracted crises?

Regional Action

The role of regional governments and institutions can be critical in responding to situations at risk. Regional organizations are often best placed to guide multilateral action on emerging atrocity situations in their region as they may have a better political understanding of dynamics within the countries where atrocities are taking place and are composed of neighboring states who may be disproportionately affected in the lead up to and aftermath of atrocities. In this regard, in the Americas the OAS can play a unique role in preventing and responding to mass atrocities. Through its structure, including the General Assembly and Permanent Council, the OAS as a political body can provide a forum of discussion and exchange among member states, including on emerging and protracted human rights crises in the region. Such discussions increase the pressure on concerned governments, especially if follow-up measures such as further diplomatic, political or economic measures are being discussed.

However, as an institution comprised of regional member states, the political nature of decision-making often represents a challenge rather than an opportunity to ensure meaningful response to atrocity crises. In the case of Venezuela this resulted in an overly exacerbated focus on the recognition

of the so-called interim government between 2019 and 2021, including by the Secretary General of the OAS, rather than prioritizing engagement on how to address the pressing human rights and humanitarian crisis.¹²⁹

This has also demonstrated the limits and challenges that the OAS faces when responding to atrocity risks in the region. In response to increased vigilance by its mechanisms and members, both Venezuela and Nicaragua responded with hostile rhetoric vis-à-vis the OAS, rather than increasing cooperation and engagement. Nevertheless, Nicaragua and, until recently, Venezuela, are examples of governments which deliberately isolated themselves from regional and international engagement. Public scrutiny by OAS member states may, in fact, yield more effect on countries which do not turn a blind eye to condemnation and political pressure from the outside, as most governments do not enjoy being in the spotlight for misconduct – nor are they so willing to withdraw membership as a response.

In addition to the OAS as a political forum, its mechanisms and procedures can be of vital importance in identifying warning signs and alerting the regional and international system of situations at risk. In this regard, the IACHR has demonstrated its unique value in raising alarm, collecting evidence of alleged atrocity crimes and mobilizing follow-up action, including by conducting country visits and issuing reports about emerging human rights crises. Their respective reports on Venezuela and Nicaragua constituted the first collection of evidence of possible crimes against humanity committed by state and affiliated non-state actors. Even though these publications did not have a deterrent effect, they facilitated follow-up action by regional member states in establishing formal investigative mandates for both situations at the HRC. This evidence can also be used as a basis to pursue justice and accountability, including through investigations at the ICC, the expansion of sanction regimes or the opening of universal jurisdiction cases.

This highlights the impact that regional monitoring and investigative mandates can have in alerting regional and external stakeholders of situations of concern, and simultaneously increasing pressure on the concerned government and the wider international community that a situation warrants attention and response.

UN Human Rights System

In addition to regional mechanisms, various international human rights mechanisms can play a fundamental role in upholding R2P and preventing and responding to emerging atrocity risk factors. Both Venezuela and Nicaragua demonstrate the unique

role that the HRC and its mechanisms and procedures can play when a government is unwilling to protect its population.

In 2019, under the leadership of a group of Latin American countries and Canada, the HRC adopted a resolution to ensure OHCHR monitoring in Nicaragua. This constituted the first resolution that the HRC adopted on a potential atrocity situation in Latin America. While the resolution itself took a rather minimalist approach, its successful adoption may arguably have impacted an almost identical group of countries to take a much bolder stance towards Venezuela six months later by establishing the first investigative mechanism for a situation in the Americas. In 2022 a similar mechanism was operationalized for Nicaragua.

Depending on the seriousness, scale and intensity of a situation of concern, various mechanisms and procedures within the UN human rights system may be well equipped to respond. Investigative mechanisms are usually established for crisis situations of unprecedented scale and the creation of such mechanisms requires significant political capital by countries taking the lead. Other factors, such as a lack of cooperation by the concerned state and sufficient cross-regional buy-in, also determine whether such a step is taken or if it may not be the most suitable or appropriate response when warning signs emerge. The establishment of a Special Rapporteur or Independent Expert mandate or reporting by the High Commissioner can also be an important step in addressing risk factors and drawing attention to a deteriorating crisis. Such action may be considered as a first step for the deteriorating situation in El Salvador.

Depending on the context, OHCHR can also perform crucial monitoring on situations at risk. Information received from OHCHR field offices and UN country teams, as well as from civil society from affected countries, national human rights institutions and other stakeholders, can feed into vital analysis on emerging risk factors. If warning signs of rapid deterioration emerge, the UN High Commissioner for Human Rights can also dispatch emergency teams to the concerned country, as was the case in 2019 during the protests in Chile. Similarly, the publication of statements of concern – as were issued in the context of Colombia’s protests in 2021 – can be a useful measure to put a government on the spot and increase pressure on the concerned state, as well as other governments, to reflect on further necessary steps.

For countries that are willing to cooperate with the UN human rights system, OHCHR also provides technical assistance and capacity building for concerned countries.

Such technical cooperation is context specific but can entail support for judicial or security sector reform, advice on victim reparations or providing support in setting up or strengthening a country's independent human rights institutions. The technical cooperation between Guatemala and OHCHR serves as an excellent example in this regard. In July 2023 the HRC adopted a historic resolution on Colombia which strengthens technical cooperation to implement the recommendations issued by the country's Commission for the Clarification of Truth, Coexistence and Non-Repetition. This initiative, led by Colombia itself, demonstrates the unique potential of technical cooperation in situations where the concerned state is genuinely committed to improving its human rights record. In other instances, the agreement between OHCHR and the government of Venezuela also signals that technical cooperation can open windows of engagement even with countries that have otherwise refused to cooperate with human rights mechanisms.

Regional and international action, including investigations mandated by the HRC or a regional body, can, in an ideal case, impact patterns of behavior by perpetrators, and, at least to some extent, deter recurrence. This is demonstrated by the correlation between the FFM report and the decrease in extrajudicial killings in Venezuela. Public reporting by mechanisms like the GHREN also maximize international visibility on ongoing atrocity crimes and, through interactive dialogues at the HRC, force cross-regional governments to take a position on the situation and explore options for follow-up action. The GHREN is equipped with one of the broadest mandates of all HRC investigative mechanisms, and its work will be vital in providing evidence and analysis that can help pursue justice and accountability for victims. The opening of an investigation into alleged crimes against humanity in Nicaragua by a court in Argentina should serve as the first of many examples in this regard.¹³⁰ Identification of individual perpetrators – a common feature of HRC investigative bodies – can and should be used when governments and regional institutions impose targeted sanctions regimes.

But while the establishment of an investigative body or other monitoring and reporting on crisis situations is a strong step to respond to situations where populations are at risk of, or are experiencing, atrocities, it should not be mistaken as an end in and of itself. What really matters is the action taken by states and the wider international community once these mechanisms and procedures have fulfilled their mandate. Depending on the context, this can take the form of follow-up international scrutiny and investigations, bilateral diplomatic pressure, engagement with accountability mechanisms to pursue justice

for victims, targeted sanctions or judicial proceedings against individual perpetrators, or technical assistance and capacity building for concerned countries genuinely willing to achieve human rights progress and strengthen resilience to atrocities.

It is therefore critical for such mechanisms to not only maximize pressure on the concerned government, but also on the wider international community to actively utilize their information and recommendations to take follow-up action and, in an ideal case, prevent recurrence. One way in which both regional and international investigations can further contribute to effective prevention and deterrence is by institutionalizing the “atrocity prevention lens” in their work. This could be done by, for example, explicitly mandating regional and international investigative mechanisms and other bodies to utilize the UN Framework of Analysis for Atrocity Crimes. The Framework of Analysis is unique as it goes beyond a human rights assessment and points towards other relevant risk factors, including governance structures, the organization of state security forces or economic or political incentives to commit atrocities. While investigative bodies, in fact, already provide such assessments of the highest quality, a formal application of the Framework of Analysis may increase the pressure on states to adopt a forward-looking strategy and take measures to prevent escalation for situations of concern.

Key Recommendations

The history of the Americas has demonstrated that no government that systematically abuses human rights can endure long-term. The region has led the way in transitions from dictatorships to democracies and from being human rights abusers to becoming champions of human rights norms and institutions that safeguard humanity.

However, countries across the region are struggling with persistent insecurity, poverty and structural discrimination of marginalized communities. Instead of addressing such institutional risk factors, they are often met with repression, human rights violations, militarization in security strategies and a gradual erosion of the rule of law. To counter democratic backsliding in the region and holistically prevent violations and abuses, governments in the Americas should prioritize identifying and addressing risk factors and close protection gaps that, if unaddressed, may create an environment conducive to the commission of atrocity crimes. The regional and international system can provide vital support and assistance in this regard

by strengthening domestic prevention capacities. In addition, governments in the Americas should ensure bold, decisive and effective action when warning signs of escalation emerge elsewhere in the region and to make full use of the mechanisms and procedures that the regional and international system have at its disposal to deter another atrocity crisis on the continent.

The following section provides a set of key recommendations to ensure that atrocity prevention becomes both a domestic and foreign policy imperative for governments across the Americas. Governments should actively consult and utilize the *Framework for Action for the Responsibility to Protect*,¹³¹ which was developed by the Global Centre for the Responsibility to Protect and the Asia-Pacific Centre for the Responsibility to Protect in 2023. This framework is written for all states, allowing governments to assess gaps and identify opportunities to address atrocity risks in their own country, as well as to understand options available for responding to risks in the wider region and beyond.

We recognize that all situations require some tailored and context-specific responses. For example, in Mexico, increased pressure by governments from all regions will be necessary to incentivize President López Obrador’s government to shift from militarized security strategies to long-term socio-economic policies aimed at reducing crime and insecurity, prioritizing federal policing based on international human rights standards, as well as addressing persistent impunity for military and law enforcement accused of serious human rights violations and corruption. In Colombia, a focus on structural atrocity risk factors can help strengthen the peace process to ensure legitimate, long-lasting and sustainable security and reconciliation. In Chile, the ongoing constitution-making process provides an opportunity to address root causes of recent violence, which, if unaddressed, will continue to present risks for renewed escalation. In countries that have emerged from a long history of atrocity crimes, such as Guatemala, technical cooperation can be particularly impactful to reduce the risk of recurrence. However, many recommendations regarding the assessment of risk and actions states can take to prevent mass atrocities are relevant across the whole region. The recommendations in this section are written with that sentiment in mind.

National Level

Appoint and Actively Utilize a National R2P Focal Point

Currently 10 governments in the Americas, as well as the OAS, have an R2P Focal Point and are part of the Global Network of R2P Focal Points, which meets annually to exchange best

practices and strategies for strengthening atrocity prevention, including on a national level. Members of the Global Network include states that have never experienced mass atrocities domestically, as well as states with populations currently experiencing, or at imminent risk of, mass atrocity crimes. More governments in the Americas, especially in Latin America and the Caribbean, should appoint such a senior-level government official as a first step to institutionalize atrocity prevention within their domestic system. Countries with an existing R2P Focal Point should ensure that the individual has the resources, capacity and institutional support to enable the integration of mass atrocity prevention within their department and ministry, as well as across other ministries.

Use a Whole-of-Government Approach to Prevent Atrocities

Atrocity prevention must be a domestic policy imperative. It is a cross-cutting issue that is relevant to the work of various departments and ministries, including national security, justice, human rights, minority affairs, women and child welfare, education, culture, health and beyond. Governments in the Americas should create and operationalize a holistic, government-wide atrocity prevention strategy to aid in assessing national vulnerabilities to atrocities, strengthening societal resilience and building structural mechanisms to prevent or respond to atrocity risks. A whole-of-government approach can help identify context-specific protection gaps and recommendations to enhance a country’s national prevention architecture, including through legislation to ensure the protection of Indigenous Peoples rights or legislation against hate speech or incitement. Prioritizing and enhancing an understanding of atrocity prevention across various government agencies can also equip political actors with the necessary contextual knowledge on risks factors for atrocity crimes to comprehensively assess policy options and timely and consistent responses aimed at protecting populations and holding perpetrators accountable. The R2P Focal Point should play a key role in this regard.

Systematically Engage with Civil Society Organizations

Although the prevention of atrocity crimes is the primary responsibility of the state, civil society organizations can be instrumental in identifying early warning indicators, providing recommendations for necessary action at a national and local level, and alerting the international community if governments are unable or unwilling to act. Countries in the Americas, including in Latin America and the Caribbean, have some of the most vibrant, diverse and active civil society actors worldwide, many of whom have been at the forefront of mobilizing their respective government to respond to regional crises or domestic

protection gaps. Therefore, governments should regularly call on the expertise of civil society, including through regular consultations with national and local human rights defenders, institutions and NGOs. Governments should specifically consult national civil society to identify existing risk factors for mass atrocity crimes and ensure that recommendations towards addressing risk factors are implemented across the domestic system.

Implement Recommendations and Request Assistance from Regional and International Human Rights Mechanisms

Regional and international human rights mechanisms – including the Universal Periodic Review (UPR) process in Geneva – can be particularly helpful for identifying context-specific challenges and weaknesses and close protection gaps. Governments in the Americas should systematically and actively utilize the information, analysis and recommendations provided by human rights mechanisms and procedures, including OHCHR, Special Rapporteurs, the Inter-American system or others to mitigate risk factors and strengthen national resilience to atrocities. States should lead by example and request technical cooperation and assistance to ensure maximum resources and expertise in building domestic prevention capacities.

Regional Level

Systematically Engage with Key Regional Stakeholders to Share Best Practices and Address Situations at Risk

On a regional level, collaboration among member states in the Americas should be strengthened to regularly share best practices and develop relevant preventive tools at the regional and national level. This should include annual or bi-annual meetings at the OAS headquarters to exchange on R2P and national efforts in atrocity prevention, as well as discussions on how the regional R2P Focal Point can be crucial to enabling the integration of atrocity prevention within different sectors of the organization. Member states in the region should make regular use of ad hoc briefings and discussions, as well as OAS Special Sessions, when warning signs emerge in a country of concern and ensure that a regional response is centered on addressing and mitigating atrocity risk factors, including through dispatching fact-finding teams, diplomatic missions or technical cooperation for situations at risk.

Build Regional Coalitions to Ensure Maximum Visibility and Response to Emerging or Protracted Crises

In recent years, the responses to Venezuela and Nicaragua have demonstrated significant political will by governments in the Americas to respond to escalating or protracted crises in their

own region. This included decisive action in multilateral fora, such as the HRC through the establishment of investigative mandates, the imposition of individual targeted sanctions by regional governments, engagement with the ICC or the creation of cross-regional blocks to discuss necessary action. However, the case of Venezuela has also demonstrated how swiftly political will to address human rights violations can fade if countries are looking to reestablish relationships with the concerned state. In the context of Nicaragua, fatigue and political de-prioritization has resulted in the lack of coordinated, strategic approach to the protracted crisis. Governments in the Americas – regardless of which side of the political spectrum they are on – should continue to prioritize a regional response to situations at risk and, wherever necessary, build regional coalitions to identify how to leverage human rights mechanisms, as well as their political and diplomatic influence on the concerned state to deter escalation. Such action must be based on objective criteria of the human rights situation in the country.

Multilateral Level

Mainstream Atrocity Prevention and Establish Independent Reporting and Investigative Mechanisms for Emerging or Protracted Crises at the UN

Reporting and investigative mandates – including investigative mechanisms, teams of independent experts, Special Rapporteurs or the work of OHCHR – have proven to be instrumental in providing analysis as to whether violations, abuses or international crimes have occurred, providing actionable recommendations for all relevant actors and advancing accountability efforts. Some mechanisms have also been successful in the identification of the root causes of human rights violations and abuses. Such mechanisms can broaden our understanding of the patterns of behavior that enable the commission of atrocities and outline necessary institutional reforms to prevent their recurrence. Governments in the Americas should leverage their political capital to establish such reporting and investigative mandates for emerging or protracted crises and ensure maximum international attention on situations at risk. Governments should also ensure that such mechanisms receive the sufficient resources and support to carry out their respective mandates.

Governments in the Americas can also contribute to mainstreaming atrocity prevention in the multilateral fora for all countries, regardless of which stage of the prevention spectrum they are at. This could be achieved through, for example, utilizing the UPR process to provide targeted atrocity prevention-related

recommendations to other governments and, where applicable, provide assistance for domestic implementation.

Mandate UN Mechanisms to Apply the UN Framework of Analysis for Atrocity Crimes

When leading on a respective resolution or actively participating in its negotiation, governments in the Americas can contribute to the deterrence of atrocity crimes by mandating HRC-mechanisms, peace and political missions and other UN mechanisms and procedures to apply the UN Framework of Analysis for Atrocity Crimes. This is one tool available that can expand comprehension of early warning indicators of mass atrocities and help enhance risk assessments, including through the work of various UN bodies, institutions and ad-hoc mechanisms. When establishing or renewing such mandates, they should systematically include the Framework of Analysis, asking the relevant experts to regularly conduct a risk assessment of atrocity crimes as part of their monitoring, reporting and investigations.

Support Special Sessions and Urgent Debates to Respond to Deteriorating Human Rights Crises

For country situations where violations and abuses of human rights rapidly deteriorate, the HRC may hold Special Sessions or Urgent Debates to address the escalating crisis and discuss options on how to respond. The UNGA, as well as the UNSC, could also be leveraged to ensure discussions on escalating crisis situations. Yet, far too often, political dynamics in Geneva, New York and beyond impede the holding of such meetings when the risk of atrocities is high. Governments in the Americas have a mixed track record of support for such initiatives. Increasing international scrutiny for situations of concern is a concrete measure for governments in the region to demonstrate and uphold their commitment to R2P and atrocity prevention, regardless of where populations are at risk.

Follow-up on the Information, Analysis and Recommendations by Human Rights Mechanisms and Procedures

Regional and international human rights mechanisms and procedures constitute key mechanisms for early warning and the identification of atrocity risks. This includes fact-finding and reporting by the Inter-American system, as well as various human rights instruments based in Geneva, such as Special Rapporteurs, investigative mechanisms, the UPR process or Treaty Bodies. Despite rigorous analysis and recommendations for follow-up action, all too often governments fail to utilize the vast information collected by such mechanisms to prevent escalation or recurrence of atrocity crimes.

Regional member states should systematically utilize information collected by regional and international human rights mechanisms to discuss bilateral or collective follow-up measures. If the concerned government is willing to cooperate, such follow-up action could include technical assistance and capacity building, mediation and support of negotiations, or other forms of political and diplomatic engagement. If a government is unwilling to engage, follow-up action may include the imposition of individual targeted sanctions or restrictions of financial support for repressive governments, universal jurisdiction or other avenues of international justice. The analysis and recommendations by FFM, Independent Experts or others should serve as the basis for meaningful and targeted measures to maximize political and diplomatic pressure on the concerned state.

Conclusion

The examples used throughout this paper have demonstrated that no society is immune to atrocity crimes, and structural prevention is a continuous process that applies to all countries at all times. Atrocity-specific early warning and prevention can be helpful for all countries regardless of whether there are imminent risks.

The failure to prevent atrocities in Venezuela and Nicaragua has illustrated the vital importance of addressing risk factors and warning signs at the early stages of a crisis, as well as the importance of engaging in effective prevention and response measures when the concerned state is unable or unwilling to do so. The cases in this paper seek to highlight how better understanding of the risk factors that can lead to or enable the commission of atrocity crimes may also enable better identification of measures that can be taken by states and the international community to address the root causes and precursors of systematic violations to prevent these crimes from happening in the first place. The earlier the risk factors are identified, the greater the opportunities for early prevention. As times goes on, preventive action and response becomes more difficult and more costly. States in the region and the wider international community still have time to respond to emerging risks in the region, including democratic backsliding in El Salvador, to prevent warning signs from escalating into atrocities.

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