Mobilizing collective action: The next decade of the responsibility to protect

I. Introduction

In August 2016, United Nations (UN) Secretary-General Ban Ki-moon released his eighth and final report on the Responsibility to Protect (RtoP, R2P) entitled "Mobilizing collective action: The next decade of the responsibility to protect". In the last document on RtoP released by Mr. Ban in his role as Secretary-General of the UN, he takes note of the accomplishments surrounding the advancement of RtoP, as well as calls attention to the failures of the international community to prevent and respond to atrocity crimes. He identifies the increasingly challenging context facing the world, where both State and non-State actors constitute threats to populations, and to international peace and security. The report provides a range of recommendations for actors at all levels, and notes that coordinated action is needed now more than ever to produce tangible results to prevent and halt atrocity crimes. Secretary-General Ban Ki-moon therefore urges Member States to renew their commitment to RtoP and “to take the principled and practical steps necessary” to protect populations.

The report builds on the 2015 report with a particular focus on obstacles preventing the mobilization of collective action to prevent and respond to atrocity crimes. As this is the Secretary-General’s final report, it is anticipated that the document may serve as an agenda to guide his successor and support the next United Nations Secretary-General (UNSG) in his/her efforts to continue the advancement and implementation of the Responsibility to Protect.

II. A More Challenging Context

The Secretary-General brings attention to the progress that has been achieved since the Responsibility to Protect was endorsed at the 2005 World Summit. This includes the adoption of over 40 resolutions within the United Nations Security Council (UNSC) that make reference to RtoP, the incorporation of RtoP into the mandates of most peacekeeping operations, and the norm’s inclusion in discussions held at the Human Rights Council. Additionally, Mr. Ban highlights that efforts at the regional and international levels have contributed towards atrocity prevention, most notably in preventive diplomacy, mediation, peacebuilding, peacekeeping, and women’s empowerment.

Despite these achievements, atrocity crimes have increased in frequency and scale, with the Secretary-General noting that this will likely continue, “unless the international community takes more determined and consistent action to fulfil its Responsibility to Protect.” Civilians have increasingly become the victims of armed conflict and atrocity crimes, with cases of sexual and gender-based violence also increasing in prevalence and scale.

The rise of non-State armed groups – such as Boko Haram and ISIL – has further complicated the progressively dire situation facing atrocity prevention. The advent of new technological platforms, particularly social media outlets, have enabled the rapid dissemination of violent narratives and hateful ideologies, resulting in the rise of violent extremist groups capable of committing terrible atrocities against civilian populations. The subsequent commission of atrocity crimes has also further compounded the global displacement crisis, with the world facing the highest numbers of internally displaced persons (IDPs) and refugees in history – 21.3 million refugees and 40.8 million IDPs.

Furthermore, a recent retreating internationalist trend has hindered efforts to protect populations. Political divisions, particularly within the UN Security Council, constitute an additional impediment to the prevention of and response to atrocity crimes. The veto power granted to the Permanent Members, when used or threatened in situations of atrocity crimes, undermines the purpose of the UN and can prevent timely action. Situations like these along with other examples of disunity, namely when major global powers have shown support to opposing parties of a crisis or when Member States outside of the UNSC have placed their interests before their protection responsibilities, have impeded imperative action, particularly in the more impressionable early stages of a conflict, as seen in Syria. In response, the Secretary-General boldly asks, ‘Will we mobilize the collective will to protect our shared humanity, or will we allow discord, paralysis, and narrow self-interest to prevail?’
III. Delivering on Our Political Commitment

Member States have acknowledged their obligations to protect populations from atrocity crimes, but Member States’ views on the Responsibility to Protect and its implementation also coincide on many other important aspects; these include that prevention is a fundamental element of RtoP, assistance measures must respect national ownership, and that the international community should utilize a broad range of measures in response to developing or ongoing atrocity situations. In addition, the UN Security Council’s actions, including relevant resolutions and an Arria formula meeting on RtoP, in combination with the General Assembly’s informal dialogues have reaffirmed the essential role of the Secretary-General’s Special Advisers on the Prevention of Genocide and on the Responsibility to Protect.

A. From concept to Action

The Secretary-General notes that, while “points of contention have substantially diminished,” there do remain issues that will likely remain in focus. The report identifies two specific points:

- **The relationship between RtoP’s three pillars:** While some Member States have questioned if the pillars are meant to be sequential in nature, the Secretary-General recalls that RtoP’s three pillars are mutually supporting and should be used simultaneously. However, “the use of particular preventive and responsive tools can and frequently should follow a sequential logic,” meaning that peaceful means should be exercised before resorting to the use of military force, which should remain a measure of last resort.

- **The basis for collective action, particularly who is responsible for implementing the use of force, and on what grounds:** The Secretary-General reaffirms that the UN Charter indicates that the UNSC maintains the right to exercise certain powers and responsibilities, such as the decision to implement military action. With regards to how to determine if such action is necessary, the report notes that the majority of Member States would agree that credible information, provided by independent/unbiased actors, is essential for responsible implementation. This can include information from human rights treaty bodies and the UN High Commissioner for Human Rights. Whether only one source of information is sufficient or if different sources are necessary to attain before taking action remains a subject for debate. Additionally, if there should be criteria required for the UNSC to authorize the use of force remains under consideration.

B. Barriers to implementation

Three trends have emerged that are negatively impacting existing capacities for implementing the RtoP:

1. First, there is a conscious disregard for international law, exemplified by the denial of humanitarian relief and targeting of civilians, schools, and hospitals. This is further demonstrated through non-respect by signatories of core treaties, such as the Rome Statute of the International Criminal Court. Additionally, the Secretary-General notes that there still remain Member States that have not signed and ratified treaties relevant to protecting human rights.

2. Despite rhetorical support for prevention, this has not been translated into concrete action. The Secretary-General notes that the international community continues to fail to act until “it sees casualties mounting,” thus allowing atrocity crime situations to escalate. For these reasons, the report emphasizes the critical importance and impact of prevention and of undertaking immediate action when threatened by atrocity crimes.

3. External actors are supporting parties to conflicts and enabling the commission atrocity crimes. This includes through the use of force in support of actors in a conflict, the provision of weapons to parties despite the adoption and ratification by some States Parties to the Arms Trade Treaty, or by using political influence to “shield perpetrators.”
IV. A Vision for Collective Action

The Secretary-General states that what is needed to confront the international landscape and the increasingly complex context is “a renewed faith in collective action and an improved capacity to coordinate early responses.” To achieve this, it is essential to mainstream RtoP and fully integrate the principle within the institutions of the UN. Furthermore, similar action should be taken by members of the international community as a whole. As the report declares, “the challenge for the coming decade is to recognize the interconnectedness of the problems we face, to see that organizational mandates can be mutually reinforcing, and to find solutions through leveraging the capacities most likely to deliver the desired effects.”

A. Effective and coordinated preventive strategies

Prevention is the best collective action; a comprehensive coordinated strategy at the local, national, regional, and international levels is necessary to protect populations. In order to do so, the international community must invest in the resources necessary to improve early warning information gathering and analysis. Furthermore, it is essential for government, civil society, and private sector actors to work together to uphold RtoP and for Member States to reflect on and share their past successes in preventing atrocities to assist other States in their prevention strategies. The Secretary-General identifies three core challenges to strengthening the UN’s preventive capacities.

1. The UNSC should change its practices in order to prioritize prevention and early response. This entails increased monitoring of crisis situations as well as increased briefings and dialogue with other UN agencies, such as an expanded dialogue with the Secretariat. Orienting UNSC discussions towards specific policy options can also lead to further preventive measures.

2. Secondly, the UN must enhance early warning and analysis capabilities so that it can successfully employ informed and effective solutions to atrocity situations in a timely manner. As conflict prevention and atrocity prevention are not synonymous, the Secretary-General brings attention to the importance of integrating the Framework of Analysis for Atrocity Crimes into existing methodologies used by the UN.

3. Resources must be dedicated to developing complementary methods for the prevention of atrocity crimes and of violent extremism. The report states that methods targeting the root causes associated with atrocities can serve to address deeper structural challenges and to move away from reacting, including with military measures. The UNSG identifies three elements that should be prioritized for a comprehensive approach:
   a. Counter narratives used to justify violence and recruit and motivate violent extremists and perpetrators of atrocity crimes;
   b. Address the lack of accountability for inciting or committing atrocity crimes;
   c. Stem the transnational flows “of ideas, arms and people that enable the perpetration of crimes and violations.”

B. Timely and decisive response

As prevention efforts are not always successful, the international community must respond and take action that supports victims of atrocity crimes. The Secretary-General recommends three steps to strengthen the international community’s capacity for implementing timely and decisive response:

1. Each individual member of the international community has a role to play. Deadlock in the UNSC must not be used as an excuse for inaction. Rather, all Member States, regional organizations, and other actors should assess what assistance they can contribute to prevent mass atrocity crimes.

2. There needs to be greater investment in and use of peaceful tools to respond to atrocity crimes, such as fact-finding, monitoring, reporting and verification, community engagement, quiet diplomacy, consent-based peacekeeping and public advocacy.

3. The international community must be prepared to implement policies and action “early and decisively.”
To promote a timely and decisive response, Permanent Members of the UNSC must show restraint with regards to the use of their veto power. Currently, two initiatives promote efforts in this regard, the Accountability, Coherence and Transparency Group, and the France/Mexico initiative, with the majority of Member States now supporting these measures. However, coordinative efforts that extend beyond the UN are important and responses to atrocities can be improved through regional and sub-regional partnerships.

Civil society plays an equally important role in prevention, assistance, and response measures. The Secretary-General brings particular attention to efforts that can be taken by religious leaders and private sector actors, who can play key roles in implementing RtoP and atrocity prevention measures. Additionally, in some circumstances, communities have implemented self-protection strategies, which need to be supported. The compendium of practice developed by the Office on Genocide Prevention and the Responsibility to Protect in 2015 details such action.

C. Prevention of recurrence
In his report, the Secretary-General notes that “the obligation to prevent is a central feature of the responsibility to protect and prevention and recurrence are inextricably linked,” as demonstrated by the work of the Peacebuilding Commission. Therefore, incorporating an atrocity prevention perspective into peacebuilding initiatives and recovery efforts is necessary for the development of sustainable solutions and the prevention of future atrocity crimes.

D. Renewed institutional capacity
The Secretary-General emphasizes the importance of global and regional networks, stating that such peer networks can serve to support the development of national architecture. In addition, the UNSG also encourages all Member States to appoint a national focal point to direct and intensify national efforts and engagement to stem atrocities.

Prevention architecture at the regional level is crucial for the prevention of atrocity crimes. While such efforts must fit the regional context, the Secretary-General identifies five steps that can be taken to strengthen capacity at the regional level and coordination between actors, including the UN:

1. Strengthen inter-organizational relationships, including through dialogue and collaboration between secretariats;
2. Improve the flow of information and analysis;
3. Strengthen the coordination of responses to atrocity risks;
4. Communicate best practices and methods relating to prevention and protection;
5. Encourage regional organizations to develop capacities for prevention and response.

The Secretary-General also brings attention to the role that the next UNSG will play with regards to the continued advancement of RtoP. It is noted that he/she must continue efforts to engage with and encourage the UNSC and Human Rights Council to undertake action when there is a threat of atrocity crimes, such as mandating Commissions of Inquiry. Furthermore, the next UNSG should call upon all Member States to implement recommendations that emerge from such investigations. Lastly, as the Office of the Special Advisers on the Prevention of Genocide and the Responsibility to Protect is undertaking efforts to review past prevention lessons, the next Secretary-General should work to share these findings and encourage the support of this office.

V. Conclusion
The UNSG notes that one concrete step Member States can take to “reaffirm and deepen their commitment” to RtoP is adopt a new General Assembly resolution on the principle. He urges Member States to be vocal in their support for the Responsibility to Protect and to speak out or raise concerns in situations where atrocities are being committed. Civilian protection must be prioritized over national interests and Member States must also strive to overcome political divisions. In closing, the Secretary-General recalls that “the responsibility to protect is a commitment made by all Member States. It is the task of Member States, with support from the broader international community, to make it a living reality.”