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# Mainstreaming Atrocity Prevention

Foreign Policy and Promotion of Human Rights for  
Atrocity Prevention

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# Mainstreaming Atrocity Prevention Programming: Foreign Policy and Diplomatic Promotion of Human Rights for Atrocity Prevention

## Executive Summary

Mass atrocities, including genocide, war crimes and crimes against humanity, are a persistent reality in many parts of the world today. States have responded to the problem of systematic and largescale atrocities through the development of international laws and norms to prevent and restrain perpetrators. Despite this, most states have not developed a coherent national strategy on atrocity prevention that includes a clear directive for foreign policy responses to mass atrocities.

Many states still find themselves caught 'off guard' when political tensions or armed conflict escalate into largescale one-sided violence in which civilians are targeted. As a result, in many atrocity situations, foreign policy actors resort to reactive and ad hoc measures, instead of pursuing a developed strategy through which **early warning, early actions, high level political backing and international partnerships** are coordinated and implemented.

This report explains the relationship between **human rights protection** and **atrocity prevention**, demonstrating that the promotion and protection of human rights in foreign policy engagements is vital to safeguard populations from future atrocities.

The report also argues that states often subordinate human rights protection to other foreign policy agendas, including security, trade and development cooperation. It makes a case for states to **develop foreign policy capacity on atrocity prevention** that clearly foregrounds human rights to capture the unique risk factors associated with atrocity violence.

**Key policy considerations** for states when formulating a human rights-oriented foreign policy in countries at risk of atrocities are advanced in this report. These include developing capabilities to:

1. Assess patterns of discrimination, internal grievances and internal conflicts to understand how different areas of foreign policy engagement bear on human rights.
2. Distinguish human rights protection and atrocity early warning from strategies aimed at democracy promotion, governance/institution building, trade, development and security sector reform in countries with medium to high atrocity-risk.
3. Maintain a range of levers to employ should the situation in a country deteriorate into a high risk/imminent atrocity situation. This includes a willingness to engage politically on evidence of human rights violations.
4. Employ a phased approach to assessing economic and trade opportunities that emerge as partner states open markets and transition their economies, with measurable benchmarks on human rights and democratic progress that are genuinely inclusive.
5. Invest in development and institution building in partner countries in ways that include proactive measures to advance human rights protections, challenging the assumption that liberal-style institutions will automatically produce peace and the conditions for human rights.

6. Ensure that peace processes include marginalised/vulnerable groups. External mediation of peace processes is assumed to feed into peacebuilding outcomes, yet external mediators bring their own instrumental interest to the negotiations and have the capacity to change the balance of power among conflicting parties within states. These can have important outcomes for human rights protection should negotiations favour dominant parties responsible for human rights violations.

To show the importance of these six considerations, the report investigates the foreign policy responses of actors including the United Kingdom, the United States, the European Union and Australia in three cases where widespread atrocities have recently occurred: Myanmar, Afghanistan and Ukraine. These cases show that the absence of a dedicated atrocity prevention foreign policy strategy has contributed to consistently poor responses to mass atrocities. Where actors have demonstrated political will and coordinated planning, they have been more successful in mobilising swift action with protection outcomes. Again, such measures have been inconsistent and reactive, as opposed to strategic and coordinated.

The report presents **three key recommendations** that are detailed in the last section:

1. States should make atrocity prevention a clear foreign policy priority by developing a national strategy and action plan on atrocity prevention.
2. States must foreground human rights in foreign policy strategies on atrocity prevention.
3. Investment in international partnerships and cooperation mechanisms on atrocity prevention should complement the development of a national atrocity prevention strategy and foreign policy capabilities.

The prevention of mass atrocities is crucial for reducing severe loss of life and mass displacement of targeted populations. **Atrocity prevention is vital to the foreign policy interests of states** seeking to foster stability and prosperity abroad. Heightened geopolitical tensions and complexity in global governance presents a challenge for members of the international community to effectively respond to the risk of mass atrocities. For this reason, states are called on to develop national atrocity prevention strategies and international partnerships through which more consistent and effective atrocity prevention actions can be mobilised.

# Introduction<sup>1</sup>

Mass atrocities, including genocide, war crimes, crimes against humanity and ethnic cleansing, are by definition large-scale and systematic human rights violations.<sup>2</sup> States with a history of routine and systematic human rights violations, as well as impunity for past atrocities, are at heightened risk of future atrocities occurring.<sup>3</sup> This report explains the relationship between human rights and atrocity crimes, and recommends that states invest in the development of foreign policy tools for addressing situations of serious human rights violations that are consistent with atrocity prevention objectives.

The report addresses **three key questions**:

1. Why are human rights integral to the design of an atrocity prevention strategy?
2. What is the evidence base to support the integration of an atrocity prevention lens into human rights programming?
3. How might atrocity prevention objectives be mainstreamed within foreign policy aimed at the promotion of human rights?

Preventing mass atrocities is important for moral and strategic reasons. Morally, the principle of humanity<sup>4</sup> necessitates considered and effective responses from those who are in a position to assist. This principle is embedded in existing international law, and is a bedrock for states that view human rights as foundational to the rules based international order.

Strategically, atrocity prevention advances wider foreign policy objectives by preventing the greater cost of responding to mass population displacement, regional instability and undermined international institutions. These linkages and the value-add of atrocity prevention are often not well understood within foreign policy communities around the world.<sup>5</sup>

The report starts with an overview of the relationship between human rights and atrocity prevention, and argues for the development of foreign policy capacity to support atrocity prevention. It then presents three case studies of recent atrocity situations in Myanmar, Afghanistan and Ukraine. This report shows how the subordination of human rights to other foreign policy agendas, such as trade and economic growth, institution building and security, has had serious consequences for vulnerable populations. The international community was unable to prevent ethnic cleansing and targeted attacks on civilians in Myanmar and Afghanistan, despite a strong donor presence in both these countries. While preventing atrocities is much harder in situations of armed conflict, the war in Ukraine provides insight into how states can mobilise foreign policy during armed conflict to minimise harm to civilian populations.

The report concludes with recommendations for states to pursue a foreign policy strategy on atrocity prevention that is consistent with global commitments to human rights promotion and protection. Core values and institutions of the current international order are being challenged by

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<sup>2</sup> For definitions of crimes against humanity and war crimes, see UN General Assembly, 'Rome Statute of the International Criminal Court (last amended 2010)', 17 July 1998, Articles 7 and 8 respectively. On Genocide, see UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, United Nations, and on ethnic cleansing see Security Council, 'Letter dated 24 May 1994 from the Secretary-General to the President of the Security Council', 27 May 1994, S/1994/674, that defines ethnic cleansing as '...a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas'.

<sup>3</sup> UN Office on Genocide Prevention and the Responsibility to Protect, *Framework of Analysis for Atrocity Crimes: A tool for prevention* (New York: United Nations, 2014): 11.

<sup>4</sup> A Kantian ethic understands the principle of humanity as a moral principle to guide action. It rests on respect for persons on the basis of 'honoring basic human rights' as an end in itself. See J.E. Atwell, *Ends and Principles in Kant's Moral Thought* (Dordrecht: Martinus Nijhoff Publishers, 1986): 105.

<sup>5</sup> James P. Finkel, 'Moving Beyond the Crossroads: Strengthening the Atrocity Prevention Board', *Genocide Studies and Prevention: An International Journal* 9, no.2 (2015): 138-147.

illiberal and authoritarian states at great cost to human life where mass atrocities are being committed. The need for responsible states to engage strategically and proactively on these measures is both timely and urgent.

In this regard, the report argues that a human rights-based approach to the design of atrocity prevention programming through foreign policy is necessary to advance early warning and preventive strategies in early stages of atrocity risk. As violence escalates, human rights protection must remain at the fore when evaluating strategies for violence de-escalation.

Annex 1 maps out the range of human rights tools available to foreign policy actors that correspond with stages of risk, violence escalation and situations of atrocity. Strategic approaches to mobilising foreign policy tools in situations with high risk or escalating atrocities can yield significant protection outcomes for civilian populations. As a result, there are important moral and national interest imperatives for states to invest in developing a strategic approach to atrocity prevention through foreign policy that foregrounds human rights.

## The Field of Atrocity Prevention

The field of atrocity prevention has developed significantly over the past two decades. Research has contributed to a stronger understanding of which domestic and international actions contribute to the prevention and response to atrocities in a range of risk scenarios. The development of atrocity prevention as a field of study and policymaking has occurred in tandem with the strengthening of international law and institutions to protect civilians from atrocity violence.

Atrocity	An act of extreme or cruel violence against a person/persons.
Mass atrocities	Large-scale and systematic campaigns of violence against a civilian population, including genocide, war crimes, crimes against humanity and ethnic cleansing.
Atrocity prevention	Strategies and interventions to prevent or halt episodes of widespread and systematic violations of human rights.
Atrocity prevention lens	An approach that requires actors to assess context, risk factors and changing patterns of behaviour when evaluating a situation that may lead to the likelihood of atrocities. Accordingly, actors should evaluate the impact of various external engagements on partner states with a view to lowering the risk of atrocities occurring.

The global normative commitment to the **Responsibility to Protect (R2P)** principle strengthens the obligation for states to prioritise atrocity prevention in their policy both at home and abroad. Over 170 heads of state and government unanimously endorsed R2P at the 2005 World Summit,<sup>6</sup> promising to prevent and protect populations from mass atrocities, specifically **genocide, war crimes, crimes against humanity and ethnic cleansing**. Accordingly, although R2P is not synonymous with atrocity prevention, R2P currently serves as the international framework guiding the international community on atrocity prevention,<sup>7</sup> even if certain states have been less receptive to the language of R2P itself. In addition to institutionalisation within the UN across a range of sites,<sup>8</sup> over 60 states and two regional organisations (ROs) have confirmed their commitment to implementing atrocity prevention within their domestic institutions and foreign policy by

<sup>6</sup> UN General Assembly, *World Summit Outcome Document*, October 2005, A/RES/60/1.24.

<sup>7</sup> Cecilia Jacob, 'R2P as an atrocity prevention framework: Concepts and institutionalization at the global level', in Cecilia Jacob and Martin Mennecke (eds), *Implementing the Responsibility to Protect: A Future Agenda* (Abingdon: Routledge, Taylor & Francis Group, 2020): 16-33.

<sup>8</sup> Cecilia Jacob, 'From Norm Contestation to Norm Implementation: Recursivity and the Responsibility to Protect', *Global Governance: A Review of Multilateralism and International Organizations* 24, no. 3 (2018): 391-409.

appointing a senior official as an 'R2P focal point'.<sup>9</sup> While the United Nations remains central to the development and implementation of the R2P norm, the aspirations of R2P can only be realised when actors beyond the UN, including ROs, states, civil society and the private sector, proactively contribute to fostering inclusive and peaceful societies that respect human rights and protect the most vulnerable.<sup>10</sup>

The academic and policy literature has turned attention from norm development to implementation of the atrocity prevention agenda.<sup>11</sup> Many experts now call for the operationalisation of an atrocity prevention lens across activities to support political transition and conflict resolution, particularly in countries facing instability and fragility.<sup>12</sup>

States committed to atrocity prevention as a core foreign policy objective need to invest in the development of an atrocity prevention framework, with clear strategic objectives, identifiable leadership roles and an institutional presence to ensure that the commitment is more than rhetorical.<sup>13</sup> It is also important so that field staff in diplomatic missions and relevant decision makers have access to appropriate information, including risk and intelligence assessments, and are equipped with action plans to respond to phases of risk, violence escalation and commission of atrocities. Below I provide a brief overview of the atrocity prevention field before turning to the need to foreground human rights in a strategic approach when developing foreign policy and strategy related to atrocity prevention.

## What are the characteristics of atrocities?

Mass atrocities are episodes of conscious-shocking abuse that violate the fundamental human rights of a group of individuals. Such atrocities occur on a large-scale and include systematic targeting of population groups based on identity or the indiscriminate targeting of civilians, to further political and/or military objectives.<sup>14</sup> Atrocity violence is distinct from conflict violence; the latter is associated with combat between two or more belligerent groups in an international or non-international armed conflict and is regulated by International Humanitarian Law (IHL). In situations of armed conflict, violence between combatants that adhere to the rules of engagement is tolerated in IHL. Mass atrocities are one-sided, intentional violations of human rights of the most serious nature, and can be committed in either peacetime or wartime. These violate both International Human Rights Law (IHRL) and in the context of war crimes, IHL. Mass atrocities, therefore, are crimes that constitute the most egregious violations of human rights that occur on a large-scale.<sup>15</sup>

The four atrocity crimes covered in the R2P principle are genocide, war crimes, crimes against humanity and ethnic cleansing.<sup>16</sup> The Rome Statute of the International Criminal Court (1998)

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<sup>9</sup> Global Centre for the Responsibility to Protect, 'Global Network of R2P Focal Points', <https://www.globalr2p.org/the-global-network-of-r2p-focal-points/>; Martin Mennecke, 'Never again? The role of the global network of R2P focal points in preventing atrocity crimes', *Netherlands Quarterly of Human Rights* 39, no. 2 (2021): 161-181.

<sup>10</sup> Cecilia Jacob and Martin Mennecke, 'Introduction: The challenges of implementing the R2P norm', in Cecilia Jacob and Martin Mennecke (eds), *Implementing the Responsibility to Protect: A Future Agenda* (Abingdon: Routledge, Taylor & Francis Group, 2020): 1-14.

<sup>11</sup> Implementation has been a central theme of the UN Secretary-General Reports on the Responsibility to Protect since 2009, for example the most recent Report of the Secretary-General, *Advancing atrocity prevention: work of the Office on Genocide Prevention and the Responsibility to Protect*, 3 May 2021, A/75/863-S/2021/424.

<sup>12</sup> Alex J. Bellamy, 'Operationalizing the "Atrocity Prevention Lens": Making Prevention a Living Reality', in Sheri P. Rosenberg, Tibi Galis and Alex Zucker (eds), *Reconstructing Atrocity Prevention* (Cambridge: Cambridge University Press, 2015): 61-80; Orly Maya Stern and Clare Brown, 'Mainstreaming Atrocity Prevention: Seeing Fragility, Conflict and Violence Programming through an Atrocity Prevention Lens', Oxford Institute for Ethics, Law and Armed Conflict, 31 January 2022, <https://www.bsq.ox.ac.uk/sites/default/files/2022-01/Oxford%20Ethics%20%E2%80%93%20Mainstreaming%20atrocity%20prevention%20in%20FCV.pdf>.

<sup>13</sup> Stephen Pomper, 'Atrocity Prevention under the Obama Administration: What We Learned and the Path Ahead', *United States Holocaust Memorial Museum*, February 2018; Kate Ferguson, 'For the Wind Is in the Palm-Trees: The 2017 Rohingya Crisis and an Emergent UK Approach to Atrocity Prevention', *Global Responsibility to Protect*, 13, nos. 2-3 (2021): 244-271; Cecilia Jacob, 'Navigating between Pragmatism and Principle: Australia's Foreign Policy Response to the 2017 Rohingya Crisis', *Global Responsibility to Protect* 13, nos. 2-3 (2021): 186-217.

<sup>14</sup> The terms 'atrocities', 'mass atrocities', 'atrocity crimes' and 'mass atrocity crimes' are often used interchangeably in the academic and policy literature.

<sup>15</sup> For an explanation of a crimes-based approach to atrocity prevention, see Reuben Reike, Serena K. Sharma and Jennifer M. Welsh, 'Conceptualizing the Responsibility to Prevent', in Serena K. Sharma and Jennifer M. Welsh (eds), *The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention* (Oxford: Oxford University Press, 2015): 21-37.

<sup>16</sup> UN General Assembly, *World Summit Outcome*, para. 138.

defines the first three crimes,<sup>17</sup> providing an international lexicon of 'atrocities law'<sup>18</sup> for identifying and defining the widespread and systematic targeting of civilians. While episodes of mass violence that meet the legal criteria of genocide are rare,<sup>19</sup> atrocities are common, usually manifesting in smaller reiterated patterns of political violence that peak and trough over time, and often in non-linear trajectories.<sup>20</sup> Understanding the character of atrocities as resulting from long-term patterns of discrimination, exclusion and violence with impunity helps to situate the integral role of human rights in determining the level of atrocity risk and patterns of violence during atrocity episodes, as well as evaluating appropriate responses.

## What is atrocity prevention?

**Atrocity prevention** refers to strategies and interventions to prevent or halt episodes of widespread and systematic violations of human rights. Atrocity prevention frameworks distinguish between phases of risk, violence escalation and imminence in order to determine which tools, in which combination may be most effective in response to different stages of violence.<sup>21</sup> A crimes-based approach to atrocity prevention addresses perpetrators, victims and context through different tools to a) deter and/or incapacitate the perpetrator, b) protect victims, or c) transform the context that creates an enabling environment for atrocities to occur.<sup>22</sup> Given that each atrocity situation is unique, atrocity prevention responses need to be tailored to specific circumstances and based on a deep understanding of the social context in which violence is taking place.

## What is the existing toolkit?

A number of **frameworks and toolkits** have been developed to assist practitioners in identifying early warning signs of atrocities,<sup>23</sup> and to provide guidance on which actions correspond with different contexts and stages of escalation to mitigate or halt violence. Atrocity prevention frameworks address both the structural and the direct, or operational, dimensions of atrocity situations.

### Structural ('upstream') prevention

Measures to address the long-term underlying conditions that generate risk for atrocity crimes.

Structural prevention measures include targeting unaccountable governance structures, security sector reform, political and legal reform to protect minority or excluded population groups, and supporting transitional justice mechanisms where there has been a lack of recourse to redress for past injustices, atrocity crimes and systematic human rights violations.

Structural prevention measures aim to enhance political representation and the rule of law, social justice and human rights accountability. These measures decrease risk by strengthening social resilience and mitigating structural vulnerabilities within a society.

<sup>17</sup> While not defined in the Rome Statute, ethnic cleansing has been established as a category of international law through jurisprudence of the International Criminal Tribunal for the former Yugoslavia. See UN Security Council, *Report of the Commission of Experts Established Pursuant to United Nations Security Council Resolution 780 (1992)*, 27 May 1994, S/1994/674.

<sup>18</sup> David J. Scheffer, 'The Future of Atrocity Law', *Suffolk Transnational Law Review* 25, no. 3 (2002): 389–432.

<sup>19</sup> Scott Straus, 'Retreating from the Brink: Theorizing Mass Violence and the Dynamics of Restraint', *Perspectives on Politics* 10, no. 2 (2012): 343–62.

<sup>20</sup> Susanne Karstedt, 'Contextualizing Mass Atrocity Crimes: Moving toward a Relational Approach', *Annual Review of Law and Social Science* 9 (2013): 383–404.

<sup>21</sup> Ruben Reike, Serena Sharma and Jennifer Welsh, 'A Strategic Framework for Mass Atrocity Prevention', Australian Civil Military Centre and the Oxford Institute for Ethics, Law and Armed Conflict, Paper 03/2013, 2013, <https://www.acmc.gov.au/sites/default/files/2018-11/3-2013-A-Strategic-Framework-for-Mass-Atrocity-Prevention.pdf>.

<sup>22</sup> *Ibid.*

<sup>23</sup> UN Office on Genocide Prevention and the Responsibility to Protect, *Framework of Analysis for Atrocity Crimes*; European Union, *Responsibility to Protect: Atrocity Prevention Toolkit*, 2019.



### Direct or operational ('downstream') prevention

Measures employed once violence has been triggered to either dissuade or incapacitate perpetrators from carrying out targeted violence against a civilian population. These measures aim to halt the escalation of violence and protect civilian populations. Patterns of violence in early onset mass atrocity situations include a disproportionate civilian death toll in a conflict that would indicate direct targeting of populations, attacks on civilian infrastructure and systematic patterns of violence across territory and time. Direct prevention includes a range of coercive tools, including non-military measures, such as economic sanctions, travel bans, arms embargoes and asset freezes, and targeted military measures such as no-fly zones, airstrikes and military intervention to halt an imminent or ongoing atrocity.

This report considers *non-coercive* and *non-military coercive measures* that fall within the remit of foreign policy. Here a wide range of additional human rights measures are available to foreign policy actors when formulating a response to atrocity situations, including humanitarian assistance, protection of refugees and displaced persons, preventive diplomacy and mediation.<sup>24</sup> Foreign policy actors can engage multilateral channels to support human rights monitoring, unarmed civilian protection and peacekeeping as additional channels for directing atrocity prevention efforts.<sup>25</sup> Indeed, cooperation with a wide-range of regional and like-minded partners, ROs and IOs will strengthen global efforts to coordinate more robust protection outcomes where violence is imminent or escalating.<sup>26</sup>

## Atrocity prevention as a foreign policy objective

Although many states have endorsed the R2P principle and appointed national R2P focal points to strengthen the implementation of R2P objectives at home and abroad, **few states have incorporated atrocity prevention systematically into their foreign policy.**<sup>27</sup> This would entail developing robust early warning and monitoring in states with atrocity risk, and strategic planning for coordinated response to atrocity situations during different phases of escalation.

As discussed above, actors must differentiate atrocity prevention strategies from broader conflict prevention agendas. Whereas armed conflict involves two or more belligerent parties engaged in combat, atrocity violence entails widespread and systematic civilian targeting based on identity (such as religion, ethnicity, race or political belief) and serves specific political and/or strategic objectives. Patterns of violent conflict that inflict indiscriminate mass violence against civilians are also deemed war crimes or crimes against humanity. Therefore, while conflict prevention strategies may complement and advance atrocity prevention, scholars and practitioners advocate for the implementation of preventive measures to counter the specific dynamics driving mass atrocity violence.

The United States provides a notable example of a state that has recognised atrocity prevention as a core objective of its foreign policy, viewing the commission of mass atrocity crimes abroad as detrimental to its national interest. In 2008, the Genocide Prevention Taskforce, led by former Secretary of State Madeleine K. Albright and former Secretary of Defense William S. Cohen, produced a major report that provided a conceptual foundation for developing a US policy on atrocity prevention. In it they argued:

<sup>24</sup> Global Centre for the Responsibility to Protect (GCR2P), *R2P Focal Point Handbook*, 2020: 14, <http://www.globalr2p.org/wp-content/uploads/2020/12/Updated-Annexes-R2P-Focal-Points-Manual.pdf>.

<sup>25</sup> GCR2P, *R2P Focal Point Handbook*.

<sup>26</sup> Pomper, 'Atrocity Prevention'.

<sup>27</sup> In November 2021, the International Development Committee in the UK parliament opened an inquiry 'Promoting dialogue and preventing atrocities: the UK government approach' that points to a growing political will for a more consolidated approach to atrocity prevention across UK government departments. On the UK, see Jason Ralph, 'Mainstreaming the Responsibility to Protect in UK Strategy', Report written for the United Nations Association – UK, 2014; and Foreign & Commonwealth Office and Foreign, Commonwealth & Development Office (FCO and FCDO), *UK Approach to Preventing Mass Atrocities*, Policy Paper, 16 July 2019. On Australia, see Jacob, 'Navigating between Pragmatism and Principle'. On the EU, see Eglantine Staunton and Jason Ralph, 'The Responsibility to Protect Norm Cluster and the Challenge of Atrocity Prevention: An Analysis of the European Union's Strategy in Myanmar', *European Journal of International Relations* 26, no. 3 (2019): 660–686.

We conclude in this report that preventing genocide is an achievable goal. Genocide is not the inevitable result of “ancient hatreds” or irrational leaders. It requires planning and is carried out systematically. There are ways to recognize its signs and symptoms, and viable options to prevent it at every turn if we are committed and prepared. Preventing genocide is a goal that can be achieved with the right organizational structures, strategies and partnerships—in short, with the right blueprint.<sup>28</sup>

The definition of ‘genocide’ used in the report is commensurate with the definition of mass atrocities described above, namely the mass targeting and killing of civilians for political and strategic utility. Their understanding of atrocities as ‘planned’ and ‘systematic’ demystified atrocities as beyond the purview of strategic foreign policy planning, and used this conceptual understanding to inform a policy agenda aimed at preventing it. The authors argued that genocide and mass atrocity was a ‘threat’ to ‘American values and interests’,<sup>29</sup> a position that was upheld by US President Barack Obama in the 2011 Presidential Study Directive 10 (PSD10). PSD10 states that the prevention of genocide and mass atrocities is a ‘core national security interest and core moral responsibility of the United States’,<sup>30</sup> and established the Atrocities Prevention Board (APB, renamed the Atrocity Early Warning Task Force during the Trump administration following the passing of the Elie Wiesel Genocide and Atrocities Prevention Act, now the Atrocity Prevention Taskforce). The rationale for the APB was to materialise a ‘US foreign policy that would use institutional mechanisms to manage atrocity-related crises before they boil over and encourage the government’s most senior leadership to treat atrocity prevention and response as a genuine priority’.<sup>31</sup> The Biden administration has reiterated the importance of atrocity prevention in US foreign policy, stating ‘[t]his Administration will defend and protect human rights around the world, and recognizes the prevention of atrocities is a core national security interest and a core moral responsibility’.<sup>32</sup>

The inter-agency Atrocity Prevention Taskforce, administered by the State Department, is a permanent institutional mechanism that convenes representatives across key agencies working in states with atrocity risk. The taskforce shares information and intelligence, and routinely monitors and assesses country situations that are of concern through an atrocity prevention lens.<sup>33</sup> Importantly, the taskforce coordinates<sup>34</sup> tailored responses to situations where there is a high risk of atrocities. **The taskforce is an example of the institutionalisation of atrocity prevention in foreign policy.** In the US context, key personnel decisions, a ‘pronounced investment of intellectual, diplomatic, and political capital’ in the engagement of multilateral institutions and ‘senior level diplomatic weight’ behind atrocity prevention efforts have been vital in establishing atrocity prevention as a viable and high priority foreign policy objective.<sup>35</sup> A key lesson is that institutionalisation alone is an inadequate measure of success. Instead, the overarching objective of institution building and reform efforts should be effective decision making and a change in cultural attitudes and behaviours within the foreign policy establishment to promote early warning and early action.

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<sup>28</sup> Madeleine K. Albright and William S. Cohen, Co-Chairs, *Preventing Genocide: A Blueprint for U.S. Policymakers*, (Washington, DC: United States Holocaust Memorial Museum, American Academy of Diplomacy, and the Endowment of the United States Institute of Peace, 2008), xv–xvi.

<sup>29</sup> Albright and Cohen, ‘Preventing Genocide’, xv.

<sup>30</sup> Barack Obama, ‘Presidential Study Directive 10: Directive on Creation of an Interagency Atrocities Prevention Board and Corresponding Interagency Review’, 4 August 2011.

<sup>31</sup> Pomper, ‘Atrocity Prevention’, 4.

<sup>32</sup> Bureau of Conflict and Stabilization Operations, ‘2021 Report to Congress Pursuant to Section 5 of the Elie Wiesel Genocide and Atrocities Prevention Act of 2018’, (P.L. 115-441), US Department of State, 12 July 2021, <https://www.state.gov/2021-report-to-congress-pursuant-to-section-5-of-the-elie-wiesel-genocide-and-atrocities-prevention-act-of-2018>.

<sup>33</sup> The taskforce uses data drawn from the State Department’s Early Warning Assessment, the Intelligence Community’s Mass Atrocities Risk Assessment, and the U.S. Holocaust Memorial Museum’s Statistical Risk Assessment. In 2021, the State Department provided quarterly early warning assessment on 153 countries. In addition to a dedicated budget, atrocity prevention-specific programming across its agencies such as USAID, the State Department, the Department of Defense and the Department of Justice, it provides routine atrocity prevention training and regular multilateral and external engagement. See Bureau of Conflict and Stabilization Operations, ‘2021 Report to Congress’.

<sup>34</sup> In tandem with the Regional Inter-Agency Policy Coordinating Committees.

<sup>35</sup> Pomper, ‘Atrocity Prevention’, 5–6.

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*The taskforce is an example of the institutionalisation of atrocity prevention in foreign policy. In the US context, key personnel decisions, a 'pronounced investment of intellectual, diplomatic, and political capital' in the engagement of multilateral institutions and 'senior level diplomatic weight' behind atrocity prevention efforts were vital in establishing atrocity prevention as a viable and high priority foreign policy objective.*

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The experiences of the US not only shows that states can choose to make atrocity prevention a strategic objective of foreign policy, but it also shows how important it is to invest in coordination across whole of government departments, reliable data sources for early warning and flexibility in mobilising tailored responses as situations arise. It also speaks to the role of continued high-level leadership for carving a new direction in foreign policy to reflect the evolving normative commitments of the international community.<sup>36</sup> With the passing of the Global Fragility Act (2019) and the Elie Wiesel Genocide and Atrocities Prevention Act (2018), as well as the implementation of the United States Strategy to Anticipate, Prevent and Respond to Atrocities (2022), the US is turning its atrocity prevention policy towards greater integration with proximate policy agendas, both across departments and in cooperation with international partners. To this end, it provides an ongoing project, with clear lessons for international partners seeking to develop their own atrocity prevention strategies.<sup>37</sup>

## Human Rights Indicators and Atrocity Prevention

By their very nature, atrocity crimes are widespread and systematic human rights violations. Atrocity crimes and human rights violations are related in two ways; (1) human rights violations heighten the risk of atrocity crimes, and (2) human rights violations may themselves constitute atrocity crimes. Thus, mechanisms to monitor and prosecute human rights violations further atrocity prevention not only because atrocities are often precipitated by serious human rights violations, but also because some human rights violations amount to atrocities.

For this reason, **mechanisms to monitor and prosecute human rights violations** serve as valuable tools for states to strengthen their atrocity prevention and response capabilities. Human rights institutions offer an important source of data for tracking patterns of widespread and systematic violations of human rights that are strong indicators of atrocity violence. They are attuned to identifying human rights violations that are discriminatory towards a given population, including political suppression, to which other government agencies, such as those working on development or conflict and fragility, are not geared. An atrocity prevention lens that is not explicitly grounded in human rights lacks substance, and will fail to capture the early patterns of violations that are part of a continuum of violence, with mass atrocities and genocide sitting at the most extreme end.

Key actors within the international human rights system, including the UN Human Rights Council (HRC) and the Office of the High Commissioner for Human Rights (OHCHR), human rights NGOs, and in some cases, regional and national-level human rights institutions, have already developed capacity to provide systematic reporting on human rights indicators as well as mechanisms of redress such as courts or a dedicated ombudsman. They help fill the accountability gaps between international human rights standards, and implementation by state actors at the domestic level. One way these functions could be formalised in order to advance atrocity prevention objectives is for these actors to play a **greater early warning role**, specifically detecting risk and early onset of

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<sup>36</sup> For comparable case studies of norm entrepreneurship in the area of gender, see Sara Davies and Jacqui True, 'Norm Entrepreneurship in Foreign Policy: William Hague and the Prevention of Sexual Violence in Conflict', *Foreign Policy Analysis*, 13 (2017): 701-721; Karin Aggestam and Annika Bergman-Rosamond, 'Swedish Feminist Foreign Policy in the Making: Ethics, Politics, and Gender', *Ethics & International Affairs* 30, no. 3 (2016): 323-334; and Karin Aggestam and Annika Bergman-Rosamond, 'Feminist Foreign Policy 3.0: Advancing Ethics and Gender Equality in Global Politics', *SAIS Review* 39, no. 1 (Winter-Spring 2019): 37-48.

<sup>37</sup> Thanks to Jim Finkel for thoughtful reflections on this section of the report.

atrocities by monitoring trends and patterns in violence escalation. At the international level, the HRC provides information flows that connect state-level human rights situations to global decision-making bodies to facilitate early action to prevent atrocities. The accountability function of the HRC includes the Universal Periodic Review (UPR) and special procedures to investigate and monitor situations of concern generate important evidence on which to determine the nature of human rights violations occurring within a state.<sup>38</sup> Although this capacity exists, there is still a need to develop a system that can coordinate this data and connect it to effective early warning processes.

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*Human rights monitoring is less interventionist than other forms of international action and can be implemented without Security Council authorisation, opening tangible avenues to progress international accountability and human rights protection where other political avenues are hamstrung.*

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As the risk of atrocities escalate in a given situation, human rights investigations and monitoring could provide an evidence base for foreign policy actors to help determine their response to the situation in line with the specific patterns and dynamics of violence underway. Importantly, human rights monitoring is less interventionist than other forms of international action and can be implemented without Security Council authorisation, opening tangible avenues to progress international accountability and human rights protection where other political avenues are hamstrung. These oversight mechanisms, if properly implemented in a coordinated fashion, could also serve as a signal to violating parties that their actions are under international scrutiny. As the intensity and scale of violations increase, foreign policy actors have a range of human rights tools that directly contribute to atrocity prevention, complementing broader security and political measures of crisis response aimed at de-escalating and resolving conflict or political crisis (see Annex 1).

## **Translating international prevention lessons into foreign policy contexts**

Much of the thinking around the contribution of human rights to atrocity prevention strategy to date has developed in the context of UN mechanisms and functions. For example, several key reports published by the OHCHR, the HRC and the UN Secretary-General have documented the role of human rights mechanisms in generating important data that indicates increased risk and patterns of systematic human rights violations,<sup>39</sup> and linked the prevention mandate of the HRC with the prevention of atrocities.<sup>40</sup> OHCHR and the Swiss-German led Group of Friends on Prevention and Human Rights in New York have pressed for a closer synergy between the UNs political bodies in New York with the human rights focussed agencies in Geneva, particularly the role of the Human Rights Council.<sup>41</sup>

Putting aside the familiar problems that impede collective action through the UN, including the challenges of UN Security Council vetoes and political will, the UN as an organisation has extensive reach in countries facing risk of atrocities through its field offices and agencies. The experiences of UN agencies parallel many of those faced by diplomatic officials and program staff in country, therefore the specific linking of human rights and atrocity prevention within the UN in recent years holds key lessons for implementing atrocity prevention in countries with atrocity risk.

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<sup>38</sup> Further discussion of this functionality is in Cecilia Jacob, 'Regulatory Contestation: Steering toward Consistency in International Norm Implementation', *International Studies Review* 23, no. 4 (2021): 1349–1369.

<sup>39</sup> UN General Assembly, *Implementing the responsibility to protect: accountability for prevention – Report of the Secretary-General*, 10 August 2017, A/71/1016-S/2017/556.

<sup>40</sup> UN Human Rights Council, 'The contribution of the Human Rights Council to the prevention of human rights violations', 4 July 2018, A/HRC Res38/18; Human Rights Council, *Overview of consultations on the contribution of the Human Rights Council to the prevention of human rights violations – Report of the rapporteurs*, 14 January 2020, A/HRC/43/37.

<sup>41</sup> Federal Department of Foreign Affairs, 'Switzerland launches the appeal of June 13th to put Human Rights at the Heart of Conflict Prevention: "Security and human rights make a perfect match"', 13 June 2016, <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-62152.html>.

These lessons include, first, the need to *implement a designated atrocity prevention framework* with trained staff monitoring atrocity risk in country contexts. Second, a *shift in culture and mindset* is required for actors with differentiated thematic mandates (e.g., human rights, development, economic and trade relations and security, etc.) to cooperate effectively in the field to ensure transparent sharing of information and coordination on shared objectives where there is clear risk of atrocity violence occurring.

Operational connections between human rights and atrocity prevention were previously made through the Human Rights Up Front (HRUF) initiative led by former UN Secretary-General Ban Ki-moon, and are instructive here. The purpose of HRUF was to enhance the UN's capacity to prevent large-scale human rights and IHL violations that amount to mass atrocity crimes by bringing greater coherence between the UN's three pillars of peace and security, development and human rights.<sup>42</sup> It was implemented as a response to the Internal Review Panel on United Nations Action in Sri Lanka in 2012 that identified 'systemic failure' of the UN to prevent mass atrocities in the final stages of the military operation.<sup>43</sup> This failure resulted from the absence of effective human rights protection mobilisation, and the siloed operations of the different UN agencies in the country. Further, poor information flows between field offices and UN headquarters hindered greater accountability and access to political support from UN leadership.<sup>44</sup>

HRUF provided a prevention lens to crosscut silos between UN field agencies in order to foreground human rights protection in their operations. Reforms repositioned the Resident Coordinator (RC) from the UN Development Program into the Secretariat, ensuring that the RC had a direct line of reporting to the UN Secretary-General, and was responsible for political and humanitarian issues in addition to development.<sup>45</sup> An early warning mechanism was also established in the Executive Office of the Secretary-General within the UN Secretariat to provide routine assessments and senior-level oversight for prevention.<sup>46</sup> HRUF reportedly had early successes in shifting the lens through which situations were assessed and responded to in the field. For example, in 2014, HRUF was triggered in the face of militant targeting of civilians in South Sudan. This 'early support from headquarters allowed the United Nations Mission in South Sudan (UNMISS) to continue its "open gate" policy, which succeeded in directly protecting 75,000 people in December 2013'.<sup>47</sup>

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While the implementation of HRUF faced obstacles both internally within the UN and from certain member states,<sup>48</sup> international prevention frameworks have benefited from a clearer account of the role that external political engagement to promote human rights plays in diffusing risk or escalation of atrocities.<sup>49</sup> Atrocity prevention necessitates **deliberate choices and targeted actions to prioritise human rights protections** over economic, development and security interests where there is clear risk of targeted violence and escalation in partner states. Many of the lessons

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<sup>42</sup> UN News, 'New UN "Rights up Front" strategy seeks to prevent genocide, human rights abuses', 18 December 2013, <https://news.un.org/en/story/2013/12/458212>.

<sup>43</sup> United Nations, *Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka*, November 2012, <https://digitallibrary.un.org/record/737299?ln=en>.

<sup>44</sup> For analysis, see Gerrit Kurtz, 'With Courage and Coherence: the Human Rights up Front Initiative of the United Nations', Global Public Policy Institute, 2015.

<sup>45</sup> Detailed analysis is found in Cecilia Jacob, 'Institutionalizing Prevention at the UN', *Global Governance: A Review of Multilateralism and International Organizations* 27, no. 2 (2021): 179-201.

<sup>46</sup> Ibid.

<sup>47</sup> UN News, 'No One Could Have Predicted Scope Of South Sudan Crisis, Outgoing UN Envoy Says', 30 June 2014, <https://news.un.org/en/story/2014/06/472072>; Ban Ki-moon, 'Briefing to the Security Council on South Sudan', *United Nations*, 12 May 2014, <https://www.un.org/sg/en/content/sg/speeches/2014-05-12/briefing-security-council-south-sudan>; Ekkehard Strauss, 'The UN Secretary-General's Human Rights Up Front Initiative and the Prevention Of Genocide: Impact, Potential, Limitations', *Genocide Studies and Prevention: An International Journal* 11, no. 3 (2018): 48-59, 53.

<sup>48</sup> Jacob, 'Institutionalizing Prevention'.

<sup>49</sup> Ibid.

learnt from reviews of past international responses to mass atrocities<sup>50</sup> are applicable to states in developing an atrocity prevention framework that intersects with various dimensions of foreign policy engagement within partner countries.

Yet, despite these lessons and the fact that mass atrocity events can set other foreign policy objectives back by decades, IOs and states continue to routinely give precedence to economic, development and security concerns in countries that have a high risk of atrocities. To this end, **policy considerations** required for a human rights-oriented foreign policy in countries at risk of atrocities include:

- Assessing patterns of discrimination, internal grievances and internal conflicts to understand how different areas of foreign policy engagement bear on human rights.
- Distinguishing human rights protection and atrocity early warning from strategies aimed at democracy promotion, governance/institution building, trade, development and security sector reform in countries with medium to high atrocity risk.
- Maintaining a range of levers to employ should the situation in a country deteriorate into a high risk/imminent atrocity situation. This includes a willingness to engage partner states on evidence of human rights violations.
- Employing a phased approach to assessing economic and trade opportunities that emerge as partner states open markets and transition their economies, with measurable benchmarks on human rights and democratic progress that is genuinely inclusive.
- Investing in development and institution building in partner countries should include proactive measures to advance human rights protections challenging the assumption that liberal-style institutions will automatically produce peace and the conditions for human rights.<sup>1</sup>
- Ensuring that peace processes include marginalised/vulnerable groups. External mediation of peace processes is assumed to feed into peacebuilding outcomes, yet mediators bring their own instrumental interest to the negotiations and have the capacity to change the balance of power among conflicting parties within states.<sup>1</sup> This can have important outcomes for human rights protection should negotiations favour dominant parties responsible for human rights violations.

The next section draws on a number of case studies to show how the prioritisation of certain foreign policy objectives such as economics and trade, development, institution building and security—although not problematic in their own right—can undermine human rights protection and atrocity prevention in situations where atrocity risk is high. For this reason, foreign policy engagement in countries at risk of atrocities should be evaluated against stronger criteria for assessing the patterns of human rights violations, discrimination and persecution within states at risk of atrocities, particularly states with a history of atrocities and high levels of impunity, given that this is a strong indicator of future atrocities occurring.<sup>51</sup>

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<sup>50</sup> United Nations, *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, 16 December 1999, S/1999/1257; United Nations, *Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka*, 2012; Gert Rosenthal, *A Brief and Independent Inquiry into the Involvement of the United Nations in Myanmar from 2010 to 2018*, 29 May 2019.

<sup>51</sup> This indicator is used in risk assessment frameworks and atrocity forecasting, such as the UN Framework of Analysis for Atrocity Crimes, the Atrocity Forecasting Protect and the Minority Rights Group International 'Peoples under Threat' assessments.

# Evidence Base to Support the Integration of Atrocity Prevention within Human Rights Programming

## Foreign policy in Myanmar: Democratic transition and military-led atrocities

Since the 1 February 2021 coup in Myanmar, the military (Tatmadaw) has been committing mass atrocities against its own population, many of whom have actively resisted through civil disobedience and armed opposition.<sup>52</sup> Members of the international community have disagreed on a shared response, and have exercised minimal influence in this situation through foreign policy or multilateral channels. Human rights advocates have been unable to gain consensus from states on a global arms embargo or co-ordinated sanctions on the regime, and there is no prospect of international protection from a peace enforcement operation due to dynamics on the UN Security Council, where China and Russia routinely back the military regime in Myanmar. The limited imposition of sanctions by a handful of countries<sup>53</sup> and continuation of pre-existing embargoes has done little to deter the regime from aerial bombardment, arbitrary arrests, torture, sexual violence and mass killing of Myanmar civilians—actions that the UN considers to amount to crimes against humanity and war crimes.<sup>54</sup>

Years before the coup, warning signs were in place, yet members of the international community were poorly positioned to respond when the most recent round of military-led atrocities commenced. The Tatmadaw has a long history of committing atrocities against the civilian population, including decades of counter-insurgency strategies aimed at civilian populations, arbitrary arrest, torture and extrajudicial killings of democracy activists. In 2017, decades of systemic discrimination and persecution of ethnic minority Rohingya culminated in a campaign of ethnic cleansing that displaced over 700,000 civilians,<sup>55</sup> a situation that the US has determined to constitute genocide.<sup>56</sup>

Despite these signs, members of the international community were intent to engage with the Myanmar military prior to the coup as they hoped to secure a democratic transition and access to new markets and infrastructure projects, compete with China for geopolitical influence in the region, and control/regulate the black-market narcotics trade. For this reason, economic and security objectives overshadowed donor state strategies for engaging the Myanmar regime on human rights issues prior to the coup.<sup>57</sup>

A new constitution in 2010 paved the way for democratic elections that brought in a quasi-civilian government (with the military holding 30% of parliamentary seats) in 2011. The government included representation by Nobel-peace prize laureate and Burmese democracy icon, Aung San Suu Kyi. Instead of phasing foreign policy engagement in response to evidence of genuine democratic transition, the international community rushed to embrace the newly opened country. Western countries quickly dropped sanctions, backed the quasi-civilian military government and sought access to markets, including Myanmar's lucrative energy infrastructure, mining and telecommunications projects.<sup>58</sup> There was an emphasis on development by partner donors and

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<sup>52</sup> Cecilia Jacob and Eglantine Staunton, 'R2P and the Support of Civilian Resistance in Myanmar', Brisbane: Asia Pacific Centre for the Responsibility to Protect, September 2022, [https://r2pasiapacific.org/files/8035/2022\\_R2P\\_civilian\\_resistance\\_Myanmar.pdf](https://r2pasiapacific.org/files/8035/2022_R2P_civilian_resistance_Myanmar.pdf).

<sup>53</sup> Including the UK, the US, Canada and the EU.

<sup>54</sup> UN Office of the High Commissioner for Human Rights, 'Myanmar: UN expert fears spike in atrocities amid reports of troops massing in north', 22 October 2021, <https://www.ohchr.org/en/press-releases/2021/10/myanmar-un-expert-fears-spike-atrocities-amid-reports-troops-massing-north>.

<sup>55</sup> UN Human Rights Council, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*, 3 October 2018, A/HRC/RES/39/2.

<sup>56</sup> US Department of State, 'Genocide, Crimes Against Humanity and Ethnic Cleansing of Rohingya in Burma', <https://www.state.gov/burma-genocide/>.

<sup>57</sup> For detailed analysis, see Jacob, 'Navigating between Principle and Pragmatism'.

<sup>58</sup> For example, one Norwegian ambassador to Myanmar resigned to take up Chair of Telenor in Myanmar. See Chiraag Roy, Anthony Ware and Costas Laoutides, 'The political economy of Norwegian peacemaking', *Third World Quarterly* 42, no. 9 (2021): 2172-2188. A detailed analysis of the extent of domestic and foreign business support for the Tatmadaw is documented in the Independent

conflict prevention, particularly through the government-sponsored peace process. The preference given to these agendas resulted in external partners routinely sidelining reports of human rights abuses, even as evidence of serious campaigns of systematic targeting of Rohingya minorities grew.<sup>59</sup>

The poor positioning of the international community in 2021 in response to the coup mirrors that of its even weaker response to the 2017 Rohingya crisis where, despite evidence of genocide and ethnic cleansing, donor states continued to prioritise democratisation, trade and economic linkages, development and wider geopolitical security objectives.

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The most progressive developments in the international response to the atrocities in Myanmar over the past five years have been in the area of accountability, including through Human Rights Council Mechanisms,<sup>60</sup> the International Criminal Court,<sup>61</sup> and the ICJ.<sup>62</sup> With these mechanisms for investigation, monitoring and prosecution in place, international investigators quickly turned their attention to the Tatmadaw's actions against civilians following the coup. In its third report to the Human Rights Council, the IIMM stated that its 'preliminary analysis of collected information concerning events in Myanmar since the 1 February 2021 military coup indicates that crimes against humanity falling within the Mechanism's mandate, including murder, persecution, imprisonment, sexual violence, enforced disappearance and torture, have likely been committed'.<sup>63</sup>

To progress international justice efforts, on 17 August 2021 the NUG lodged a declaration with the registrar of the ICC accepting the court's jurisdiction with respect to all international crimes in Myanmar since 2002, and in particular to the 'ongoing atrocity crimes being committed by the military'.<sup>64</sup> Organisations such as *Myanmar Accountability Project*,<sup>65</sup> *Fortify Rights*,<sup>66</sup> and the *Commission for Justice and Accountability*<sup>67</sup> are collecting evidence that could hold in a court of law to prosecute Myanmar's top generals for international crimes. These accountability efforts draw attention to the scale of atrocities being committed by the Tatmadaw in Myanmar and have been used to justify stronger sanctions by some states. However, to date, they have not contributed directly to physical protection of civilians.

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International Fact-Finding Mission on Myanmar's report, 'The economic interests of the Myanmar military', 12 September 2019, A/HRC/42/CRP.3.

<sup>59</sup> Jonah Fisher, 'UN failures on Rohingya revealed', *BBC News*, 28 September 2017, <https://www.bbc.co.uk/news/world-asia-41420973>; Rosenthal, 'A Brief and Independent Inquiry'.

<sup>60</sup> Including the Independent International Fact-Finding Mission on Myanmar (IIFMM), established in March 2017 to investigate allegations of ongoing violations against Rohingya minority (see UN Human Rights Council, 'Situation of human rights in Myanmar', 24 March 2017, A/HRC/RES/34/22); and the Independent Investigative Mechanism for Myanmar (IIMM), established in September 2018 to continue the work of the fact-finding mission (see UN Human Rights Council, 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar', 3 October 2018, A/HRC/RES/39/2).

<sup>61</sup> Based on the findings of the HRC investigation, the International Criminal Court (ICC) authorised the opening of investigations into allegations of international crimes on 14 November 2019. The court exercised its jurisdiction in Bangladesh to open investigations and pursue accountability for the extensive violence and deportation of Rohingya civilians across the border of Myanmar into Bangladesh as Myanmar has not ratified the 1998 Rome Statute nor was there a Security Council resolution referring the situation to the ICC.

<sup>62</sup> In 2019, the Gambia submitted charges of genocide against the Myanmar government to the International Court of Justice (ICJ), which instructed the government of Myanmar to 'take all measures within its power to prevent the commission of all acts within the scope of Article II of this [Genocide] Convention'. International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) – Request for the indication of provisional measures*, Summary 2020/1, 23 January 2020, <https://www.icj-cij.org/public/files/case-related/178/178-20200123-SUM-01-00-EN.pdf>, 7.

<sup>63</sup> UN Human Rights Council, *Report of the Independent Investigative Mechanism for Myanmar*, 5 July 2021, A/HRC/48/18, para. 30.

<sup>64</sup> An announcement of the declaration was posted by the NUG on Twitter on 20 August 2021. See <https://twitter.com/NUGMyanmar/status/1428739347717648389/photo/1>.

<sup>65</sup> The Myanmar Accountability Project webpage is found at <https://the-world-is-watching.org/our-team/>.

<sup>66</sup> Fortify Rights, 'Myanmar: Engage the International Criminal Court to Hold Military Perpetrators of Mass Atrocity Crimes Accountable', 19 August 2021, <https://www.fortifyrights.org/mya-inv-2021-08-19/>.

<sup>67</sup> CIJA, 'Investigation into Myanmar', [CIJA \(cija-myanmar.org\)](http://cija-cjia-myanmar.org).



The situation in Myanmar is a prime case study of how the international community **failed to apply an atrocity prevention lens in its foreign policy during the early years of engagement** despite clear risks and turning points in the escalation of human rights violations across the country. It also highlights the mistakes made by external countries that rushed to capture the economic opportunities created by the opening of new markets. External partners supported the now defunct peace process that inadvertently favoured the military, cut-off wider dialogue on federal and democratic transition and marginalised weak actors<sup>68</sup> that have now withstood the worst of state-led atrocities. These actions diminished external capacity to exert pressure on the military regime to alter its behaviour despite mounting evidence of targeted atrocities against civilian populations. A small number of states increased economic sanctions and arms embargoes,<sup>69</sup> while states such as Australia, India and Saudi Arabia have maintained Ambassadorial-level engagement with the military regime. The inconsistent signalling and ad hoc strategies by states in implementing human rights foreign policy tools have undermined the position of external states to provide protection for the population from ongoing atrocities.

### Key Takeaways

- Years before Myanmar's coup, warning signs of atrocities were in place. Yet, economic and security objectives overshadowed donor state strategies for engaging the regime. Instead of phasing foreign policy engagement in response to evidence of genuine democratic transition, the international community continued to prioritise trade and economic linkages, development, and wider geopolitical security objectives.
- The most progressive developments in the international response to the atrocities in Myanmar over the past five years have been in the area of accountability. While these efforts draw attention to the scale of atrocities being committed and have been used to justify stronger sanctions by some states, they have not contributed directly to physical protection of civilians.
- Myanmar is a prime case study of how the international community failed to apply an atrocity prevention lens in its foreign policy during the early years of engagement despite clear risks and turning points in the escalation of human rights violations across the country. Further, it highlights the mistakes made by external countries that rushed to capture the economic opportunities created by the opening of new markets.

## Afghanistan: Assessing atrocity risk in the August 2021 withdrawal

This section considers the approach of the US and allied forces to the August 2021 withdrawal from Afghanistan. It argues that the absence of an atrocity prevention lens, including inadequate attention to patterns of human rights violations, during the assessment of the withdrawal contributed to a lack of preparedness and a failure to fully anticipate or prevent the atrocities that were committed against Afghan civilians. The situation in Afghanistan has been a core focus of national security priorities and foreign policy engagement since 2001 in the United States and among NATO-led International Security Assistance Force allied states. The 20-year intervention was largely geared towards counter-insurgency and security objectives, with external state-building efforts militarizing the situation and falling short of establishing a legitimate and credible government in the heavily centralised state.<sup>70</sup> Atrocity risk remained high, both before and following the intervention, therefore it warranted the implementation of an atrocity prevention lens many years before the drawdown of US and coalition forces in August 2021.

The withdrawal of US and allied forces from Afghanistan, followed by the rapid Taliban takeover of power, spawned a major humanitarian crisis, with millions of people facing starvation. Prior to

<sup>68</sup> Roy, Ware and Laoutides 'The political economy of Norwegian peacemaking'.

<sup>69</sup> These have had little effect given the reliance of the military regime on states such as China, North Korea, Russia and Singapore who continue to supply the regime with weapons and military hardware.

<sup>70</sup> Lucy Morgan Edward, 'State-building in Afghanistan: a case showing the limits?', *International Review of the Red Cross* 92, (2010): 1-25, 79.

the withdrawal, some 38 million Afghans were reliant on foreign aid. The freezing of billions of dollars in aid plus the imposition of tough sanctions on the Taliban, among other challenges such as drought and the Covid-19 pandemic, has had a direct impact on the civilian population.<sup>71</sup> Only 2% of Afghans have enough food, according to the World Food Program.<sup>72</sup> 22.8 million people are identified as acutely food insecure and over two million children are suffering from malnutrition.<sup>73</sup>

Intelligence reports shared with the US and its allies in the months leading up to the drawdown anticipated the risk of an expedited Taliban takeover following the drawdown period, warning of the humanitarian crisis that would ensue.<sup>74</sup> Further evidence that there was high risk of atrocities escalating in the drawdown period was the increased episodes of violence against the population by the Taliban in the months leading up to the drawdown. The Taliban has a long history of committing mass atrocities against the Afghan population, including minority groups such as the Hazaras and political opponents,<sup>75</sup> another risk factor for renewed cycles of atrocity violence.

In the period from 1 January to 30 June 2021, the Taliban stepped up targeted attacks through bombings and ground assaults on civilian populations as it gained more territory. The United Nations Assistance Mission in Afghanistan (UNAMA) documented a significant increase in civilian casualties (1,659 killed and 3,524 injured) in the six-month period, with UNAMA recording the highest fatalities for the period May to June since it started documentation in 2009.<sup>76</sup> There is evidence of increased systematic targeting of women and girls, deliberate 'targeting of human rights defenders, media workers, religious elders, civilian government workers, and humanitarian workers, and sectarian attacks targeting members of the Hazara ethnicity and Shi'a Muslim religious minority'.<sup>77</sup> In July 2021, UNAMA reported that hundreds of civilians were killed and injured during attacks by the Taliban in Kandahar and Lashkar Gah. Taliban atrocities were at a peak level just prior to the allied drawdown.

In the months of July and August 2021 when the Taliban was gaining control of the country, the Taliban committed numerous atrocities, including torture and killing of ethnic and religious minorities, former Afghan soldiers and suspected government sympathizers.<sup>78</sup> The atrocities in Afghanistan were predictable, and questions arise as to whether allied states could have prioritised atrocity prevention in their foreign and security policy decision-making when planning the drawdown. The exit strategy did not account for the evident risk of violence escalation in the wake of the withdrawal, according to one assessment of the UK handling of the situation:

It is a reasonable conclusion that the apparent discord among coalition partners, whether on issues of intelligence, risk assessments, operational and contingency planning, or arranging evacuations, may have had a deleterious impact on the withdrawal process, with serious implications for the safety of individuals at risk and eligible for evacuation.<sup>79</sup>

Based on the information provided to the US and NATO partners, and a consistent historical record of Taliban atrocities against the civilian populations, more could have been done to increase protection of vulnerable Afghans. In addition to slowing the pace of withdrawal, increased contingency planning and support to the Afghan government, this support should have included greater facilitation of safe evacuation and resettlement of those who fled the country.<sup>80</sup> A phased

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<sup>71</sup> Council on Foreign Relations, 'A look at Afghanistan's humanitarian crisis', 12 January 2022, <https://www.cfr.org/article/afghanistan-humanitarian-crisis-famine-foreign-aid-taliban>.

<sup>72</sup> World Food Programme, '15 millions Afghans receive WFP food assistance so far in 2021; massive uplift needed as economy disintegrates', 14 December 2021, <https://www.wfp.org/news/15-millions-afghans-receive-wfp-food-assistance-so-far-2021-massive-uplift-needed-economy>.

<sup>73</sup> World Food Programme, 'Afghanistan', <https://www.wfp.org/countries/afghanistan>.

<sup>74</sup> Written evidence submission by Federica D'Alessandra, Ross Gildea and Emily Jones, Blavatnik School of Government, University of Oxford, AFG0015, <https://committees.parliament.uk/writtenevidence/40095/html/>.

<sup>75</sup> William Maley, 'Civil-military relation and R2P: the Afghan experience', in Cecilia Jacob and Martin Mennecke (eds), *Implementing the Responsibility to Protect: A Future Agenda*, (Oxon: Routledge 2020): 236-250.

<sup>76</sup> UN Assistance Mission in Afghanistan, 'Afghanistan: Protection of Civilians in Armed Conflict Midyear Update: 1 January to 30 June 2021', 26 July 2021, [https://unama.unmissions.org/sites/default/files/unama\\_poc\\_midyear\\_report\\_2021\\_26\\_july.pdf](https://unama.unmissions.org/sites/default/files/unama_poc_midyear_report_2021_26_july.pdf).

<sup>77</sup> UNAMA, 'Afghanistan: Protection of Civilians', 4-5.

<sup>78</sup> Amnesty International, 'No Escape: War Crimes and Civilian Harm During The Fall Of Afghanistan To The Taliban', 2021, <https://www.amnesty.org/en/wp-content/uploads/2021/12/ASA1150252021ENGLISH.pdf>.

<sup>79</sup> Written evidence submission by D'Alessandra et al.

<sup>80</sup> Ibid.

withdrawal could have allowed for external reinforcement of national security forces in areas targeted by the Taliban assaults.

The Taliban has taken steps to establish international legitimacy, including a commitment to respect international human rights, including women and girls' rights.<sup>81</sup> This commitment is yet to be proven given recent reversals on girls' access to education and regression on women's rights.<sup>82</sup> Looking forward, the international community will need to revise its strategy for engagement to incorporate an atrocity prevention lens. This requires monitoring for risk of atrocities throughout all stages of engagement by ensuring adequate early warning assessments, monitoring and the foregrounding of human rights protection in its approach to fragility and conflict stabilisation, including governance and capacity building, and security sector reform. The foregrounding of human rights will be ever more important as foreign policy actors consider engagement with the Taliban in the coming years. The historical legacy and current experiences within Afghanistan necessitate that the situation remains a high priority for investment in early warning and civilian protection throughout the country. Foreign policy makers supporting Afghanistan should elevate their commitment to human rights, transitional justice<sup>83</sup> and accountability<sup>84</sup> through foreign policy engagements with the Taliban.

### Key Takeaways

- The Taliban has a long history of committing mass atrocities against the Afghan population, including minority groups such as the Hazaras and political opponents.
- In the period from 1 January to 30 June 2021, the Taliban stepped up targeted attacks through bombings and ground assaults on civilian populations as it gained more territory. Further, in the months of July and August 2021 when the Taliban was gaining control of the country, the Taliban committed numerous, predictable atrocities against such minority groups. Yet, the exit strategy of US and allied forces did not account for the evident risk of violence escalation, including targeted human rights violations, in the wake of the withdrawal.
- In addition to slowing the pace of withdrawal, increased contingency planning and support to the Afghan government, the exit strategy should have included, at minimum, greater facilitation of safe evacuation and resettlement of those who fled the country.

## Ukraine: Responding to mass atrocities during a war of aggression

The final case raised here is that of the Russian invasion in Ukraine. The invasion, now a full-scale interstate war, has led to mass atrocities being committed in Ukraine. The overarching strategic objective for the international community is the defence of Ukrainian sovereignty and a withdrawal of Russian troops. However, the commission of widespread atrocities has been integral to Russian aggression, therefore R2P applies in this situation, even in the absence of UN Security Council consideration of the matter. The application of R2P in this situation does not imply external military intervention. Rather it obliges states to ask: to what extent can foreign policy of individual states and regional organisations play a role in responding to, and minimising atrocities against civilians during an aggressive war? Unlike the situations in Myanmar and Afghanistan, the war in Ukraine has sustained high-level international attention, including demand for accountability for victims of

<sup>81</sup> Statement by UN High Commissioner for Human Rights Michelle Bachelet at the 31<sup>st</sup> Special Session of the Human Rights Council on serious human rights concerns and situation in Afghanistan on 24 August 2021. See <https://www.ohchr.org/en/hr-bodies/hrc/special-sessions/session31/31st-special-session>.

<sup>82</sup> Human Rights Watch, 'Afghanistan: Taliban Deprive Women of Livelihoods, Identity', 18 January 2022, <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>.

<sup>83</sup> Julia Emtseva, 'Transition Without Justice? The Return of the Taliban and the Quest for Truth, Accountability, and Reparations', *Opinio Juris*, 8 September 2021, <http://opiniojuris.org/2021/09/08/transition-without-justice-the-return-of-the-taliban-and-the-quest-for-truth-accountability-and-reparations/>.

<sup>84</sup> Although accountability efforts have lagged in Afghanistan to increase prospects of the now defunct peace process succeeding, some efforts are underway, including a case to investigate crimes against humanity and war crimes committed in Afghanistan since 1 May 2003 currently open in the ICC (ICC-02/17). See <https://www.icc-cpi.int/afghanistan>.

mass atrocities committed in Ukraine, and has led to a much more coordinated—albeit limited—response from Western states.

Although mass atrocities continue in Ukraine, millions of Ukrainians have safely fled the country and military assistance helped to scale back the war to the Eastern and Southern regions early in the conflict. Taking a humble view of what can be achieved to *prevent* mass atrocities during major conflict, this case provides insight into the scope of foreign policy responses to mitigate the scale of humanitarian impact of the conflict, in this case without Security Council involvement.

There is now credible evidence that war crimes and crimes against humanity have been committed in Ukraine.<sup>85</sup> Such crimes include the indiscriminate bombing of urban areas, including hospitals, health care facilities and humanitarian corridors, and the use of thermobaric weapons against civilians, particularly in the Chernihiv, Kharkiv and Kyiv regions.<sup>86</sup> Tens of thousands of civilians were under siege for seven weeks, with thousands killed, in city of Mariupol before its capture,<sup>87</sup> and there is evidence of widespread summary executions, torture, rape and forced relocation of civilians.<sup>88</sup> Mass graves have been discovered in the cities of Bucha, Mariupol and Izyum.<sup>89</sup>

The gravity of atrocities committed by Russian forces has attracted wide international condemnation of the war. The situation in Ukraine has illustrated how assertive foreign policy measures on human rights can yield important protection outcomes for civilian populations in the midst of an ongoing interstate conflict and in the absence of Security Council action. Early in the war, neighbouring states opened their borders for Ukrainians to flee violence, with four million people fleeing in the first five weeks. The ability to flee conflict was in this case a crucial protection mechanism to prevent further loss of life in conflict situation where civilians are targeted.

The European Union set up protection hubs in Poland, Romania and Slovakia to coordinate humanitarian access, negotiated ceasefires to allow for humanitarian corridors and implemented an unprecedented temporary protection directive for Ukrainian refugees in Europe, including access to labour markets and schools for up to three years without a visa. This effectively enabled Ukrainian citizens to bypass the asylum system and modelled an unprecedented and generous pathway for refugees to flee atrocities until de-escalation of conflict is possible. It is worth noting, however, that the situation on the Western border of Ukraine was unique given the ability of European states to provide safe passage and protection to refugees on arrival. Over three million Ukrainian refugees have already returned to Ukraine, primarily Kyiv, a situation that cannot be replicated in other major crisis situations where access to safe return remains wanting after decades of precarious refugee status.

This solution did have serious problems that should be noted. First was the exclusion of non-Ukrainians nationals in the protection scheme, with many non-Ukrainian nationals blocked or facing difficulty crossing the border to flee at the start of the conflict.<sup>90</sup> Second, many Ukrainian citizens have been forcibly displaced to Russia where they have faced strip-searches, interrogation, detention and torture in 'filtration camps' on arrival.<sup>91</sup> The forcible transfer of a population 'when committed as a part of a widespread of systematic attack directed against any

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<sup>85</sup> Human Rights Council, *The deteriorating human rights situation in Ukraine stemming from the Russian aggression – Resolution adopted by the Human Rights Council on 12 May 2022*, 12 May 2022, A/HRC/RES/S-34/1; US Department of State, 'War Crimes by Russia's Forces in Ukraine – Press Statement by Antony J. Blinken', Secretary of State, 23 March 2022, <https://www.state.gov/war-crimes-by-russias-forces-in-ukraine/>; ICC, 'Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: "I have decided to proceed with opening an investigation"', 28 February 2022, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-i-have-decided-proceed-opening>.

<sup>86</sup> Human Rights Watch, 'Ukraine: Apparent War Crimes in Russia Controlled Areas', 3 April 2022, <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>.

<sup>87</sup> ABC News, 'Russia claims to have captured Mariupol's port, says 1,000 Ukrainian troops have surrendered', 13 April 2022, <https://www.abc.net.au/news/2022-04-13/ukrainian-troops-surrender-in-mariupol-says-russia/100990298>.

<sup>88</sup> Robbie Gramer and Amy Mackinnon, 'Ukraine's "Nuremberg Moment" Amid Flood of Alleged Russian War Crimes', *Foreign Policy*, 10 June, 2022, <https://foreignpolicy.com/2022/06/10/ukraines-nuremberg-moment-amid-flood-of-alleged-russian-war-crimes/>.

<sup>89</sup> Ewelina U. Ochab, 'New Mass Graves Found in Ukraine As Putin's Atrocities Continue', *Forbes*, 22 September 2022, <https://www.forbes.com/sites/ewelinaochab/2022/09/22/new-mass-graves-found-in-ukraine-as-putins-atrocities-continue/?sh=6146576a58ba>.

<sup>90</sup> Human Rights Watch, 'Ukraine: Unequal Treatment for Foreigners Attempting to Flee', 4 March 2022, <https://www.hrw.org/news/2022/03/04/ukraine-unequal-treatment-foreigners-attempting-flee>.

<sup>91</sup> Michael Birnbaum and Mary Ilyushina, 'Ukrainian refugees in Russia report interrogations, detention and other abuses', *The Washington Post*, 11 May 2022, <https://www.washingtonpost.com/world/2022/05/11/ukraine-refugees-russia-filtration-camps/>.

civilian population, with knowledge of the attack' constitutes a crime against humanity.<sup>92</sup> Therefore, caution is needed when considering population movement as a protection strategy. When under attack, populations will flee, so the international community has a responsibility to ensure safe passage and humanitarian assistance. However, there are long-term humanitarian and security implications of protracted and forcible displacement.

Beyond humanitarian assistance, the international response to the invasion – while stopping short of forceful measures (such as imposing a 'no-fly zone') or military intervention that would likely escalate the war – has been extensive. The EU and Western states have imposed widespread sanctions, travel bans and asset freezes on Russia and Russian officials. They have provided unprecedented military hardware, intelligence<sup>93</sup> and support to the Ukrainian military for its defence that has been crucial in the Ukrainian effort to stave off a full invasion of its territory and therefore reduce the scale of the war in large parts of the country. A number of these measures, such as economic sanctions and cuts to imports on Russian oil, have been offset by the global surge in fuel prices and the continued trade with countries such as China and India. Moving forward, the effectiveness of sanctions as a punitive tool in international relations will need further consideration.<sup>94</sup> However, this case shows that states can and will absorb the economic costs associated with a steep sanctions regime should there be political will to act, including to counter aggression and the atrocities resulting from this kind of war.

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In circumventing the Security Council, states have effectively mobilised alternative multilateral bodies, such as the General Assembly,<sup>95</sup> Human Rights Council, ICJ and ICC to further global cooperation on measures to hold Russian leaders to account for the atrocities committed in Ukraine. Global accountability efforts already underway include the creation of the Independent International Commission of Inquiry on Ukraine by the Human Rights Council in March 2022<sup>96</sup>; an investigation open underway in the ICC<sup>97</sup>; and proceedings underway in the ICJ.<sup>98</sup> Numerous states have implemented Magnitsky-style global human rights sanctions, and the United States has started compiling further evidence of mass atrocities for use in future prosecutions.<sup>99</sup> Russia has been suspended from the Human Rights Council, and the UN General Assembly has passed several emergency session resolutions condemning Russian aggression and demanding its withdrawal, evidence of concerted global cooperation to marginalise Russia. These actions have provided clear signalling to the Russian leadership that its actions are being scrutinised, and further marginalised its position in multilateral forums.

The international response to mass atrocities in Ukraine has been more coordinated and effective than other major conflict situations, such as Syria and Yemen. There are a number of unique factors for this. First, there is wide international consensus on the illegality of the Russian invasion as a clear case of aggression against a sovereign state. Second, the Ukrainian defensive war is legitimate under the UN Charter (Article 51). Third, the conflict has most direct impact on European states and wider geopolitical ramifications for major powers, notably the US. NATO and the EU also have highly developed institutional structures through which they have coordinated diplomatic, military

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<sup>92</sup> UN General Assembly, *Rome Statute of the International Criminal Court* (last amended 2010), 17 July 1998, Article 7(1)(d).

<sup>93</sup> Josh Marcus, 'US giving Ukraine "real time" intelligence, after previous warning info-sharing "steps over the line"', *Independent*, 3 March 2022, <https://www.independent.co.uk/news/world/americas/russia-ukraine-us-intelligence-sharing-b2028091.html>.

<sup>94</sup> Brahma Chellaney, 'Why sanctions against Russia may not work', *The Hill*, 2 May 2022, <https://thehill.com/opinion/international/3473500-why-sanctions-against-russia-may-not-work/>.

<sup>95</sup> In addition to holding two UNGA emergency sessions on the war in Ukraine in April 2022, Liechtenstein tabled a draft resolution on strengthening UNGA scrutiny of UNSC vetoes through a new mechanism that would require the UNGA to convene each time a veto is cast in the UNSC.

<sup>96</sup> UN Human Rights Council, *Situation of human rights in Ukraine stemming from the Russian Aggression – Resolution adopted by the Human Rights Council on 4 March 2022*, 4 March 2022, A/HRC/RES/49/1.

<sup>97</sup> International Criminal Court, 'Situation in Ukraine', 2 March 2022, ICC-01/22.

<sup>98</sup> International Court of Justice, 'Allegations of Genocide under the Convention on the Prevention and Punishment of Genocide (Ukraine v. Russian Federation)', 23 March 2022, General List No. 182.

<sup>99</sup> Blinken, 'War Crimes by Russia's Forces'.

and humanitarian efforts. Therefore, strong regional organisations with commitment to democratic and human rights values and significant alliances have allowed for greater coordination, access and priority for mobilising the international response to the atrocities.

Ukraine has been a test case to show that states can foreground protection from mass atrocities as a core foreign policy objective in their response to major conflict. Further, it shows that significant global cooperation and protection outcomes for civilians can be achieved without the Security Council. However, the unique combination of factors at play make this case a rare exception in terms of the clarity of circumstances. These include an aggressive war through invasion of a country with a legitimate government and the capabilities of the invaded country to hold out a defensive war against the aggressor without requiring external military intervention. US and European states have a direct strategic interest in Ukraine's military success against Russia in addition to heightened concern over the human rights of Ukrainians affected by the conflict.

Mass atrocities have been committed and are grave, and the wider implications of the conflict for the international order are still being ascertained. However, the unprecedented support from powerful international allies, including military supplies and the rapid evacuation of millions of civilians across borders, provide an exceptional context in which the impact on civilians has been minimised to a greater extent than that witnessed in other major conflicts. To this end, while we need to remain humble about what can be achieved to prevent atrocities during a situation of open armed conflict, efforts that are given high priority and are concerted can make a difference in minimising human rights violations and loss of life.

#### **Key Takeaways**

- Ukraine has illustrated how assertive foreign policy measures on human rights can yield important protection outcomes for civilian populations in the midst of an ongoing interstate conflict and in the absence of Security Council action.
- In particular, the ability to flee conflict has been a crucial protection mechanism to prevent further loss of life in conflict situations where civilians are targeted. The European Union's establishment of protection hubs in Poland, Romania and Slovakia to coordinate humanitarian access, negotiation of ceasefires to allow for humanitarian corridors and implementation an unprecedented temporary protection directive for Ukrainian refugees in Europe modelled an unprecedented and generous pathway for refugees to flee the atrocities until a de-escalation of conflict is possible.
- The selective basis for refugees based on citizenship caused unnecessary suffering and trauma for non-Ukrainian nationals unable to flee during the peak period of Russian attacks on cities.
- Given the swift imposition of sanctions, travel bans and asset freezes on Russia and Russian officials and provision of unprecedented military hardware, intelligence and support to the Ukrainian military, the Ukraine case shows that states can and will absorb the economic costs associated with a steep sanctions regime should there be political will to act to counter aggression and resulting atrocities.
- It should be emphasised, however, that a unique combination of factors at play make Ukraine a rare exception, including clarity of circumstances and the capabilities of the invaded country to hold out a defensive war against the aggressor without requiring external military intervention.

## Recommendations

Based on the analysis above, this report makes **three core recommendations**:

**Recommendation 1:** States that promote values of democracy, human rights and a rules-based-international order should make atrocity prevention a clear foreign policy priority by developing a national strategy and action plan on atrocity prevention.

To make atrocity prevention a priority, states should ensure the following:

1. Foreign policy officials and their counterparts are empowered to act on situations that are politically sensitive and difficult by nature. This is because high level political will (including executive and ministerial level) is required to ensure that there is traction to build foreign policy expertise and capacity on atrocity prevention.
2. Atrocity prevention is a Whole of Government (WoG) approach. This means that all government departments share a common understanding of what is being achieved, share relevant information across departments, and contribute to decision-making and program implementation as relevant to their given portfolios.
3. Atrocity prevention is institutionalised within the foreign policy establishment to ensure the development of expertise, data gathering and analysis, early warning assessments and coordination of WoG decision-making.
4. An institutional structure dedicated to atrocity prevention serves as a repository to preserve institutional memory and establish lessons learnt to build best practices.
5. Funding and resources are provided to build the necessary institutional and atrocity prevention capacity, such as routine training of diplomatic staff and officials.

**Recommendation 2:** States must foreground human rights in foreign policy strategies on atrocity prevention.

Experience of past and current atrocity situations demonstrates that failure to foreground human rights through foreign policy engagement with partner or perpetrator states leads to missed opportunities to address early risk factors, or effectively prevent or respond to situations of atrocity as they escalate.

To foreground human rights in foreign policy strategies on atrocity prevention, states should pursue following strategies:

### Structural Prevention: Addressing Context

1. Ensure that support for peace processes does not contribute to entrenching power inequalities by privileging or excluding key stakeholders that could increase future atrocity risk.
2. Ensure that opportunities to support local peacebuilding efforts that can reduce risk of future atrocities are not missed by prioritising support for transitional justice and human rights capacity within the state, including support for strong and inclusive representation of civil society.
3. Conduct a human rights impact assessment of foreign policies employed in states with a history and/or risk of atrocities. This should include an understanding of inter-group relations and inequalities to ensure that foreign policy engagements do not fuel further grievances between groups that have a history of violence or repression.

### Direct/Operational Prevention: Responding to Risk

1. Employ a human rights-based framework for atrocity prevention analysis to monitor for early warning signs of atrocities.
2. Implement a clear process for communicating early warning reports to authorities with delegation to initiate a response.
3. Initiate early action in response to escalating human rights violations that could lead to large-scale atrocities (see Annex 1 for a list of foreign policy tools to employ at different stages of escalation).

**Recommendation 3:** Investment in international partnerships and cooperation mechanisms on atrocity prevention should complement the development of a national atrocity prevention strategy and foreign policy capabilities.

Individual government atrocity prevention strategies are more likely to yield results in countries at risk of, or experiencing, atrocities when coordinated with like-minded partners. Consistency in signalling, concerted pressure and punitive sanctions by members of the international community acts as a force multiplier and lowers the potential for perpetrators to 'forum shop' among partners with alternative policy positions.

To build international partnerships and cooperation mechanisms on atrocity prevention, states should:

1. Build international partnerships and facilitate international cooperation on atrocity prevention to:
  - multiply the impact of foreign policy actions to pressure or incapacitate perpetrators committing or seeking to commit atrocities; and
  - expand the capacity to provide humanitarian assistance including protection and harm reduction to civilians.
2. Develop consistent foreign policy messaging across like-minded states to send clear signals to perpetrators and increase the likelihood that preventive actions will be effective.
3. Coordinate on the distribution of responsibilities and burden-sharing to increase the likelihood of success by those better positioned to act, where bilateral and regional stakes are higher for certain states to intervene in a given scenario.



## Annex 1

### Foreign Policy Tools for Promotion of Human Rights Related to Atrocity Prevention

Phase	Foreign Policy Tool	Mechanisms	Atrocity Prevention Outcome
<b>Structural Prevention/ Risk Present</b>	Bilateral promotion of human rights	Routine engagement with domestic human rights concerns in partner country through diplomatic, trade and security channels	Foregrounds human rights concerns in diplomatic engagement to promote improved human rights record and atrocity risk reduction
	Multilateral promotion of human rights	Routine attention to ongoing human rights concerns through statements in UN, regional and other multilateral forums, UPR process and special procedures	Foregrounds human rights concerns in diplomatic engagement to promote improved human rights record – atrocity risk reduction
	Promotion of good governance, rule of law and democracy institutions	Development of partnerships  Constitutional reform and law-making processes that addresses discrimination, hate speech and protection of minorities	Integrates human rights promotion and capacity as core foreign policy objective
	Arms control and disarmament	Stronger regulation of Arms Trade Treaty and restriction of weapons sales, including small arms and light weapons	Blocks access to weapon and stockpiling that could fuel violence
	Peacebuilding	Support for conflict resolution mechanisms, peace processes, transitional justice and peacebuilding	Establishes restorative justice measures and reconciliation to address inter-group grievances and impunity for past atrocities
<b>Violence Escalation</b>	Bilateral promotion of human rights	Preventive diplomacy, including ministerial, ambassadorial, representations	Evidences high-level political will to condemn and respond to serious rights violations and employ mediation and good offices to diffuse escalating violence

	Multilateral promotion of human rights	Sponsorship of resolutions, naming and shaming (UNSC, UNGA, UNHRC)	Evidences high-level political will to condemn and respond to serious rights violations and employ mediation and good offices to diffuse escalating violence
	Humanitarian assistance	Delivery through partners, bypassing perpetrating state/parties	Signals disapproval of perpetrating state/parties and bolsters legitimacy of and support to civil society partners that are representative of civilian population
	Targeted sanctions on key individuals, including arms embargoes, asset freezes, travel bans	Bilateral and global	Dissuades violating behaviour and limits scope for perpetrating violence by restricting access to resources and weapons
	Accountability Mechanisms	Sponsorship of/support for creation of investigative and monitoring mechanisms, ICC referrals, universal jurisdiction	Deters/limits escalation of violence through threat of prosecution, reputational costs
	Conditionality on aid, economic and diplomatic ties	Bilateral	Incentives to change perpetrator behaviour
	Countering hate speech and incitement	Blocking of social media and communications	Intercept channels for mobilising broad popular participation in violence
<b>Direct Prevention/ Imminent Risk</b>	Heightened sanctions, including arms embargoes, asset freezes, travel bans	Bilateral and multilateral	Incapacitates violating behaviour and limits scope for perpetrating violence by restricting access to resources and weapons
	Suspension of aid, economic ties	Bilateral and multilateral	Incapacitates violating behaviour and limits scope for perpetrating violence by restricting access to resources and weapons
	Accountability Mechanisms	Sponsorship of/support for collation of evidence of crimes for international prosecution, ICC referrals, universal jurisdiction	Maintains international pressure and censure on perpetrators, deterrence

	Suspension of diplomatic ties	Bilateral: withdrawal of diplomatic representation, expulsion of ambassador/diplomats  Multilateral: suspension or expulsion from regional organisations or international forums	Imposes reputational costs  Blocks partnerships for trade, security and influence  Blocks access to international decision-making forums
	Providing asylum to refugees	Open borders, protection visa program	Enables victims to flee persecution
	Support to civilian opposition	Intelligence, training, equipment, arms	Strengthens civilian self-defence where credible opposition is present
	Peacekeeping/force deployment	Multilateral support with Security Council approval	Deters or incapacitates perpetrators



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