

SUMMARY OF THE SECRETARY-GENERAL'S REPORT ON THE RESPONSIBILITY TO PROTECT



INTERNATIONAL COALITION FOR THE RESPONSIBILITY TO PROTECT

Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect

I. Introduction and mandate

In August 2014, United Nations (UN) Secretary-General Ban Ki-moon released his sixth report on the Responsibility to Protect, *Fulfilling our collective responsibility: International assistance and the Responsibility to Protect*. (A/68/947) The report reiterates the commitment of States to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing, as articulated in paragraphs 138 and 139 of the 2005 World Summit Outcome Document. It also builds on the Secretary-General's 2009 report on implementing the Responsibility to Protect (RtoP), which established the three pillar framework for understanding the commitments entailed by the RtoP: each individual state has the primary Responsibility to Protect its populations from the four atrocity crimes (Pillar I); the international community must assist states in upholding their protection obligations (Pillar II); and when a state is unable or unwilling to protect its civilians, the international community has a responsibility to take collective action in a timely and decisive manner (Pillar III).

The 2014 report focuses on Pillar II: the collective responsibility of international community to assist states in upholding their RtoP. Referring to crises in the Central African Republic, South Sudan and Iraq as well as broader global protection challenges such as the rise of extremist groups, the report underscores the critical need to rapidly assist States in atrocity crime prevention. Effective implementation of Pillar II strengthens the efforts of States in protecting their civilians therefore decreasing the need for Pillar III action. Promoting a holistic view of RtoP, in which all pillars are mutually-supporting and carry equal weight, the report insists that the crucial question is never whether RtoP "applies" in a given situation as the responsibility to protect is permanent and unconditional, but rather "how best to use the specific measure available under each pillar to prevent and respond to atrocity crimes."

II. The nature and dynamics of atrocity crimes

Designing appropriate forms of Pillar II assistance requires an understanding of the nature and dynamics of mass atrocities. Section two of the report outlines a three stage framework which can be used to identify the general progression towards the commission of atrocity crimes, acknowledging that these stages may unfold in different ways across different contexts. The **first stage** is characterized by the presence of one or more factors that increase the risks of atrocities. These include, inter alia, armed conflict, serious violations of international human rights and humanitarian law, and incentives to commit mass atrocities. This stage requires preventive action that is focused on establishing and strengthening State structures and institutions so as to build domestic resilience to atrocity crimes. In the **second stage** the situation goes from one of "general risk" to one presenting more "specific threats." The threat is often triggered by a crisis or political change that "triggers upheaval and exacerbates existing grievances." However, atrocity crimes only occur when there is the targeting or exclusion of a particular group. The **third stage**, the "imminent risk of atrocity crimes," reaches this threshold. This stage is characterized by an escalation in serious human rights violations and systematic targeting of specific groups. Given the relative urgency of the assistance required in the second and third stages, these situations require timely and targeted measures, which either aim to assist an "at risk" group or address a specific factors which is facilitating atrocity crimes. The three stage approach implies that Pillar II assistance is not limited to early-stage prevention, but also includes assistance to States facing imminent or enduring atrocity crimes.

III. The Spirit of Pillar II

Section three outlines the approach and principles that should guide national, regional and international Pillar II assistance. The Secretary-General outlines five **common principles of assistance** that are necessary for the successful exercise of collective responsibility under Pillar II, which are 1) Ensuring national ownership; 2) Building mutual commitment; 3) Do no harm; 4) Prioritize prevention; and 5) Retain flexibility. Section three also briefly discusses potential **partnerships** that should support States under Pillar II. The General Assembly, the Human Rights Council, the Security Council, and the Peacebuilding Commission, are central to Pillar II assistance provision. Partnerships involving or between these and other UN entities, as well as other international organizations (e.g., World Bank, International Criminal Court), neighboring states, regional organizations, networks of states committed to preventing atrocity crimes, private sector actors and civil society organizations, are a crucial part of the Pillar II protection architecture.

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IV. Forms of assistance:

Section four highlights numerous forms of Pillar II assistance. While much of it falls under the category of traditional development cooperation, which in itself is a central component of Pillar II, assistance to States in the context of RtoP "also involves a wider range of economic, political, humanitarian, and, in certain cases, military tools." Pillar II assistance fall under three broad categories:

A. Encouragement

Encouragement to meet Pillar I responsibilities: The first form of encouragement entails educating state authorities and the general public about human rights, humanitarian law, and the dynamics of atrocity crimes. Peer review and assessment mechanisms (e.g., the Human Rights Council sessions, Universal Periodic Review process) are influential forms of encouragement, which through their public nature can create incentives for States to uphold their responsibilities. The Human Rights Council, the Office of the High Commissioner for Human Rights (OHCHR) and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator (OCHA) can each encourage states to meet their protection obligations, highlight populations at risk, and support the development of human rights institutions. Regional actors and organizations are particularly well placed to provide focused encouragement. It is therefore recommended that States invest in strengthening existing regional mechanisms. Encouragement should focus particular attention on the protection of the most vulnerable populations, including women and children. Civil society organizations play a key role in this aspect of encouragement.

Dialogue and preventive diplomacy: The second form of encouragement focuses on situations where there is an emerging threat of atrocity crimes, and includes actions to remind States to protect their populations and offer guidance on alleviating atrocity risk. Groups like the Union of South American Nations (UNASUR) and the Panel of the Wise of the African Union (AU) have been used to reiterate the importance of respecting international human rights and humanitarian law. UN actors, including the Department of Political Affairs (DPA), can continue to use preventive diplomacy to resolve tensions and highlight the importance of protecting civilians from atrocity crimes.

B. Capacity Building:

Capacity building refers to bolstering the structures, means, and knowledge to foster resilience. All of these activities should begin with a comprehensive needs assessment after consultations with national and local actors, so that those providing assistance will have a clear understanding of existing structures.

Effective, legitimate and inclusive governance: International assistance should strengthen participation and accountability in political institutions, respect for the rule of law, equal access to justice, and mechanisms for the fair and transparent management of economic resources and assets. The aim is to address horizontal inequality in society and promote integrated institutions.

Specific inhibitors of atrocity crimes: In addition to the broader capacity building initiatives listed above, international assistance should focus on building particular capacities, institutions, and actors that help prevent escalation from risk to imminent crisis. Seven such "inhibitors" are described in the report. International actors can:

- Assist in building and strengthening a **professional and accountable security sector** to effectively responds to threats and promote human rights and humanitarian law.
- Support the establishment of **impartial institutions for overseeing political transitions** in order to prevent violence triggered by political change.
- Establish and strengthen **judicial and human rights institutions** to provide a nonviolent alternative for voicing grievances and hold perpetrators accountable for crimes.
- Strengthen the ability to **assess risk and mobilize early response**. Regional organizations can work with other international and development partners to implement risk assessments and offer advice to States
- Assist in the enhancement of **local capacity to resolve conflicts**. For instance, by supporting the existing roles of traditional and religious leaders in resolving tensions.
- Build and enhance **media capacity to counteract prejudice and hate speech** by developing research and investigative capacity of journalists, adopting legislation regarding incitement, and ensuring that ethical journalistic standards that promote truth telling and impartiality are upheld.

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- Strengthen **capacity for effective and legitimate transitional justice** by supporting post-conflict efforts. This can entail providing assistance to finance outstanding property claims, establishing durable solutions for the displaced, or facilitating the restoration of citizenship for victims and address sexual and gender-based crimes, among other actions.

C. Assisting States to protect their populations

In addition to encouragement and capacity building assistance, there may be situations in which States under stress or impending crisis need a third category of assistance: direct protection assistance.

Denying the means to commit atrocities: International and regional actors can deny the means for the commission of atrocity crimes through blocking the flow of small arms and light weapons, illicit financing, and illegal trafficking, especially by strengthening cross-border customs cooperation and information-sharing networks. The Arms Trade Treaty (ATT) and Security Council Resolution 2117 (2013) are both important steps towards mitigating the flow of weapons to contexts in which they can be used for atrocity crimes.

Civilian assistance: The international community can also provide civilian assistance to states under stress. Civilian assistance in the following five areas is likely to have the greatest impact:

- International actors can offer **mediation and dispute resolution expertise**. The Mediation Support Unit in the Department of Political Affairs, for instance, provides assistance through its Standby Team and Roster of Mediation Experts.
- Assistance can come in the form of domestic **human rights monitoring** mechanisms. Regional actors such as the Economic Community of West African States, (ECOWAS), European Union (EU), and Organization for Security and Co-operation in Europe (OSCE) send human rights experts through peacekeeping missions. States and inter-governmental organizations would benefit from increased investment in the recruitment of human rights experts, including under the UN framework.
- The temporary deployment of senior police officers, such as the police unit of UN peacekeeping missions, can strengthen **law enforcement and criminal investigation**. The report states that such UN operations have made “significant contributions” in Burundi, Côte D’Ivoire, Democratic Republic of the Congo, Haiti, Kosovo, Liberia, and Sierra. The need for assistance also extends to the justice sector, where international assistance may be the only way to investigate and prosecute atrocity crimes.
- Different organizations, including the Office of the UN High Commissioner for Refugees (UNHCR) can enhance the **protection of refugees and the internally displaced** by supporting appeals for asylum, and providing protection to refugees in safe facilities.
- Humanitarian actors can also enhance the **protection of civilians in humanitarian emergencies** through the use of humanitarian protection clusters

Peacekeeping and stabilization assistance: The final form of direct protection assistance is military support. Protection of Civilians (POC), now regularly included in Security Council mandates for peacekeeping missions, is at the core of recent initiatives such as the United Nations Mission in South Sudan (UNMISS) and the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). The UN has produced several training guides that aim to improve peacekeepers’ understanding of protection mandates and actions. However, more steps need to be taken to ensure that actors participating in these missions are well trained and understand the scope and implications of their protection mandates. There also needs to be stronger correspondence between human rights monitors and peacekeeping forces, enhanced tracking and recording of civilian casualties, and increased support for women protection

V. Challenges and Recommendations:

The Secretary-General highlights a few key challenges:

- 1) Pillar II responsibilities are multi-faceted and complex: Obligations under Pillar II may seem daunting. Nonetheless, actors can provide more effective assistance by efficiently using existing resources and creating tactics that focus on addressing atrocity crimes.
- 2) States have demonstrated too little will to operationalize prevention: The overwhelming majority of measures taken by states occur when crisis situations are underway. Not enough resources go into prevention measures, i.e. addressing country situations before they reach a point of crisis.
- 3) Resource Constraints: Tight finances call for a re-evaluation of the distribution of resources so as to ensure that they are used efficiently when allocated to protect civilians. Pillar II assistance, however, is a good long-term investment; addressing crises is far more costly.

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- 4) In some cases States are the perpetrators of atrocity crimes: In situations in which governments commit atrocity crimes, international actors can still encourage such states to meet their protection obligations. Efforts can support civil society organizations, and provide assistance to hold individual state actors accountable for the incitement and commission and of atrocity crimes.

The Secretary-General recommends:

1. Intensifying efforts to encourage states to meet their Responsibility to Protect by using different mechanisms and institutions including peer-review processes, preventive diplomacy and good offices;
2. Investing in capacity building programs that address horizontal inequalities and buttress specific inhibitors of atrocity crimes; and
3. Deploying additional capacity to States under stress, such as specialized civilian resources, to boost their Responsibility to Protect populations.

VI. Renewed commitment to protection

The report concludes with a reminder that the tenth anniversary of the 2005 World Summit is approaching. Member States can use the opportunity “*renew and further*” their commitment to protect populations from atrocity crimes. States can also consider including RtoP on the formal agenda of the General Assembly. The Secretary-General concludes by encouraging: “*Member States to seize this opportunity to craft an ambitious vision for the next decade of the responsibility to protect – a principle that has become a core part of the world’s armor for protecting vulnerable populations.*”

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The International Coalition for the Responsibility to Protect convenes and collaborates with civil society, Member States, and regional and sub-regional organizations to continue close scrutiny of the consistent implementation of the third pillar and develop effective methods to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

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