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MAINSTREAMING ATROCITY PREVENTION

Seeing Fragility, Conflict and Violence Programming
Through an Atrocity Prevention Lens

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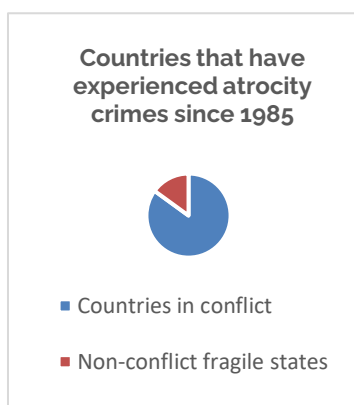
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Mainstreaming Atrocity Prevention: Seeing Fragility, Conflict and Violence Programming Through an Atrocity Prevention Lens¹

Introduction

This paper describes the value that could be added to 'fragility, conflict and violence' (FCV) programming by incorporating an 'atrocity prevention' lens. While largely complementary, efforts to prevent fragility, conflict and violence do not address all of the root causes of mass atrocities—and in some circumstances, even work at cross-purposes with atrocity prevention efforts. Focused strategies for the prevention of mass atrocities should be incorporated into FCV frameworks, as without this, FCV programmes risk failing to prevent—or worse, they risk increasing the likelihood of—atrocity crimes. Considering various elements of FCV programming, this paper demonstrates how an atrocity-prevention lens might be incorporated throughout FCV work.

A body of expertise has developed around atrocity prevention and response. This paper draws from this, conceptualising what an atrocity prevention 'lens' would look like, and how it could be applied to FCV programming. Broadly, expertise around atrocity prevention is concentrated around three areas, described below, 1) identifying atrocity risks; 2) putting mitigation measures into place to prevent atrocities; and 3) responding to atrocities when they occur.



How does the 'atrocity prevention' framework differ from frameworks addressing 'fragility, conflict and violence'?

Countries that are fragile, conflict-affected, suffer high levels of violence, or experience mass atrocities, respectively, are contextually different. These often represent stages in a trajectory of violence—with a country escalating from low-level violence, to armed conflict, to the commission of atrocities—however this is not always the case. While the stages of fragility, violence, conflict and atrocities are not perfectly linear, they are integrally related.

Research demonstrates that **fragile states are** at a heightened threat of armed conflict, and are also **at greater**

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Term	Meaning
Fragile states	Fragile states are those whose central governments lack the capacity to administer their territories effectively. Governments of fragile states are unable or unwilling to assure security and basic services to many in their populations, with their legitimacy often called into question. Fragile states are vulnerable to economic, political and environmental shocks. ²
Violent states	Violent states are those with high levels of interpersonal, gang or community-based violence.
Conflict-affected states	Conflict-affected states are affected by armed conflict between two or more state or non-state armed groups.
Mass atrocities³	Mass atrocities include war crimes, crimes against humanity and genocide. ⁴ While crimes against humanity and genocide will always be mass atrocities, war crimes can become mass atrocities when committed against large numbers of people.

risk of having atrocities occur. The risk of atrocities increases sharply with the outbreak of conflict: once a state is conflict-affected, it is 16 times more likely to experience acts of mass killing (defined as over 1000 intentional non-combatant deaths). Since 1985, 85% of atrocities have occurred in countries experiencing armed conflict,⁵ with the rest taking place in fragile states. Yet not all fragile states experience war, and not all countries in conflict suffer from mass atrocities.⁶ Where atrocities are committed outside of conflict, this sometimes foreshadows the outbreak of war—as happened following atrocities committed by both the Libyan and Syrian governments in 2011.⁷ The fact that a country has previously experienced mass killings—in times of peace or war—is amongst the strongest indicator that it will experience mass atrocities in the future.⁸

Non-military interventions aimed at countries that are fragile, those that are affected by conflict, and those affected by violence, are grouped together by some institutions⁹—as programming on **'fragility, conflict and violence' (or FCV)**—in recognition of the fact that these **exist as points on a spectrum of violence**. FCV programming encompasses a wide range of targets, combining a focus on building resilience and preventing violence and conflict, with pursuit of longer-term social, political and economic development goals.

In recent years, there has been increased attention placed on stressing the **linkages between humanitarian, development and peacebuilding work**. This focus, emphasised

² Michael Harsch, 'Measuring State Fragility: A New Approach to Identifying and Strengthening Vulnerable Countries' (2 October 2020), <https://epicenter.wcfia.harvard.edu/blog/measuring-state-fragility-new-approach-identifying-and-strengthening-vulnerable>; World Bank, 'Revised Classification of Fragility and Conflict Situations for World Bank Group Engagement', <https://pubdocs.worldbank.org/en/964161594254019510/Revised-Classification-of-Fragility-and-Conflict-Situations-web-FY21.pdf>.

³ The authors of this policy document have taken the view that while the term 'atrocities' is not a legal concept, all 'atrocities' amount to 'atrocities crimes' in international law. As such, the terms 'atrocities' and 'atrocities crimes' are used interchangeably in this piece. When Scheffer first introduced the concept of 'atrocities crimes' in 2006, he argued that it could be used as a legal term to refer to a category of crimes of a certain intensity and gravity. Straus argues that the legal concept of 'atrocities crimes' has evolved and is now used specifically to refer to genocide, crimes against humanity and war crimes. See David Scheffer, 'Genocide and Atrocity Crimes,' *Genocide Studies and Prevention: An International Journal* 1, no. 3 (2006): 238-239; Scott Straus, *Fundamentals of Genocide and Atrocity Prevention* (United States Holocaust Memorial Museum, 2016): 51.

⁴ 'War crimes' are serious violations of international humanitarian law, committed during periods of armed conflict. They include crimes committed against civilians or civilian targets. 'Crimes against humanity' are widespread and systematic attacks against groups of civilians, which may happen during peace or war. Acts of 'genocide' are those committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group. The definitions of these crimes can be found in Articles 6 – 7, Rome Statute of the International Criminal Court, (1998).

⁵ USAID, *Field Guide: Helping Prevent Mass Atrocities* (2015).

⁶ Tanzania, for example, is a fragile state that has had a long history of peacefulness. NATO's intervention in Kosovo in 1999 was arguably an example of a conflict that did not escalate to the commission of mass atrocities.

⁷ Kate Ferguson, *Preventing While Protecting: The UK's Protection of Civilians Strategy in Review* (Protection Approaches, 2019), <https://img1.wsimg.com/blobby/go/131c96cc-7e6f-4c06-ae37-6550dbd85dde/downloads/Preventing%20While%20Protecting%20The%20UK%E2%80%99s%20Protectio.pdf>; 'Libyan Forces Shoot Protesters,' *Al Jazeera*, 25 February 2011, <https://www.aljazeera.com/news/2011/2/25/libyan-forces-shoot-protesters>.

⁸ Early Warning Project, 'Accuracy of Our Forecasting Model,' 13 December 2020, <https://earlywarningproject.ushmm.org/accuracy>.

⁹ The World Bank introduced the FCV framework in its 2011 World Development Report on conflict, security and development. It adopted it as a framework in 2013. *World Bank Group Engagement in Situations of Fragility, Conflict, and Violence*, (Washington, DC: The World Bank Group, 2016): x-xi. FCV is also referenced by think tanks such as the Carnegie Endowment for International Peace and ARK.

by United Nations (UN) Secretary-General António Guterres upon taking office in December 2016, has been dubbed the **'triple nexus'**.¹⁰ In line with this approach, organisations traditionally focused on development issues have recognised the need to move beyond 'conflict-sensitive programming', to programming that actively works towards conflict prevention.¹¹ As such, organisations operating in at-risk areas have become more adept at applying a 'conflict-prevention lens' to their work. While 'conflict-prevention programming' refers to interventions designed to mitigate the risks of conflict, a 'conflict prevention lens' requires considering how other programming might impact the risk of conflict, and shaping programmes in ways that contribute to conflict mitigation and de-escalation.

In contrast to a 'conflict prevention lens', the benefits of applying an 'atrocities-prevention lens' to various areas of programming have not been fully explored, nor has atrocity prevention work been widely mainstreamed. **Actors working in this space (including governments, international organisations and scholars) often assume that interventions designed to prevent conflict or violence will simultaneously prevent atrocities. However, this is not the case.** While focusing on root causes of violence and conflict, FCV interventions do not address all causes of atrocities, which—although overlapping to some extent—are not always the same. In some cases, FCV interventions work at cross purposes with atrocity prevention. For example, the inclusion of amnesties in peace agreements might succeed in ending wars, yet allow for impunity for past violations—a possible precursor to atrocities.¹² While some facets of atrocity prevention overlap with FCV interventions, other **more focused strategies for the prevention of atrocities are not adequately incorporated within FCV frameworks.**

Some Differences Between 'Conflict Prevention' and 'Atrocity Prevention' Processes			
	Assessing programme activities to determine whether they increase or decrease risk	Incorporating early warning systems into programme designs	Including skillsets specific to risk prevention into trainings and skills development activities
Conflict prevention	Assess programme activities to see whether they increase the risk of conflict and designing programmes in ways that mitigate these.	Warning system will be designed to identify triggers and warning signs of conflict—including economic, political, environmental and social factors known to precipitate conflicts.	This will include skillsets specific to de-escalating conflict, including mediation and non-violent conflict resolution.
Atrocity prevention	Assess programme activities to see whether they increase the risk of atrocities and designing	Warning system will be designed to identify triggers and warning signs of atrocities—such as groups pitted against each other, in social hierarchies,	This will include skillsets specific to addressing grievances between identity groups, targeting hate crimes as well as

¹⁰ International Council of Voluntary Agencies (ICVA), *Learning Stream: Navigating the Nexus* (2016), https://reliefweb.int/sites/reliefweb.int/files/resources/ICVA_Nexus_briefing_paper%20%28Low%20Res%29.pdf; Europe Aid, *Engaging Non-State Actors in New Aid Modalities* (Luxembourg: European Union, 2011), <https://ecdpm.org/wp-content/uploads/2013/11/2011-non-state-actors-aid-modalities-better-development-governance.pdf>.

¹¹ Franck Bousquet, 'Humanitarian-Development-Peace Partnerships: Aligning to Tackle Fragility, Conflict and Violence,' *World Bank Blogs*, 22 July 2019, <https://blogs.worldbank.org/voices/humanitarian-development-peace-partnerships-aligning-tackle-fragility-conflict-and-violence>.

¹² Creating a legally and politically protected culture of impunity for past atrocities has been demonstrated in many contexts to increase the risk of future atrocities. See for example, UN Secretary General, 'Secretary-General's Message on the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime' (9 December 2020), <https://www.un.org/sq/en/content/sq/statement/2020-12-09/secretary-generals-message-the-international-day-of-commemoration-and-dignity-of-the-victims-of-the-crime-of-genocide-and-of-the-prevention-of-crime-scroll-down-for>; United Nations, *Framework of Analysis for Atrocity Crimes – A Tool for Prevention* (2014): 11 and 18, https://www.un.org/en/genocideprevention/documents/about-us/Doc_3_Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf; OCHCR, 'Rule of Law Tools for Post-Conflict States' (2009), https://www.ohchr.org/Documents/Publications/Amnesties_en.pdf.

	programmes in ways that mitigate these.	high-level assassinations, crackdowns on protests, and symbolically significant attacks against individuals or physical sites.	other forms of identity-based persecution.
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Nevertheless, it is important to recognise that FCV and atrocity prevention interventions have **similar and intersectional goals**. Both approaches have the protection and wellbeing of civilians and societies at their core. FCV and atrocity prevention approaches are also linked in some of their **tools and strategies**—often employing similar approaches, like the use of early warning systems. While these approaches remain distinct in their primary focus, recognising their interlinkages is important, as these frameworks can complement and augment each other's effectiveness.

While atrocity prevention can be viewed as a standalone framework, an atrocity prevention 'lens' can also be added to other areas of focus.¹³ Applying an atrocity prevention lens requires systematically considering whether project activities increase the risk of atrocities occurring, and proactively incorporating measures to address that risk—recognising that these may not be the same risks or measures applicable to conflict. This paper argues that **FCV interventions would be strengthened by the inclusion of an atrocity prevention lens, ensuring that the risks of atrocities are identified, considered and mitigated**.

The section that follows describes in more detail the FCV and atrocity prevention frameworks. The paper then points to specific areas where FCV programming falls short from an atrocity prevention perspective, demonstrating how these shortcomings might be addressed. It describes what adding an atrocity prevention lens to FCV work might look like in practice, pointing to a number of areas across the FCV programming spectrum where an added focus on atrocity prevention might help better protect people from atrocities.

The Fragility, Conflict and Violence Framework

The focus on FCV subsumes interventions to address fragility, conflict and violence into the same overall framework.¹⁴ In its 2020-2025 'Strategy for Fragility, Conflict, and Violence', the World Bank describes the stages of fragility, conflict and violence as 'interrelated and mutually reinforcing'.¹⁵ It commits to addressing these stages holistically through **four pillars of action**: (i) **preventing violent conflict and interpersonal violence**; (ii) **remaining engaged during conflict and crisis situations**; (iii) **helping countries transition out of fragility**; and (iv) **mitigating the spill-overs of FCV**.¹⁶ These four pillars are utilised in the analysis below, to demonstrate how atrocity prevention might be mainstreamed across FCV programming. Actors who work in these areas of programming are referred to in this piece as 'FCV actors'.

¹³ Federica D'Alessandra, 'Atrocity Prevention in a Multilateral Setting'.

¹⁴ United Nations and World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (Washington, DC: The World Bank Group, 2018), <https://www.worldbank.org/en/topic/fragilityconflictviolence/publication/pathways-for-peace-inclusive-approaches-to-preventing-violent-conflict>; World Bank, *Strategy for Fragility, Conflict, and Violence 2020-2025* (Washington, DC: World Bank Group, 2019), <http://documents1.worldbank.org/curated/en/844591582815510521/pdf/World-Bank-Group-Strategy-for-Fragility-Conflict-and-Violence-2020-2025.pdf>.

¹⁵ World Bank, *Strategy for Fragility*, 16.

¹⁶ Ibid.

The World Bank: 2020-2025 'Strategy for Fragility, Conflict, and Violence'



Although 'fragility', 'conflict' and 'violence' have been incorporated into a broader framework, the component parts are important to understand. The core objectives of **fragility** programming are to **support countries in developing strong institutions and democratic governance structures**. Fragile states are characterised by weak, non-inclusive governance systems which lack legitimacy, and by a dearth of robust institutions capable of preventing abuse of power. In fragile states, groups with opposing identities perceive their struggles, and their claims to a country's resources, as being interconnected. These factors undermine resilience, making a country highly vulnerable to political, economic, and environmental shocks.¹⁷ Interventions aimed at addressing fragility require a range of targets. These efforts go beyond supporting countries in developing constitutions or holding multi-party elections, which past fragility programmes tended to dwell on.¹⁸ More recently, practitioners have recognised that fragility programming must follow a multi-pronged approach, spanning development, humanitarian and peacebuilding interventions (the 'triple nexus', mentioned above). This should aim to address root causes of violence (a traditional 'development' focus), to provide support to citizens of countries affected by disruptions (a 'humanitarian' focus), and to help governments, armed groups and citizenry find peaceful solutions to disputes (a 'peacebuilding' focus).¹⁹

Conflicts occur when organised groups (either state or non-state) use violence to resolve grievances, to establish legitimacy or to challenge or maintain authority. Conflict-focused programming addresses **prevention, response, and recovery**. Conflict 'prevention' includes **designing early warning and response systems**, as well as developing **conflict-mitigation and conflict resolution** initiatives—such as programmes promoting social cohesion, or challenging narratives and perceptions that lead to conflict.²⁰ These interventions address causes of conflict *before* fighting is imminent, thereby tackling many of the same factors as fragility programming. Conflict 'response' and 'recovery' includes service provision, peacebuilding and post-conflict state building—again, covering much of the same ground as fragility interventions.

¹⁷ LSE-Oxford Commission on Fragility, Growth and Development, *Escaping the Fragility Trap* (International Growth Centre, 2018), 16, <https://www.theigc.org/wp-content/uploads/2018/04/Escaping-the-fragility-trap.pdf>.

¹⁸ Ibid.

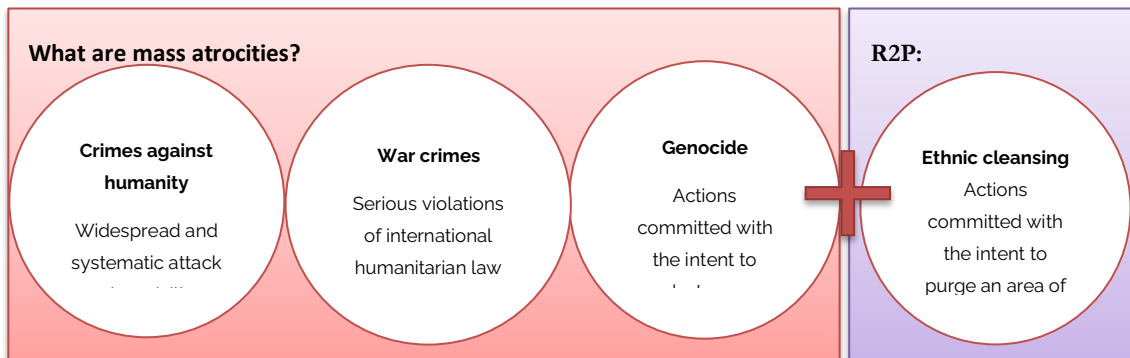
¹⁹ ICVA, *Learning Stream*; Europe Aid, *Engaging Non-State Actors in New Aid Modalities (2018)*; United Nations Development Programme (UNDP), *Governance for Peace: Strengthening Inclusive, Just and Peaceful Societies Resilient to Future Crises* (2020), <https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/undp.pdf>.

²⁰ Iffat Idris, *Media/Communications on Peacebuilding/Social Cohesion/Changing Prevailing Narratives on Conflict* (K4D research helpdesk, 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/781_Media_communications_for_peacebuilding_social_cohesion_changing_prevailing_narratives_on_conflict.pdf.

Programming to address **violence** aims to tackle issues like interpersonal violence, gang violence and violent extremism, all of which have destabilising impacts on communities.²¹ This includes interventions to address **gender inequality**, **radicalisation** and **drug dependency**, as well as programming aimed at economic stressors, climate change, demographic change, and other potential causes of social and environmental shocks.²²

The atrocity prevention framework

Atrocity prevention refers to interventions focused on preventing the commission of mass atrocities, like genocide, crimes against humanity and war crimes. Some frameworks also include ethnic cleansing within the definition of atrocities.²³



The ultimate aim of atrocity prevention programming is to protect civilians from mass atrocities. Actors operating in the atrocity prevention space include those focused on **early warning systems and prevention**;²⁴ those providing **immediate protection to civilians** from atrocities, including military and peacekeeping actors;²⁵ and those **managing the after-effects of atrocities, so as to prevent atrocities from re-occurring**.²⁶

Atrocity prevention involves many of the same interventions as those geared towards conflict prevention, yet with a focus on the specific risks and triggers of mass atrocities.²⁷ Atrocity prevention frameworks include the Responsibility to Protect (R2P) and Protection of Civilians (PoC) doctrines.

The Responsibility to Protect Doctrine

The atrocities committed in Rwanda and the former Yugoslavia in the 1990s brought into focus the need for explicit commitments obliging the international community to intervene to prevent the most serious international crimes against civilians. These events led to the

²¹ World Bank, *Strategy for Fragility*, 6.

²² World Bank, *Strategy for Fragility*, viii.

²³ Ethnic cleansing is not a separate 'crime' under international law. Rather, it is contained within the definition of other international crimes. Ethnic cleansing is generally used to describe mass violence and efforts to purge an area of a certain group, carried out against a population on the basis of their ethnicity or other group membership, which does not meet the stringent legal definition of a genocide. Linnea Manashaw, 'Genocide and Ethnic Cleansing: Why the Distinction? A Discussion in the Context of Atrocities Occurring in Sudan,' *California Western International Law Journal* 35, no. 2 (2005): 13, <https://scholarlycommons.law.cwsl.edu/cwilj/vol35/iss2/6>. Violence against the Rohingya in Myanmar, for example, has been described as ethnic cleansing – although a case at the International Court of Justice is currently underway, arguing that the killings of Rohingya in 2017 meets the criteria of a genocide: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), <https://www.icj-cij.org/en/case/178>.

²⁴ Scott Straus, *Fundamentals of Genocide*; Global Action Against Mass Atrocity Crimes (GAAMAC), *Manual on Best Practices for the Establishment and Management of National Mechanisms for Genocide and Mass Atrocities Prevention* (2019)

www.gaamac.org/media-uploads/awg-manual/AWG_MANUAL_POST_GAAMAC_III_EN_06.08.2019.pdf; USAID et al., *Preventing Atrocities: Five Key Primers* (2011), <https://freedomhouse.org/sites/default/files/Preventing%20Atrocities%20Five%20Key%20Primers.pdf>.

²⁵ The Brookings Institution, 'Seminar #3: The Role of the International Community' (seminar, Brookings Institution, Washington, DC, 13 January 2011), www.brookings.edu/wp-content/uploads/2012/04/0113_poc_three_report.pdf.

²⁶ Scott Straus, *Fundamentals of Genocide*; USAID, *Field Guide*.

²⁷ USAID, *Field Guide*, 2.

unanimous adoption of the Responsibility to Protect (R2P) doctrine at the UN World Summit in 2005.²⁸ R2P attempts to address the question of 'if' and 'when' the international community has a responsibility to intervene to prevent atrocities within a state, even without that state's consent. At the core of the doctrine is the notion that state sovereignty is contingent on the ability and willingness of a state to protect its civilians from atrocities.²⁹

R2P is articulated in paragraphs 138 and 139 of the World Summit Outcome Document, which states agreed to at the 2005 UN World Summit.³⁰ UN Secretary General Ban Ki Moon subsequently articulated R2P as comprising three pillars:³¹ The **first** reiterates obligations incumbent on each state under international law to protect its population from atrocity crimes. The **second** describes the responsibility of the international community to assist a state in protecting its civilians from atrocities. This obligation has its basis in international laws such as the Geneva Conventions, the Genocide Convention, the Rome Statute of the International Criminal Court, and the Convention Against Torture. The **third** places responsibility on the international community, through the UN, to intervene where states are 'unwilling' or 'unable' to protect their citizens.³²

There has been a tendency to conflate all modes of intervention under the third pillar with military intervention. However, **R2P obligations encompass both humanitarian and peaceful interventions, with military actions available as a last resort.** The UN World Summit Outcome Document specifies that the responsibility to intervene exists whether or not the concerned state consents to the action—yet it confirms that any coercive intervention must be mandated by the UN Security Council.

Protection of Civilians

The PoC doctrine was also developed in response to the mass violence of the 1990s. Concerned by the failure of states and the UN to effectively protect civilians from harm, and implored by the UN Secretary-General to address this, the Security Council requested the submission of recommendations on how the protection of civilians in armed conflicts could be strengthened. The resultant report, submitted by the UN Secretary General to the Security Council in 1999, became the founding instrument of the PoC doctrine.³³

While the PoC doctrine first focused on protection during *armed conflicts*, and on actions that could be taken by *states* and the *Security Council* to protect civilians, the doctrine has evolved and is now also relevant in instances *outside* of armed conflict.³⁴ Today all actors—including those from the development, private, humanitarian and peacebuilding sectors—should be guided by the PoC doctrine in any situation of mass violence.³⁵

The measures required to put PoC into practice vary depending on the actors involved and encompass a range of approaches. To ensure the protection of civilians, the Security Council can, for example, put pressure on states through sanctions; humanitarian actors can provide civilians with medical care, or can monitor and report human rights violations; peacekeepers can patrol areas where civilians are sheltered to ensure their protection; and national authorities can work toward strengthening their institutions and towards building

²⁸ UN General Assembly, *2005 World Summit Outcome* (2005), A/RES/60/1, https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.

²⁹ Luke Glanville, *Sovereignty and the Responsibility to Protect: A New History* (University of Chicago Press, 2014).

³⁰ UN General Assembly, *2005 World Summit Outcome* (2005), A/RES/60/1, https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.

³¹ UN General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary-General*, 12 January 2009, A/63/677, <https://www.refworld.org/docid/4989924d2.html>.

³² For discussions on the contents and merits of R2P, see, Emily Paddon Rhoads and Jennifer Welsh, 'Close Cousins in Protection: The Evolution of Two Norms,' *International Affairs* 95, no. 3 (May 2019): 4; J. Ralph, 'What Should Be Done? Pragmatic Constructivist Ethics and the Responsibility to Protect,' *International Organization* 72, no. 1 (2018): 173-203; H. Breakey et al., *Enhancing Protection Capacity: Policy Guide to the Responsibility to Protect and the Protection of Civilians* (Queensland: Griffith University, 2012), 10, https://i.unu.edu/media/unu.edu/publication/31142/R2P_PoC_Policy_Guide.pdf; Alex J. Bellamy, 'The Responsibility to Protect: A Defense' (Oxford University Press, 2014).

³³ Emily Paddon Rhoads and Jennifer Welsh, *Close Cousins in Protection*, 4.

³⁴ While the PoC doctrine is rooted in international humanitarian law concepts of protecting civilians during times of armed conflict, it has expanded to encompass a wider mandate which incorporates international human rights obligations as well as broader humanitarian principles.

³⁵ Breakey et al., *Enhancing Protection Capacity*, 12.

governance structures.³⁶ The parameters of the PoC agenda are interpreted differently by different actors. NATO, for example considers PoC to encompass issues relating to Children and Armed Conflict, Women Peace and Security, and Conflict-Related Sexual Violence,³⁷ while the UN Department of Peacekeeping Operations considers these all to be separate yet intersecting agendas.³⁸

The Relationship Between R2P and PoC

Both the R2P and PoC doctrines have, at their core, notions about states' and the international community's responsibility to protect civilians from egregious violations. The tools available under both frameworks include peaceful, humanitarian and diplomatic measures—all of which are intended to be utilised before resort to military action. An articulation of the responsibility to intervene in contexts where states are unwilling or unable to protect their civilians is the hallmark of R2P. PoC, in contrast, does not explicitly call on states to intervene. Rather, PoC is seen as a 'softer' framework of action, focused on humanitarian assistance and protection. In practice however, PoC mandates may necessitate military actions in circumstances where this is the only strategy likely to provide meaningful protection to civilians. Authorisations for coercive military interventions provided by the Security Council, may be issued with a PoC justification.

The relationship between R2P and PoC was demonstrated in NATO's 2011 intervention in Libya. That situation led many states and policymakers to retreat from their commitment to R2P, which they came to view as a tool to authorise externally driven regime-change. In fact, the UN Security Council resolutions that authorised the Libyan intervention referenced both PoC and the Libyan government's 'responsibility to protect' its population. The Libyan case is an example of an intervention that was undertaken pursuant to both the PoC and R2P agendas—and one which attracted fierce scrutiny and criticism, as the situation in Libya continued to deteriorate.

Adding an Atrocity Prevention 'Lens' to FCV Programming

To ensure that civilians are protected from mass atrocities—in times of peace, times of fragility, and times of war—an atrocity prevention lens should be applied to FCV work. The sections that follow describes pillars of FCV programming, illustrating how an atrocity prevention lens might be added to each.

Pillar 1: Preventing violent conflict and interpersonal violence

Programming to prevent conflict and violence follows the dual-pronged approach of **assessing and mitigating risks and drivers of fragility**, and **identifying and strengthening sources of resilience**. Interventions to assess and mitigate risks involve identifying early warning signs and triggers of conflict, and finding ways to respond to these.³⁹ Programming to build resilience includes developing legal frameworks and promoting the rule of law, as well as supporting the creation of resilient government institutions.

Development of legal frameworks. FCV programming includes interventions that promote access to justice and the rule of law, including by supporting countries in developing

³⁶ Ibid., 5.

³⁷ NATO, 'Protection of Civilians,' 28 June 2018, www.nato.int/cps/en/natohq/topics_135998.htm.

³⁸ UN Peacekeeping, 'Protection of Civilians Mandate,' <https://peacekeeping.un.org/en/protection-of-civilians-mandate>.

³⁹ World Bank, *Strategy for Fragility*, 21 -23.

necessary legal frameworks.⁴⁰ Applying an atrocity prevention lens to the development of laws and policies, highlights the need to **draft legislation pertaining to atrocities, and to build capacity amongst justice actors to respond to atrocity crimes**. Such legislation could domesticate international criminal, humanitarian and human rights law, including adopting their definitions of crimes, evidentiary standards and procedural safeguards. This could also include creating laws criminalising hate speech and protecting minorities. The UN Office for the Prevention of Genocide and the Responsibility to Protect, the United Nation's primary office for atrocity-prevention, provides technical assistance to states in this regard, supporting them in the development of legal frameworks aimed at preventing and punishing atrocity crimes in line with international standards.

Capacity should also be developed amongst actors involved in the **documentation of violations**; in the **establishment of transitional justice mechanisms**; in the **enforcement of domestic criminal laws**; and in **the investigation and prosecution of atrocity crimes**. Developing this capacity ensures that countries will not face the problem of having otherwise functional legal systems (which have often been supported by FCV justice interventions), which are unable to respond to atrocity crimes when they occur. This was the situation in Kenya following its 2007 election violence, where an absence of law criminalising crimes against humanity in Kenya's domestic legal framework contributed to an accountability gap for the atrocities committed.⁴¹ Societies that are ill-equipped or disinclined to deal with atrocities, might struggle to deliver justice in ways that rebuild civic trust, and which present a real alternative to violence for the resolution of conflict—a key goal of FCV justice programming.⁴² Impunity for atrocity increases the risk of further atrocities, so preventing impunity also has a deterrent function.

Supporting the development of resilient institutions. Supporting the development of resilient institutions is a core focus of FCV programming. Here tensions may emerge between FCV programming and atrocity prevention efforts. Programming to address fragility emphasises the need for government buy-in and 'ownership', and a move away from making aid conditional on implementing specific policies.⁴³ Atrocity prevention stresses the need to ensure that international support does not build the capacity of discriminatory, exclusionary government institutions.⁴⁴ It requires practitioners to explicitly consider the circumstances in which programming to strengthen institutions might increase the risk of atrocities. For example, an autocrat who perceives a threat from a civil society group advocating for democracy, may be incentivised to attack that group. Applying an atrocity prevention lens to development support does not imply that preconditions must be attached to financial and development aid, but it does mean **drawing 'red lines' around funding, ensuring this does not go to institutions that are on a trajectory to committing atrocities**. Analyses of risks and opportunities should include specific risk assessments of the potential for mass atrocities—and any aid should be tailored towards mitigating such risks.⁴⁵ While FCV actors have become increasingly aware of the need to apply a 'do no harm' standard to their programming, assessment of such scenarios through a specific atrocity prevention lens is not yet standard practice.⁴⁶

Early warning systems and risk mitigation. The outbreak of atrocities is difficult to predict—often more so than the onset of conflict.⁴⁷ Surveillance systems used by FCV actors, such as the African Union's Continental Early Warning System,⁴⁸ would be strengthened by incorporating an atrocity focus. This involves explicitly looking for risks and warning signs of atrocities, in addition to conflict and violence indicators. These systems should take the following into account:

⁴⁰ Justice and the rule of law, including supporting the drafting of legislation, is a priority area for the World Bank's FCV programming. See World Bank, *Strategy for Fragility*.

⁴¹ Abdullahi Boru Halakhe, *R2P in Practice: Ethnic Violence, Elections and Atrocity Prevention in Kenya*, Global Centre for the Responsibility to Protect (2013), 12, http://www.globalr2p.org/wp-content/uploads/2020/07/Kenya_OccasionalPaper_Web.pdf.

⁴² USAID et al., *Preventing Atrocities*, 20.

⁴³ LSE-Oxford Commission on Fragility, Growth and Development, *Escaping the Fragility Trap*, 19.

⁴⁴ USAID, *Field Guide*, 28.

⁴⁵ Ibid., 22.

⁴⁶ Ibid., 21.

⁴⁷ Scott Straus, *Fundamentals of Genocide*, viii, 266.

⁴⁸ African Union Peace and Security, *The Continental Early Warning System (CEWS)* (2018), www.peaceau.org/en/page/28-continental-early-warning.

Motivations for perpetrating atrocities may differ from motivations for going to war.⁴⁹ Risk factors for both conflicts and atrocities include group-based grievances arising from inequality, exclusion and feelings of injustice, where non-violent means to resolve grievances are perceived as unavailable and where there are no significant disincentives to resorting to violence.⁵⁰ **The circumstances preceding mass atrocities generally include the existence of groups that are not only pitted against each other, but are operating within a social hierarchy**, in which certain categories of citizenry are considered outside of the sphere of political power and social privilege and are deprived of equal treatment.⁵¹ A warning sign for genocide is **when groups are represented as presenting existential threats to other groups**—and often to groups who are, in fact, more powerful than they are.⁵² Dehumanisation in language and policy might be evident. Histories of past atrocities may inform these social dynamics. Such tensions left unaddressed may escalate to mass atrocities—as happened in Rwanda, Myanmar and Bosnia.

Unlike armed conflicts, genocides and crimes against humanity often involve the mass participation of perpetrators who are not members of armed groups, but rather are 'ordinary' civilians. This was the case in the Rwandan genocide, the Kenyan 2007 post-election violence and the mass violence between ethnic Kyrgyz and Uzbeks in Kyrgyzstan in 2010. Research into perpetrator motivations for committing mass atrocities indicates that **people perpetrate due to cultures of obedience, identification with leaders, indoctrination, peer pressure, coercion, fear, greed, ideology and opportunity**.⁵³ The UN Framework of Analysis for Atrocity Crimes includes indicators such as 'strong culture of obedience to authority and group conformity' as risk factors for the involvement of ordinary people in largescale violence.⁵⁴ **FCV actors should be trained to identify specific risk factors for mass mobilisation towards atrocities, as well as avenues for mitigation.**

Another risk factor for mass atrocities is the **development or strengthening of the capabilities necessary for the commission of atrocities**. As the UN's Framework of Analysis for Atrocity Crime observed, 'atrocity crimes are not easy to commit'.⁵⁵ Genocide and crimes against humanity involve largescale, systematic violence that necessitates planning and resources. When states or non-state entities are considered at risk of committing atrocities, FCV actors should **interrogate the possible pathways by which these entities might be capacitated to carry such actions out**. This includes assessing their ability to procure arms or assistance from other states or groups. Doing this will make FCV actors better equipped to identify relationships, means and entry points that make such violence possible.

Understanding and responding to triggers. The outbreak of atrocities tend to be triggered by certain events. The commission of atrocities like crimes against humanity or genocide, usually begin more abruptly than armed conflicts, predicated by trigger events which sharply and rapidly increase violence. Of course, these triggers do not occur in isolation. They occur along a continuum of events—making it important that other events on the continuum also be identified and responded to.⁵⁶ The US Holocaust Memorial Museum lists possible triggers for mass atrocities as including: high-level assassinations, coups or attempted coups, changes in conflict dynamics, crackdowns on protests, and symbolically significant attacks against individuals or physical sites.⁵⁷ FCV actors should be trained to **recognise potential atrocity triggers, and to identify events that might indicate an imminent risk**.

⁴⁹ Jason Ralph, *Mainstreaming the Responsibility to Protect in UK Strategy*, UNA-UK Briefing Report (2014), 16, <https://una.org.uk/sites/default/files/UNA-UK%20Policy%20briefing%202%20-%20Professor%20Jason%20Ralph%20-%20Mainstreaming%20R2P%20in%20UK%20strategy.pdf>.

⁵⁰ UN and World Bank, *Pathways for Peace*.

⁵¹ Scott Straus, *Fundamentals of Genocide*, 59.

⁵² James Hughes, *Genocide and Ethnic Conflict*, in Routledge Handbook of Ethnic Conflict, eds. Karl Cordell and Stefan Wolff (Abingdon: Routledge, 2010).

⁵³ Scott Straus, *Fundamentals of Genocide*; Timothy Williams, *The Complexity of Evil: Perpetration and Genocide* (Rutgers University Press, 2021); James Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (Oxford University Press, 2007); Alexander Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide* (University of California Press, 2005); Jonathan Leader Maynard, *Rethinking the Role of Ideology in Mass Atrocities*, *Terrorism and Political Violence* 26 (2014): 821 – 841.

⁵⁴ United Nations, *Framework of Analysis for Atrocity Crimes*.

⁵⁵ *Ibid.*, 14.

⁵⁶ Serena Sharma and Jennifer Welsh, eds., *The Responsibility to Prevent: Overcoming the Challenges to Atrocity Prevention* (Oxford: Oxford University Press, 2015); Scott Straus, *Fundamentals of Genocide*, 83.

⁵⁷ Serena Sharma and Jennifer Welsh, *The Responsibility to Prevent*; Scott Straus, *Fundamentals of Genocide*, 83.

Pillar 2: Remaining engaged during crises and conflict situations

There are some differences in the ways FCV actors respond to crises and conflicts, and the ways atrocity prevention actors respond to atrocities. FCV actors remain engaged during conflicts and crises, and continue supporting developmental and governance processes even as violence is ongoing, as this might 'help mitigate conflict and lay the foundations for peace'.⁵⁸ In contexts where atrocities have been committed, the space for development programming shrinks, as the attention of all actors turns to protecting civilians from further harm.

Direct protection. In both the conflict and atrocity-response space, actors intervene directly to protect civilians—including through military interventions, safe passages and the establishment of protected areas and safe havens. FCV frameworks do not tend to have strict rules for when actions must be taken to protect civilians.⁵⁹ In contrast, actors focussed on atrocity prevention have attempted to specify the circumstances when the international community has a responsibility to intervene to provide direct protection to civilians—including through the development of the R2P and PoC doctrines, described above. Atrocity prevention actors have been more comfortable '**drawing red lines**', so that **once atrocities have been committed, there are clear obligations for taking actions to prevent further harm.**

Support for government processes. In FCV programmes, the circumstances in which organisations must cease to engage with governments who are committing violations are unclear. The World Bank's Strategy for Fragility, Conflict and Violence notes that, '... even in the toughest environments during conflict, the World Bank Group (WBG) can meaningfully engage to preserve institutional capacity and human capital that will be critical for the country's future recovery.'⁶⁰ Where governments actions are directly causing violence or conflict, the World Bank adjusts its approach, maintaining a low-key engagement and risk mitigation strategy, guided by the 'do no harm' principle.⁶¹ In contrast, policy guidance on atrocity prevention makes it clear that external actors should desist from supporting or building the capacity of 'highly discriminatory government institutions', due to the risk that this will create conditions in which atrocities become more likely.⁶² Accordingly, **proactive steps should be taken to ensure that assistance never supports actors on a trajectory towards committing atrocities. An atrocity prevention lens requires formulating clear rules about when to withdraw support completely.**

Example: Australian support to Myanmar

International donors sometimes send mixed messages to regimes perpetrating violations, rather than clear condemnation. Until recently Australia was one of the top providers of aid to Myanmar. The Australian government's support involved many elements of FCV programming, such as the provision of development support, professionalizing the military, and cooperation aimed at curbing the illicit drug trade. In 2017, Myanmar's military (the Tatmadaw) carried out 'clearance operations' operations in Rakhine state, involving the killing and rape of Rohingya, and the destruction of their homes and villages. Australia—unlike its counterparts in the US, Canada and UK—chose to not use the language of atrocities to describe this violence; to not cease cooperation with the Tatmadaw; and to not impose sanctions or travel bans on military leaders, until the findings of the Independent International Fact-Finding Mission on Myanmar were released in September 2018. The Australian government has been subject to criticism for prioritizing continued engagement with Myanmar, over the protection of civilians from atrocities.⁶³ A study commissioned in 2015 by Australia's Department of Foreign Affairs and Trade, concluded

⁵⁸ World Bank, *Strategy for Fragility*, 24.

⁵⁹ Ibid.

⁶⁰ World Bank, *Strategy for Fragility*, viii.

⁶¹ Ibid.

⁶² USAID, *Field Guide*, 28.

⁶³ Cecilia Jacob, 'Navigating Between Pragmatism and Principle: Australia's Foreign Policy Response to the 2017 Rohingya Crisis,' *Global Responsibility to Protect* (2018): 1-32.

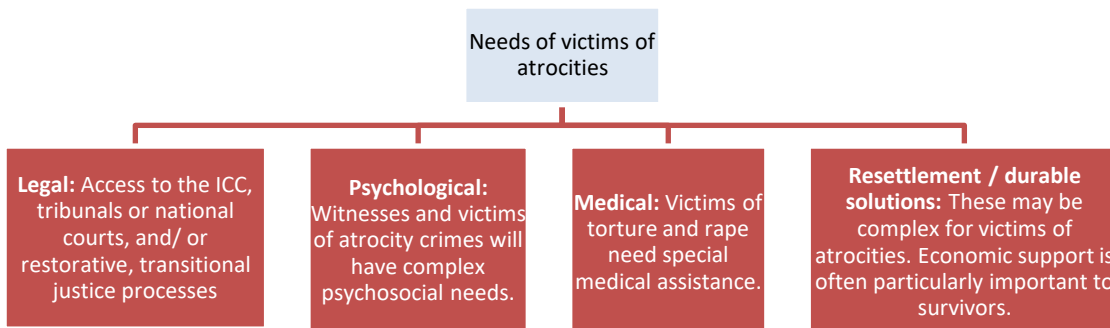
that Australia lacks a coordinated strategy and processes for early warning and for integrating atrocity prevention into their conflict analysis work.⁶⁴ Experts have attributed Australia's failure to act to protect Rohingya civilians, in part, to this gap.⁶⁵

Pillar 3: Helping countries transition out of fragility

Pillar 3 of the FCV programming framework promotes approaches aimed at renewing the social contract between citizens and states, and at strengthening the legitimacy and capacity of core institutions.⁶⁶ While this may involve many of the same focus points as the 'prevention pillar' (Pillar 1), it also involves addressing grievances and injustices committed during periods of fragility, conflict or violence, as well as providing for the needs of affected populations.⁶⁷

Meeting the needs of survivors. The needs of atrocity survivors may differ to the needs of those who have experienced conflict. (Many survivors belong to both groups, having been subjected to both war and atrocities). Communities recovering from conflict may prioritise returning to their homes and resuming their lives, while for victims of atrocities, this may be impossible or undesirable. For many Rohingya and Yazidi atrocity survivors, for instance, return would only be feasible if their security was guaranteed. Many atrocity survivors have said they would not wish to return to their homes until there is some measure of justice and accountability for their perpetrators.⁶⁸

Some key needs of victims of mass atrocities are depicted in the figure below.⁶⁹ Where relevant, **these should be provided for as part of FCV programming.** For example, if mass sexual violence has been committed as part of an atrocity crime, service providers, documenters and justice actors experienced in the commission of sexual violence as international crimes, should be involved in designing interventions to provide services, collect evidence and to support survivors.



Options for accountability. When atrocities have been perpetrated, the options for responding to, or placing pressure on, key stakeholders, are generally more extensive than

⁶⁴ Asia Pacific Centre for the Responsibility to Protect (APCR2P), 'Study on the Domestic Implementation of Responsibility to Protect (R2P),' (2015). <https://www.dfat.gov.au/sites/default/files/study-on-australias-domestic-implementation-r2p-2015.pdf>.

⁶⁵ Cecilia Jacob, 'Navigating between Pragmatism and Principle,' 1-32.

⁶⁶ World Bank, *Strategy for Fragility*, 27.

⁶⁷ *Ibid.*, 30.

⁶⁸ Human Rights Watch, 'Myanmar: Rohingya Await Justice, Safe Return 3 Years On,' *Human Rights Watch News*, 24 August 2020, <https://www.hrw.org/news/2020/08/24/myanmar-rohingya-await-justice-safe-return-3-years>; Maryna Tkachenko, 'Global Justice Centre Blog: Five Years After Genocide, Yazidis are Still Waiting for Justice,' *Global Justice Center Blog*, 2 August 2019, <https://globaljusticecenter.net/blog/1152-five-years-after-genocide-yazidis-are-still-waiting-for-justice>.

⁶⁹ Survivors of mass rape, for example, experience specific health consequences. See Ahuka Ona Longombe et al., 'Fistula and Traumatic Genital Injury from Sexual Violence in a Conflict Setting in Eastern Congo: Case Studies,' *Reproductive Health Matters* 31, no. 16 (2008): 132-141. Mass sexual violence also leads to specific mental health problems. Maggie Zraly et al., 'Primary Mental Health Care for Survivors of Collective Sexual Violence in Rwanda,' *Global Public Health* 3, no. 6 (2011): 257-270. Much has been written about how the experience of witnessing genocide has had an effect on the mental functioning of those witnessing the Holocaust and the Rwandan genocide. See, Susan Pinker, 'Inheriting the Trauma of Genocide,' *Wall Street Journal*, 21 February 2019, <https://www.wsj.com/articles/inheriting-the-trauma-of-genocide-11550761430>.

they are in situations of general violence or armed conflict. Atrocity crimes are more likely to evoke condemnation from the international community; may result in referrals to the International Criminal Court or other tribunals; and might prompt UN authorised arms-embargoes and targeted sanctions. In some circumstances, atrocities provide the opportunity for cases to be prosecuted in third countries on the basis of 'universal jurisdiction'—as is currently happening with the genocide case levelled against Myanmar's leaders in Argentina.⁷⁰ **Highlighting the potential consequences for perpetrators of atrocities at an early stage might help deter actors from committing these crimes—** although the extent to which accountability measures serve as a deterrent is contested.⁷¹

Atrocity prevention and FCV actors engage with accountability mechanisms—such as international courts, fact-finding missions and panels of experts—in divergent ways. Atrocity prevention actors are more likely to engage in such processes, as part of their core mandate involves advocacy and accountability around atrocities. The situation for humanitarian and FCV actors is more complex. Given the part that impartiality and neutrality plays in their work, and the risks that participation in accountability processes might pose to staff and operations, humanitarian actors in particular face challenges in engaging with accountability processes.⁷² FCV actors engaged in direct service provision to affected populations might face similar challenges—while those focused on access to justice and accountability would be less explicitly committed to neutrality and might more easily engage with justice processes. Still, even for them challenges remain, including inherent difficulties in having government counterparts who are the subjects of accountability processes, and problems with access, as accountability actors might not be allowed into certain areas.

Despite these challenges, FCV actors do have access to information that can be valuable in accountability processes, and are sometimes called upon to share this data—including information on suspected violations, on identities of victims and perpetrators, and aggregated data to help form a picture of the 'trends' and 'patterns' in a certain situation.⁷³ Often, FCV actors are in unique positions to support or ensure real-time documentation of atrocities, in or outside of zones of violence. While large humanitarian organisations, like the International Committee of the Red Cross and UN agencies have clear rules about what information to collect and store, and when and how to engage with accountability mechanisms, many FCV organisations, however, including non-governmental organisations working in this area, tend to be less clear about whether and in what circumstances to cooperate with accountability mechanisms; how best to do so; and what the risks and trade-offs might be. **Guidance is required for FCV actors on when to engage with accountability mechanisms; how to do so without compromising the safety and independence of programmes and staff; which information should be shared for accountability purposes; and procedures by which to share this.**⁷⁴

Pillar 4: Mitigating the spillovers of FCV

This pillar focusses on supporting countries, and their most vulnerable and marginalised communities, in dealing with the after-effects and 'spillover' impacts of conflicts and crises. The World Bank uses the term 'spillover' to describe factors that might compound the impacts of conflict. This includes a focus on members of marginalised groups, as well as on the impact of other crises—like natural disasters and health epidemics—on conflict-affected contexts and communities. In terms of the World Bank's 2020–2025 Strategy, there are two broad types of FCV spillovers they are concerned with mitigating.

⁷⁰ Md. Kamruzzaman, 'Argentinian Court Decision brings Hope for Rohingya,' *Anadolu Agency*, 2 June 2020, <https://www.aa.com.tr/en/americas/argentinian-court-decision-brings-hope-for-rohingya/1861967>.

⁷¹ European University Institute, 'Humanitarian Actors' Engagement with Accountability Mechanisms in Situations of Armed Conflict,' (16 January 16 2016) https://iow.eui.eu/wp-content/uploads/sites/20/2016/06/Humanitarian-Actors-Engagement-with-Accountability-Mechanisms_Workshop-Report.pdf.

⁷² Ibid.

⁷³ Federica D'Alessandra and Kirsty Sutherland, 'The Promise and Challenges of New Actors and New Technologies in International Justice and Accountability' in *Special Issue: New Technologies and the Investigation of International Crimes*, *Journal of International Criminal Justice* 19, no. 2 (2021).

⁷⁴ Federica D'Alessandra, 'Anchoring Accountability for Mass Atrocities Through Stronger States' Support of UN Investigative Mandates,' *Oxford Programme on International Peace and Security*, February 2021. Also see: European University Institute, 'Humanitarian Actors'.

Spillovers for marginalised groups. The first type of spillover identified by the World Bank, addresses the different and disproportionate impacts of FCV on marginalised groups, like women, minorities, persons with disabilities and the elderly. This pillar recognises that vulnerable communities experience FCV differently, and puts in place measures to mitigate these divergent effects. Actors in the atrocity prevention space have in the past been criticised for failing to recognise the differentiated impacts of particular crimes on people from different backgrounds and identities. This has now shifted to some extent. The International Criminal Tribunals of Rwanda and Yugoslavia have made advances in recognising the disproportionate impact of conflict related sexual violence on women and girls.⁷⁵ More recently, there has been recognition given by legal commentators to the disproportionate impact of atrocity crimes on LGBTQ communities⁷⁶ and persons with disabilities,⁷⁷ although this has yet to be reflected in international criminal law jurisprudence. **Actors within both the FCV and atrocity prevention space should apply an intersectional approach, in which specific risks to marginalised groups, as well as overlapping layers of victimisation, are recognised and targeted.**⁷⁸

Spillovers of FCV in terms of the impact of other crises on conflict-affected populations. The second type of spillover addresses the impacts of environmental disasters, famine, extreme hunger, epidemics, forced displacement and other crises, on communities affected by conflict. FCV actors focus on preventing these types of shocks from leading to further violence, conflict and insecurity.⁷⁹ Atrocity prevention actors focus on how these events might also increase the risk of atrocities. Organisations such as the Global Centre for the Responsibility to Protect,⁸⁰ the US Holocaust Memorial Museum⁸¹ and the Auschwitz Institute for the Prevention of Genocide and Mass Atrocities⁸² have produced research on how the risk of atrocities is increased by crisis events. In Syria, for example, the 'Arab Spring' protests that were violently quelled through atrocities by the Syrian regime, were fuelled by the worst drought in the country's history, and the consequent displacement of 1.5 million Syrians from their farms to urban areas.⁸³ More recently, recognition has been given to the ways in which COVID-19 has increased the risk of atrocities in FCV countries, oftentimes exacerbating existing identity-based tensions.⁸⁴ **FVC actors should understand the ways in which secondary impacts of crises might create enabling conditions for the commission of atrocities, and ensure that programming proactively mitigates such risks.**

⁷⁵ Valerie Oosterveld, 'The Legacy of the ICTY and ICTR on Sexual and Gender-Based Violence' in *The Legacy of Ad Hoc Tribunals in International Criminal Law*, eds. Milena Sterio and Michael Scharf (Cambridge University Press, 2019), 197.

⁷⁶ Claire McLeod, 'How the International Criminal Court has Failed LGBTQ Survivors,' *Ms.*, 2 December 2019, <https://msmagazine.com/2019/12/02/how-the-international-criminal-court-has-failed-lgbtq-survivors/>; Charles Barrera Moore, 'Embracing Ambiguity and Adopting Propriety: Using Comparative Law to Explore Avenues for Protecting the LGBT Population under Article 7 of the Rome Statute of the International Criminal Court,' *Minnesota Law Review* 157 (2017), <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1156&context=mlr>.

⁷⁷ William Pons, 'An Argument for the Prosecution of Crimes Against People with Disabilities,' *Intercross Blog*, 11 May 2017, <https://intercrossblog.icrc.org/blog/an-argument-for-the-prosecution-of-crimes-against-persons-with-disabilities>; Sylwia Afrodyta Karowicz-Bienias, 'Nazi Crimes on People with Disabilities in the Light of International Law – a Brief Review,' *Białostockie Studia Prawnicze* 23, no. 4 (2018), https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/7583/1/BSP_23_4_SA_Karowicz-Bienias_Nazi_Crimes_on_People_with_Disabilities.pdf; A. Rahman Ford, 'A Race Apart: Genocide and the Protection of Disabled Persons Under International Law,' *Review of Disability Studies* 5, no. 2 (2014), www.rdsjournal.org/index.php/journal/article/view/217.

⁷⁸ Federica D'Alessandra et al., *Advancing Justice: Innovations to Strengthen Accountability for Violations and Crimes Affecting Children in Conflict*, Save the Children and the Oxford Programme on International Peace and Security (March 2021).

⁷⁹ World Bank, *Strategy for Fragility*, 31-33.

⁸⁰ Simon Adams, 'From Global Warming to Genocide Warning: Climate Change and Mass Atrocities,' *GCR2P: Atrocity Alert*, 28 November 2016, <https://reliefweb.int/report/world/global-warming-genocide-warning-climate-change-and-mass-atrocities>.

⁸¹ Charlotte Blatt, 'Climate Change and Mass Atrocities: A New Research Frontier,' *US Holocaust Memorial Museum – Announcements and Recent Analysis*, 16 August 2017, <https://www.ushmm.org/genocide-prevention/blog/climate-change-and-mass-atrocities-a-new-research-frontier>.

⁸² James Waller, 'Implications of COVID-19 for Atrocity Prevention' The Auschwitz Institute for the Prevention of Genocide and Mass Atrocities, 2020, www.auschwitzinstitute.org/wp-content/uploads/2016/01/AIPG-Pandemic-Policy-Challenge-Brief.pdf.

⁸³ Simon Adams, 'From Global Warming to Genocide Warning'.

⁸⁴ Global Centre for the Responsibility to Protect, 'Atrocity Alert Special Issue: COVID-19, Conflict and the Threat of Atrocities,' *GCR2P: Atrocity Alert*, 1 April 2020, <https://reliefweb.int/report/world/atrocity-alert-special-issue-covid-19-conflict-and-threat-atrocities>.

Overarching Principles

In addition to the four pillars of FCV programming, an atrocity prevention lens should be applied to the overarching principle of 'do no harm', as well as to the formulation of coordination bodies and mechanisms.

Do no harm. An atrocity prevention lens should be applied to all FCV programming to ensure that activities do not deteriorate the overall protective environment and inadvertently increase the risk of atrocities. The question of whether activities increase the risk of conflict, and whether they increase the risk of atrocities, are different questions, which must be considered separately. For example, the negotiation of peace agreements—a central component of conflict prevention work—is an area in which there may be discordance between the objectives of bringing an immediate end to conflict and preventing atrocities. In the short term, armed groups may increase attacks on civilians so that they are able to use commitments to cease these attacks as a bargaining strategy in negotiations.⁸⁵ In the long term, peace deals that include amnesties for past atrocities, and de-prioritise justice and accountability in the name of ending violence, contribute to a culture of impunity. These have been demonstrated across many contexts to increase the risk of future atrocities.⁸⁶ **Systematically assessing FCV interventions, asking whether they may contribute to attacks against civilians, or many entrench societal fracture lines, gives FCV practitioners a greater chance of anticipating the range of potential harms.**

Coordination. One of the features of the 'triple-nexus' approach described above is that FCV actors increasingly work as part of coordination bodies, which include development, humanitarian, and peacebuilding actors. At the institutional level, **these coordination bodies would benefit from the inclusion of actors who approach prevention and response using an atrocity-prevention lens—and who would facilitate the sharing of information, risk assessments and strategies for both conflict and atrocity prevention. FCV actors should also encourage the establishment of national and regional hubs focused on atrocity prevention**, which could feed back into FCV programming and strategies. In general, greater focus should be given to bridging the divide between atrocity prevention experts (including academic experts) and on-the-ground practitioners, and more atrocity-prevention experts should be deployed to field locations.

Conclusion

The adoption of the triple nexus approach, in which the interlinkages of humanitarian, development and peacebuilding work are stressed, is intended to make actors working in FCV countries more adaptable to the dynamic nature of these contexts, and better equipped to address the root causes of violence and conflict before they occur.⁸⁷ The absence of an atrocity prevention lens informing these efforts, however, represents a gap in FCV programming, which could leave civilians at risk of the most serious forms of harm. Interventions to prevent atrocities are not always neatly subsumed into interventions to address FCV. Atrocity prevention actors have developed knowledge and expertise on when, why, and how atrocities occur, and what works to prevent them, and have created frameworks to guide the response of the international community when atrocities are perpetrated. FCV actors should capitalise on atrocity prevention knowledge, both to guarantee that their work never inadvertently contributes to the commission of atrocities and to equip them to implement strategies to contribute to their prevention.

⁸⁵ Alex Bellamy, *Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent* (The Stanley Foundation, February 2011), 8; Protection Approaches, *Submission to World Bank Group Strategy for Fragility, Conflict and Violence: Global Consultation* (2019), https://consultations.worldbank.org/sites/default/files/consultation-template/world-bank-group-strategy-fragility-conflict-and-violence/submissions/protection_approaches_wbg_submission_159719.pdf.

⁸⁶ United Nations, *Framework of Analysis for Atrocity Crimes*, 11 and 18.

⁸⁷ Development Initiatives reports that while this is the intention of the triple nexus approach, it is too early to conclude whether it is achieving these objectives – although progress appears to be positive: Development Initiatives, 'Donors at the Triple Nexus: Lessons from Sweden,' December 2019, <https://devinit.org/resources/donors-triple-nexus-lessons-sweden/>.

To assist in the practical achievement of these goals, this paper makes the following recommendations.

Pillar 1: Preventing violent conflict and interpersonal violence

Developing legal frameworks and capacity. FCV actors involved in justice programming should support the drafting of legislation pertaining to atrocities and should build capacity amongst justice actors to respond to atrocity crimes. This includes developing capacity in the documentation of violations, in the establishment of transitional justice mechanisms, in the enforcement of domestic criminal laws, and in the investigation and prosecution of atrocity crimes.

Supporting the development of resilient institutions. 'Red lines' should be drawn around funding and support, ensuring that interventions aimed at strengthening institutions do not directly or indirectly assist institutions on a trajectory towards committing atrocities.

Assessing capabilities for committing atrocities. When groups are considered to pose a risk of committing atrocities, FCV actors should interrogate the possible pathways by which these actors might be capacitated to carry these out, including assessing their ability to procure arms or assistance from other states or groups.

Early warning systems and risk mitigation. FCV actors should adopt early warning systems and risk mitigation strategies that identify and respond to risk factors for both conflicts and atrocities. FCV actors should be trained to identify risk factors for atrocities, as well as avenues for mitigation.

Understanding and responding to triggers. FCV actors should be trained to recognise potential atrocity triggers, as well as events or shifts in context that might indicate an imminent risk of atrocities, and should also be resourced with tools and strategies for responding to these.

Pillar 2: Remaining Engaged during crises and conflict situations

Establishing which events trigger obligation to act. FCV actors should develop clear standards setting out their obligations towards preventing further harm to civilians in the event that atrocities take place. This can include the development of guidelines for the deployment of direct protection measures, guidance on ending support to institutions with complicity in atrocities, and on ceasing operations where necessary. The R2P and PoC doctrines can provide a basis for these approaches.

Pillar 3: Helping countries transition out of fragility

Meeting the needs of survivors. FCV actors should recognise the ways in which the needs of atrocity survivors differ from those who have experienced conflict. The distinct needs of atrocity survivors must be provided for in FCV programming.

Engaging with accountability mechanisms. Guidance should be developed to assist FCV actors in navigating participation in accountability mechanisms.

Pillar 4: Mitigating the spillovers of FCV

Spillovers for marginalised groups. FCV and atrocity prevention actors should apply an intersectional approach, in which specific risks to marginalised groups, as well as overlapping layers of victimisation, are recognised and targeted.

Spillovers of FCV. FCV actors must understand the ways in which secondary impacts of crises create enabling conditions for the commission of atrocities, and ensure that programming mitigates such risks.

Overarching principles

Do no harm. FCV practitioners should apply an atrocity prevention lens to all programming, to ensure that no activities deteriorate the overall protective environment and inadvertently increase the risk of atrocities.

Coordination. Actors who approach prevention and response using an atrocity-prevention lens should be included within coordination bodies, to facilitate the sharing of information, risk assessments and strategies for both conflict and atrocity prevention. The establishment of national and regional hubs focused on atrocity prevention should be encouraged.



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