

At a Glance

AN EDUCATIONAL TOOL BY THE INTERNATIONAL COALITION FOR THE RESPONSIBILITY TO PROTECT

Clarifying the Second Pillar of the Responsibility to Protect: Building State Capacity to Protect Populations from Atrocity Crimes

I. Understanding Pillar Two of the Responsibility to Protect

The second pillar articulates the responsibility of the international community to encourage and assist States, including those under stress, to uphold their Responsibility to Protect (RtoP, R2P) populations from genocide, war crimes, crimes against humanity and ethnic cleansing. **There are three main forms of Pillar Two assistance: (i) encouragement; (ii) capacity building; and (iii) protection assistance.**

Measures to *encourage States* to uphold their Pillar One obligations serve to remind governments of their responsibilities under human rights and humanitarian norms and laws so as to ensure the promotion and protection of these obligations.

To uphold their Responsibility to Protect, States need the appropriate knowledge and institutional capacity to prevent and respond to atrocity crimes. To this end, the second form of Pillar Two assistance, *building the capacity of States*, serves to establish and/or strengthen the mechanisms used to identify the indicators of and prevent atrocities. This often includes measures to uphold the rule of law and promote good governance.

Finally, in emerging crises where a State is under stress there may be the need to *provide direct protection assistance*, with the consent of the host State, to ensure that the situation does not deteriorate and put civilians at risk. This becomes particularly relevant when a State and its population are threatened by non-state actors, such as terrorist or rebel groups.

These three forms of Pillar Two assistance can be undertaken by a broad range of actors, including (but not limited to) the United Nations, regional bodies, and civil society organizations. They can be operationalized in several ways:

Encouragement to Uphold Pillar One

- Actors can encourage states to protect their populations from atrocity crimes through **raising awareness** of human rights and humanitarian standards.
- When a state is under stress, actors can **remind governments** of their protection obligations, especially during their **preventive diplomacy** efforts.

Building the Capacity to Protect

- Educational initiatives, training, and the creation of opportunities for dialogue** can help promote proactive, localized responses to signs of impending unrest and deter the escalation to violence.
- Development cooperation** may assist States in identifying, managing and mitigating risk factors for atrocity crimes, such as persistent inequality between social groups. This can promote long-term good-governance and respect for human rights through support for **political institutions, human rights mechanisms, and a functioning media**. Within existing programs, donors can undertake an assessment of their work to further understand how such assistance enhances state capacity to make a society less likely to experience RtoP crimes and violations.

THREE PILLAR FRAMEWORK OF THE RESPONSIBILITY TO PROTECT

United Nations (UN) Secretary-General Ban Ki-moon established the three-pillar framework of the Responsibility to Protect in his 2009 Report *Implementing the Responsibility to Protect*.

The objectives outlined in the framework are narrow in scope yet involve a broad range of measures to prevent and/or respond to the risk or occurrence of atrocity crimes.

- **Pillar One:**

The state bears the primary responsibility to protect its populations from genocide, war crimes, crimes against humanity and ethnic cleansing.

- **Pillar Two:**

The international community must assist states in fulfilling protection obligations.

- **Pillar Three:**

When a state is unable or unwilling to protect its populations or is perpetrating these crimes, the international community has a responsibility to take collective action in a timely and decisive manner to prevent or halt the commission of mass atrocities. Such action involves the use of a broad range of political, economic, humanitarian, and should peaceful means prove inadequate, coercive measures, including the use of force in accordance with the UN Charter.

- Actions that establish or strengthen **the rule of law, security sector reform (SSR), and disarmament, demobilization, and reintegration (DDR)** serve as key points of engagement to aid a State to enhance its capacity for the prevention of future atrocities.
- **Truth commissions, transitional justice and accountability measures** can address past human rights violations, advance reform agendas and promote reconciliation within national institutions and society, serving to bolster a state's capacity to prevent the reoccurrence of atrocity crimes.

Protection Assistance

- The **deployment of human rights experts** to States under stress allows for the investigation of alleged abuses, bringing international attention and support to the State, and provides the state with guidance on steps that can be taken to prevent the escalation of a crisis.
- **Dialogue and mediation assistance** can diffuse mounting tensions and foster peace between parties to a conflict, both during and after a crisis.
- **Issuance of grants of asylum** provides support for internally displaced persons (IDPs) and refugees when their own State lacks the capacity to protect populations.
- **Protection measures** can assist States under stress, most often when a State and its population are under threat from non-state armed groups or widespread inter-communal unrest is occurring. This can include **supporting disarmament efforts, working with local police and civilian components, authorizing and deploying peacekeeping operations, providing logistical support, and/or advising on or providing intelligence information.**

It is critical that States, regional and international bodies, and civil society actors emphasize the **importance of national ownership** when undertaking Pillar Two assistance. Additionally, it is essential to ensure that the perspectives and expertise of all the parties involved are considered. Such actions work to develop successful partnerships that build state capacity to uphold Pillar One, while also serving to increase the likelihood that assistance is requested at an early and preventive stage. Assistance, in turn, strengthens national resilience and allows actors to avoid the high costs associated with response. **Actions must be context-specific, credible, and consistent**, with the relevant parties demonstrating a clear showing of unified and widespread support for measures taken to assist. Additionally, while some forms of assistance may seek to provide support for immediate threats, it is important that measures develop capacity for long-term protection.

II. Key Actors Involved in Implementing Pillar Two Measures

A range of actors can undertake second pillar assistance efforts. Additionally, partnerships between actors from every level of a society are essential to identify and alleviate threats, and work to ensure prevention efforts are most effective. These include, but are not limited to, the following:

Individual Governments & Regional Bodies

- In partnership with the host State, **Member States** may work individually or in conjunction with a group of states or other actors to assist in creating or strengthening a State's institutions and operational capacities to prevent or respond to atrocity crimes. This can include contributing a military, police and/or civilian presence to embolden or rebuild the host State's capabilities. Member States can also practice continued vigilance and public or private condemnation of any human rights abuses or actions to incite violence that could indicate the risk of mass atrocity crimes.
- **Regional and sub-regional organizations**, through their intimate knowledge of the regional context in which they work, physical proximity to the situation, and relationships with their Members can contribute to building or bolstering state institutions to diminish the threat of atrocity crimes. Additionally, such bodies can work to share best practices with organizations across regions, thus serving to increase dialogue on RtoP across the globe and enhance the capacity of such actors to prevent and respond to atrocities.

Organs of the United Nations

- The **General Assembly** convenes States to deepen and develop international norms and principles, which contribute to the protection of populations. Additionally this body encourages States to contribute resources to uphold their protection commitments.
- The **Security Council**, through the authorization of peacekeeping operations and special political missions, can assist states who are at risk of atrocities. In addition, the Council periodically meets to address thematic issues related to supporting States with their protection capabilities, such as peacebuilding or sexual and gender-based violence.

Organs of the United Nations (continued)

- The **Human Rights Council (HRC)** can establish **Commissions of Inquiry**, mandated to investigate extreme cases of alleged violations of human rights law. These commissions compile reports and periodic updates to expose breaches of international law and, if possible, seek to engage with and gain the cooperation of the host State.
- The **Peacebuilding Commission (PBC)** is an intergovernmental advisory body that aids in preventing future atrocities or relapses into violence by restoring stability and economic development in post-conflict contexts. The PBC achieves its aim by convening all relevant actors, assembling resources, and advising on and proposing integrated strategies for post-conflict recovery, highlighting any gaps that threaten peace.

Departments of the United Nations

- The **Office of the High Commissioner for Human Rights (OHCHR)** highlights gaps in protection and assists national governments and civil society organizations in upholding obligations through implementing mechanisms that safeguard human rights, strengthen protection capacities, and alleviate social tensions.
- Through its strategic framework, the **Office for the Coordination of Humanitarian Affairs (OCHA)** addresses the vitality of coordinated, effective partnerships with national and international actors when responding to humanitarian emergencies. It engages in private diplomacy with governments or negotiations with armed groups, and works to build strong in-country humanitarian leaders, as well as representative and inclusive Humanitarian Country Teams.
- The **High Commissioner for Refugees (UNHCR)** works with states to obtain grants of asylum, serving numerous potential or actual victims of mass atrocity crimes. UNHCR also works with the State hosting and/or the State from which a population fled to assist with their return home or resettlement.
- As political issues are at the root of many conflicts, the **Department of Political Affairs (DPA)** assists in their prevention and peaceful resolution through diplomacy and mediation. DPA can undertake a range of actions, including dispatching envoys in at-risk areas to defuse tensions, brokering negotiated settlements and sending civilian-led “political missions,” at the host State’s request, to facilitate elections and maintain dialogue amongst all actors.
- The **Department of Peacekeeping Operations (DPKO)** affords political and executive direction to peacekeeping operations. Such operations, which require the consent of the main parties and are deployed following **Security Council** authorization, are mandated to protect civilians, assist with demobilization, disarmament and reintegration, facilitate political processes and elections, and aid in the restoration of the rule of law. While RtoP is only part of the broader agenda of these efforts, this breadth of actions invaluablely contributes to a State’s capacity to prevent and respond to unfolding crises.

United Nations Agencies & Other Actors

- **Special representatives and envoys of the Secretary-General** deliver messages and support on the Secretary-General’s behalf, provide recommendations for action based on research and country visits, and offer training and educational opportunities on issues related to their mandate. The work of the **Office of the Special Advisor for the Prevention of Genocide** serves as an example of such an actor, collecting information on situations of concern and advocating for preventative measures by actors at all levels. The Office provides training programs to government officials, civil society, and UN staff to assist in analyzing and using information on atrocity crimes, and advises on managing population diversity.
- **UN Women** works with UN bodies, governments, civil society, businesses and foundations to formulate globally agreed-upon standards for gender equality, and assists UN Member States to strengthen measures for the protection of women’s rights, ensure the full and equal inclusion of women in international peace and security issues, and end all forms of discrimination against women.

International Criminal Court (ICC)

- The **ICC** can open preliminary investigations of those responsible for planning and/or committing RtoP crimes and violations against civilians. Such investigations work to document gross human rights violations and serve to promote and ensure accountability in national contexts that may be lacking the rule of law. In addition, the principle of “positive complementarity” established in the Rome Statute of the ICC seeks to assist states through a range of actions to end impunity, including through the training of national prosecutors.

Non-State Actors

- **Civil society organizations** assist the host State in building local and national capacities that contribute to atrocities prevention through a range of measures, including: information-gathering and sharing to identify protection gaps; hosting educational opportunities and training on human rights; providing recommendations on the drafting of national legislation to protect vulnerable groups; and facilitating dialogue opportunities between various actors. Civil society groups are often attuned to local dynamics and options for cooperation and protection enhancement.
- A range of **private sector** actors can bolster a society’s resilience to mass atrocity crimes through contributing to the strengthening of local economies, and undertaking fully inclusive employment practices for individuals from all social groups. The results of such action may be enhanced through entering into public-private partnerships to build national capacities. Additionally, international companies operating in States experiencing threats or the occurrence of violence can assist by shielding their products, services or technologies from direct or indirect use in the commission of serious human rights violations and crimes. Developing risk management tools, for example, can preventatively ensure that a business’ operations and practices do not contribute to such actions.

III. Challenges involved with the implementation of Pillar II

Actions taken to build state capacity for the prevention of mass atrocity crimes through some of the aforementioned means could be considered intrusive. Therefore, such measures involving a State’s internal affairs, short of or in addition to a Security Council mandate, may require the *consent of the host*. By identifying and reflecting on positive examples of assistance, actors can assess best practices, which will inform future policy development and contribute towards an increased willingness of States to request and/or accept assistance. As with the implementation of all three pillars of the Responsibility to Protect, the second pillar grapples with the need for the *political will to act*, especially in executing longer-term, preventative strategies. While there are no simple or quick routes to achieving Pillar Two objectives, existing activities can be adjusted to more efficiently utilize resources to provide the necessary assistance, alongside the development of new opportunities and strategies that prioritize atrocity protection. Finally, when mass atrocities have already occurred, *determining if and the degree to which the host State is involved in the commission of these atrocities* is vital for understanding ways to approach assistance measures, and later for accountability initiatives to combat impunity, promote reconciliation, and prevent further violence.

ICRtoP

INTERNATIONAL COALITION FOR THE RESPONSIBILITY TO PROTECT

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The International Coalition for the Responsibility to Protect convenes and collaborates with civil society, Member States, and regional and sub-regional organizations to: strengthen normative consensus for RtoP; further the understanding of the norm; push for strengthened capacities to prevent and halt genocide, war crimes, crimes against humanity, and ethnic cleansing; and mobilize NGOs to push for action to save lives in RtoP country-specific situations.

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