

Arms and Atrocities: Protecting Populations by Preventing the Means

In the 2005 World Summit Outcome Document, States made the historic acknowledgment that they had a Responsibility to Protect (RtoP, R2P) populations from mass atrocities (genocide, war crimes, crimes against humanity, and ethnic cleansing). Despite this landmark commitment, **perpetrators continue to use weapons—from small arms to landmines to chemical weapons—to carry out these most heinous of crimes.** News of chemical weapons attacks in Syria, cluster munition strikes in Ukraine, and the proliferation of small arms and light weapons (SALW) in Northern Africa make it clear that the irresponsible production, acquisition, stockpiling, transfer and use of weapons and ammunition severely curtail the ability of States and the international community to protect populations.

The presence of weapons, or the *means* with which atrocities are perpetrated, threatened, facilitated, or prepared, can heighten a State's risk for atrocity crimes. Furthermore, several types of weapons that can be easily transferred, stolen, or diverted, such as SALW, can foster instability and be used to commit atrocities throughout an entire region. Disarmament and arms control can therefore help actors to implement RtoP by strengthening State capacity; controlling the development, proliferation, possession and use of weapons; controlling trade and flows of weapons; and providing assistance to victims. This document examines how such measures can be understood as contributing to the prevention of mass atrocities using the three-pillar framework for the implementation of RtoP as established by the UN Secretary-General in his 2009 report "Implementing the Responsibility to Protect."¹ Additionally, this publication provides suggestions for how civil society groups can promote the mutually-reinforcing goals of humanitarian disarmament and atrocity prevention.

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

Developing and strengthening the necessary national capacity to build societies resilient to atrocity crimes is the most effective and least costly approach to protect populations from atrocities.

UN FRAMEWORK OF ANALYSIS FOR ATROCITY CRIMES AND DISARMAMENT

The UN's New Framework of Analysis identifies several factors that increase the risk of atrocity crimes, many of which contain indicators related to arms circulation or proliferation. Some examples of such indicators include:^{*}

Risk Factor 3: Weakness of State structures:

- Indicator 3.8: Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards

Risk Factor 5: Capacity to commit atrocity crimes:

- Indicator 5.1: Availability of personnel and of arms and ammunition, or of the financial resources for their procurement

Risk Factor 7: Enabling circumstances or preparatory action:

- Indicator 7.4: Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm

Risk Factor 10 (Genocide): Signs of an intent to destroy in whole or in part a protected group

- Indicator 10.6: Resort to means of violence that are particularly harmful or prohibited under international law, including prohibited weapons, against a protected group

Risk Factor 11 (Crimes against Humanity): Signs of a widespread or systematic attack against any civilian population:

- Indicator 11.3: Increase in the level of organization or coordination of violent acts and weapons used against a civilian population

¹ In 2009, the UN Secretary-General issued this report, which sought to provide further understanding for the implementation of RtoP. The report also established the three-pillar framework for RtoP based on paragraphs 138-139 of the World Summit Outcome Document, a framing which has since been widely used and discussed.

^{*} Note: This list represents only a sampling of the indicators pertaining to weapons contained in the Framework. For the full list of Risk Factors and Indicators, see the Framework at <http://www.un.org/en/preventgenocide/adviser/>.

Acceding to and implementing treaties/initiatives, reinforcing State structures that regulate or dispose of arms, or building the capacity of government sectors (such as the security sector or the rule of law) are thus powerful ways for a State to counteract the instability that weapons can potentially inflict on a society.

For example, as the UN Secretary-General noted in his 2013 report on RtoP entitled “State Responsibility and Prevention”, **since a State’s security sector controls a significant portion of the means (i.e. weapons circulating within a country) used to commit atrocities, a capable and functional security sector can considerably lessen the risk of atrocities.**² An effective security sector vets officers for past participation in atrocity crimes, trains staff in international humanitarian and human rights law and on the collection of evidence of atrocity crimes, and has appropriate disciplinary procedures—in turn helping ensure that these officers do not use the weapons at their disposal to target civilians or allow them to get in the wrong hands. Such measures are particularly important during situations of heightened tension, such as elections, humanitarian crises, or following a conflict.

Additionally, by ratifying treaties that compel State Parties to destroy stockpiles, clear their territories of weapons that cause indiscriminate harm, and provide assistance to victims—such as the **1997 Mine Ban Treaty and the 2008 Convention on Cluster Munitions**—States can help protect their populations against the devastating effects these weapons wreak both during and after battles.

Since SALW are often the weapons of choice in armed conflicts (and the presence of armed conflict is a risk factor for atrocities), bolstering implementation of the 2001 Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA)³ can be an effective way to fulfill States’ Pillar I responsibilities. In particular, PoA actions such as adopting legislative measures criminalizing illegal manufacturing, possession, stockpiling and trade of SALW or establishing national coordination bodies to guide, research, and monitor the eradication of the illicit trade of SALW can help States ensure that these arms do not end up in the wrong hands.

PILLAR TWO: The international community has a responsibility to assist States to fulfill the Responsibility to Protect.

In his 2014 report on RtoP “Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect”, the UN Secretary-General identifies three main forms of Pillar II assistance: (i) encouragement; (ii) capacity building; and (iii) protection assistance.

Encouragement

Actors can encourage States to protect their populations from atrocity crimes by advocating for universal ratification of treaties, which in turn help “reinforce State adherence” to international human rights instruments “prohibiting atrocity crimes.”⁴ In other words, **by working towards universal ratification and implementation of treaties such as the 2014 Arms Trade Treaty, the 2008 Convention on Cluster Munitions, and the 1997 Mine Ban Convention, States strengthen implementation of international human rights law instruments** such as the Genocide Convention, the Rome Statute of the International Criminal Court, and the Geneva Conventions. Furthermore, when a State is under stress—or there is evidence that government actors have used weapons that violate treaties to which the State is a party—other actors can urge governments to uphold their protection obligations, especially during any preventive diplomacy efforts. Transparency measures and reporting requirements are another mechanism to engage with States and ensure obligations are met.

Capacity Building

International and regional organizations, States, and civil society can assist States through enhancing knowledge and institutional capacity to prevent and respond to atrocity crimes. In this regard, training State actors on weapons and ammunition stockpile management can help promote proactive, localized actions to help protect populations. For example, through its SaferGuard Programme, the UN oversees the implementation of **the International Ammunition Technical Guidelines (IATG)**, by providing implementation software, training

² United Nations General Assembly. “Report of the Secretary-General: State Responsibility and Prevention.” 09 July 2013, A/67/929.

³ The PoA is a political commitment adopted by the General Assembly in 2001, in which States commit to taking measures to address the illicit trade of SALW, improve stockpile management, and engage in regional and international cooperation/assistance.

⁴ United Nations General Assembly. “Report of the Secretary-General: Fulfilling Our Collective Responsibility: International Assistance and the Responsibility to Protect.” 11 July 2014, A/68/947.

programmes, and other assistance to States in securing ammunition stockpiles. Implementation of the IATG can protect populations from ammunition stockpile explosions, which have killed thousands in more than 60 countries over the last decade. In some cases, States that have received technical assistance have gone on to provide similar support to other affected countries. For example, Cambodia, which has received extensive international assistance for its demining efforts, now sends United Nations peacekeeping troops to countries such as Sudan and the Central African Republic to share its demining expertise.⁵

Assistance from international, regional, or civil society actors that aid a State in establishing or strengthening security sectors (which often control the means to commit atrocities as noted above), and **disarmament, demobilization, and reintegration** processes (which can lessen the amount of weapons circulating within a society) can also help a State boost its capacity to prevent atrocities.

Protection Assistance

Treaties equipped with investigating bodies, such as the 1993 **Chemical Weapons Convention (CWC)**, allow for the examination of alleged uses of banned categories of weapons and bring international attention and support to the State under question. For example, after reports surfaced that the Syrian government had used chemical weapons in 2013, the Organization for the Prohibition of Chemical Weapons (OPCW, the implementing body of the CWC) supported the UN's Mission to investigate the allegations.⁶ After Syria subsequently ratified the CWC, the OPCW assisted with the removal and destruction of Syria's stockpile of chemical weapons, decreasing the military capacity of the Syrian regime. Nevertheless, reports that the Syrian regime has dropped chlorine bombs on populations in 2015 indicate that further and stronger measures are needed to fully protect Syrians from chemical weapons attacks.⁷

PILLAR THREE: If a State is unwilling or unable to protect its populations from these crimes and violations, or is indeed perpetrating atrocities against its population, the international community has the responsibility to take timely and decisive action, including through the use of appropriate diplomatic, humanitarian, and other peaceful means, to protect populations. Should peaceful tools prove inadequate, then the international community must take stronger measures, including the use of force, if authorized by the UN Security Council in accordance with the UN Charter.

Arms Embargoes

Arms embargoes are a specific type of sanction which are often used to pressure actors to modify their behavior "in the interests of international peace and security." In cases where actors have threatened, committed, or have the incentive to perpetrate RtoP crimes against populations—and where there is reason to believe arms have or will be used to commit such atrocities—the UN Security Council, regional and sub-regional organizations, and individual States can authorize arms embargoes (as well as targeted sanctions against the perpetrators). For example, the League of Arab States and the European Union both imposed an arms embargo against Syria in 2011 in response to emerging evidence of crimes against humanity.

Transfer Prohibitions

In addition, Article VI of the 2014 **Arms Trade Treaty (ATT)** prohibits States from transferring conventional arms, ammunition, parts and components if the State has "knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes..."⁸ Additionally, if a State has no direct knowledge at the time, under Article VII of the ATT it must undertake a risk assessment to determine the potential that the arms could be used to commit or facilitate a serious violation of international humanitarian or human rights law—and to deny the authorization if there is an overriding risk of such abuses.⁹ States Parties to the ATT can thus help fulfill their Pillar III responsibilities by

⁵ Cuddy, Alice, and Vong Sokheng. "Meet the Soldiers Keeping the Peace Far from Home." Phnom Penh Post. N.p., 25 Sept. 2014. Web. 13 Mar. 2015.

⁶ While the UN's investigation concluded that chemical weapons had indeed been used, it did not assign responsibility for the attack to any specific party. However, several civil society organizations have stated that evidence *strongly* suggests that Syrian government forces were responsible for the attack.

⁷ Despite the fact that the Syrian regime has committed war crimes and crimes against humanity against its own people, the UN Secretary-General's 2014 report on RtoP (see Footnote 5 above) notes that international actors can still continue to encourage the State to fulfil its protection responsibilities and offer assistance, even when a Government is actively committing atrocity crimes.

⁸ "Arms Trade Treaty." *United Nations Office for Disarmament Affairs*. United Nations, 2 Apr. 2013. Web. 14 Jan. 2015.

⁹ While actions under Art. VI of the ATT can be considered a 3rd pillar measure, actions under Art. VII should not necessarily be considered as such.

making timely and decisive decisions to not transfer conventional arms to a confirmed or suspected perpetrator of atrocity crimes.

What Can Civil Society Do to Advance Disarmament, Arms Control, and Atrocity Prevention Efforts?

Given the role that weapons and their proliferation play in the commission of atrocities, there is a range of actions civil society can take to advance the protection of populations, including:

- Urge your government to sign and ratify relevant disarmament and arms control instruments, emphasizing that their implementation can have an influential role in preventing atrocities.
- Request your government and regional organization to support future disarmament efforts, including the banning of “Killer Robots”¹⁰ and the Austrian Pledge to work towards a treaty for the prohibition of nuclear weapons.¹¹ Ask your government and regional organization to include, in negotiations, Statements, or treaties themselves, references to how such prohibitions contribute to the fulfillment of RtoP.
- Ask your government to include, in their Statements at the annual GA dialogue on RtoP, Protection of Civilians debates, or other relevant fora, references to how disarmament and arms control contribute to the prevention of atrocity crimes. In these Statements, ask your government to clarify its own responsibilities towards disarmament, arms control and RtoP, and specify its actions to fulfill such obligations.
- Build understanding of the natural linkages between disarmament, illicit arms flows, and atrocities prevention by educating the public, governments, parliamentarians, regional organizations, media, private sector, and academia. NGOs can also undertake shadow reporting of their government’s efforts to halt illicit arms flows, as well as monitor the sale of such arms.
- Lobby your government or regional organization for more stringent laws and guidelines for the management of arms and ammunition stockpiles.
- Encourage the UN Security Council to “improve the design of arms embargoes” as well as “address the issue of impunity of embargo violators.” Ask your government and regional organization to provide increased support to the UN to enhance verification methods, techniques, and procedures for arms embargoes.¹²
- Push your government and regional/international organization to increase assistance to victims suffering from the effects of these weapons.
- Investigate and take action to address the link between arms production and the private sector. Civil society has initiated campaigns to prevent investments by global financial institutions into companies that are involved in the production of weapons such as cluster munitions and nuclear weapons.¹³
- Undertake educational efforts to expand on the broader range of benefits from disarmament, export controls, mine clearance, and related actions in creating stable and peaceful societies, such as development of land that has been cleared and the reduction of armed violence.

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¹⁰ Lethal Autonomous Weapons Systems, i.e. weapons that would be able to choose/fire on targets on their own without meaningful human intervention.

¹¹ ICAN. "Austria Pledges to Work for a Ban on Nuclear Weapon." *ICAN*. N.p., 9 Dec. 2014. Web. 14 Jan. 2015.

¹² Wood, Brian. "Strengthening Compliance with UN Arms Embargoes - Key Challenges for Monitoring and Verification." *Small Arms Survey*. N.p., Mar. 2006.

¹³ See www.stopexplosiveinvestments.org and www.dontbankonthebomb.com