Responsibility to Prevent in Africa
Leveraging Institutional Capacity to Mitigate Atrocity Risk

Key Points

- Discussions on prevention within the African context often ignore how the nature of the state creates unique challenges that require the application of a distinctive atrocity-prevention lens. The almost exclusive focus on state responsibility overestimates the capacity of the state to exercise sovereign control over the entire population while neglecting other local sources of resilience.

- Many states exhibit one or more attributes of risk, whether inequality, marginalization, or repression. But it is difficult to discern when any one of these might ignite conditions for violence. Understanding the relationship and interaction between the causes and manifestations of mass atrocities is important for long-term prevention and mitigation measures.

- A principal consideration in addressing the structural causes of atrocity risk extends to building functioning, legitimate, independent state institutions capable of ensuring good governance and equitable delivery of social services, the rule of law, and administrative justice. Reform of the security and justice sectors will also help address some of the structural factors influencing atrocity risk. However, international assistance should be tailored to the specific dynamics in each state by prioritizing the factors most critical for the prevention of atrocity crimes.

- African countries have peculiar challenges of weak state structures for prevention, and institutions mostly limited to metropolitan areas. There are remote areas where the state is not present and where the average citizen rarely encounters the state.

- Because of the peculiar weakness of the state, there is the danger of international assistance getting sucked into an endless state-capacity-building expedition. Exclusive reliance on the state in capacity-building efforts by the international community, though well-intentioned, can often result in devastating unintended consequences.

- The concept of protection capacity should be broadened to include nonstate actors that in many places provide a critical buffer against atrocity risk relative to the state. More emphasis should be placed on building the capacity of nonstate actors, including traditional and religious institutions, to identify and monitor risk factors preceding mass atrocity crimes.

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- Inclusive prevention processes can be operationalized through nonstate preventive action as well as a hybrid prevention strategy. Supporting a hybrid prevention strategy in places with limited state presence or capacity will help build national resilience. If a state is found culpable of serious violations or incapacitated to assume its protection responsibilities, then international assistance will best succeed if it looks beyond the state to incorporate nonstate actors in the mass atrocity-prevention equation.

The prevention of atrocity crimes[1] is a key element of UN Secretary-General Ban Ki-moon's 2012 five-year action plan on advancing the responsibility to protect (R2P).[2] The secretary-general's report *Implementing the Responsibility to Protect* also prioritized preventive action in atrocity-prevention efforts.[3] The 2001 report of the International Commission on Intervention and State Sovereignty acknowledged the importance of, and emphasis on, prevention in the R2P framework. In the report, the "responsibility to prevent" is defined as addressing "both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk."[4] Yet, in advancing R2P, prevention is the area where the international community lacks the appetite to act, despite strong international rhetoric. This highlights a worrying trend when juxtaposed against the 2014 Worldwide Threat Assessment report of the US intelligence community, which indicates a diminishing international will and capacity to prevent or mitigate mass atrocities.[5] General discourse on R2P and prevention have centered mainly on cases where such mechanisms have either been neglected or failed, such as the 2011 crises in Libya and Côte d'Ivoire, and the war in Syria.

The low interest in prevention, particularly on building state capacity for atrocity prevention, may derive from the fact that such efforts may not have immediate obvious outcomes, so it is difficult to quantify their added value.[6] This makes it difficult to acquire the resources and political will to undertake early preventive action. Moreover, the exact meaning of prevention in an R2P context remains blurred and vague. In Africa, the lack of enthusiasm for prevention is evidenced by the growing number of peacekeeping operations taking place on the continent.[7] The two most recent cases where atrocities have occurred, South Sudan and the Central African Republic (CAR), typify the failure of the international community to take early preventive action to curtail the likelihood of a delicate situation erupting into violent conflict. With the risk of worldwide mass atrocities predicted to surge,[8] a dwindling international appetite for prevention demands urgent attention in efforts at advancing the R2P agenda.

In addition to the little concentration on state capacity building for atrocity prevention in relation to international assistance under pillar two for implementing R2P, one critical issue that is often ignored in the discussions on prevention in the African context is how the nature of the state creates unique challenges that require the application of a distinctive atrocity-prevention lens. The almost exclusive focus on state responsibility seems to overestimate the capacity of the state to exercise sovereign control over the entire population, while neglecting other local sources of resilience. This raises critical questions: How do we ensure protection for populations in places where the state is either absent or virtually usurped by nonstate actors? Does the absence of the state automatically signal the lack of capacity or risk of failure? How do we address the question of responsibility as well as streamline international assistance in such isolated and ungoverned spaces? This brief addresses these pertinent questions as well as the risk and risk-mitigation factors critical to atrocity-prevention efforts in Africa. It moves the discourse on protection capacity beyond issues of state responsibility as well as international assistance in building state capacity for atrocity prevention, to a reassessment of assumptions about the nature of the African state. It argues for broader engagement with nonstate preventive mechanisms most prevalent across the continent.

Factors Influencing Mass Atrocity Risk

It is argued that the risk of atrocity crimes is more prevalent during armed conflict, especially internal armed conflict.[9] However, not all armed conflicts generate atrocity crimes, and not all atrocity crimes occur within a context of armed conflict. Additionally, while a slide toward armed conflict or instability might be predictable, that does not indicate, with certainty, a descent into mass atrocities. Consequently, conflict prevention and atrocity prevention are not synonymous despite being closely connected. Focusing entirely on conflict prevention would ignore atrocity crimes that occur outside of armed conflict or that are not necessarily linked to armed conflict. Paying particular attention to the distinctions would enable utilization of the atrocity-prevention lens described by Alex J. Bellamy, professor of peace and conflict studies at the University of Queensland.[10]

The risks associated with genocide, war crimes, ethnic cleansing, and crimes against humanity have been categorized into structural and proximate causes.[11] The structural conditions that give rise to mass atrocity crimes are of particular interest to this paper. The nature and dynamics of the underlying causes of mass atrocities or conflict in general make few states immune to the risk of atrocity crimes. While the intensity of the peculiar structural challenges facing states may differ from one country to another, African states are particularly cited for their vulnerability. These challenges may include institutional weakness; ethnic, racial, or religious division; social, political, and economic inequality; repressive regimes; and the presence of armed groups.

Institutional Weakness: There is sufficient empirical evidence to support the argument that armed conflicts accompanied by serious human rights abuses, including mass atrocity crimes, are more likely to occur in weak and failing states.[12] Most African states are vulnerable to mass atrocities because of their unique and peculiar institutional weaknesses. Institutional weaknesses are common with fragile and failing states characterized by the absence of a transparent democratic system that can constrain the excesses of executive powers. Weak state institutions, which are vulnerable to political maneuvering and interference, can shape conditions under which widespread mass atrocities occur. Collapse of the rule of law and the lack of an independent judiciary enable a cycle of impunity for violence and discrimination against vulnerable groups. Impunity is evident in South Sudan, where the government has failed to hold any of its soldiers accountable for violations of international humanitarian and human rights law. In Kenya, the African Union mediation process, led by former UN Secretary-General Kofi Annan, exposed the extent to which the very institutions entrusted with administering the 2007 elections, providing security, and resolving disputes played a part in creating an environment conducive to violence.[13] South Sudan's government, like many governments in Africa, has a limited capacity to deter crime and provide protection for the entire population. Likewise, the collapse of the Muammar Qaddafi and Francois Bozize regimes in Libya and CAR respectively exposed serious structural deficiencies that have plunged both countries into further violence. Put succinctly, a weak state can be a source of threat to its own population. When states are weak, regime security takes priority over all other responsibilities, including the responsibility to protect the population.

Ethnic, Racial, or Religious Division: Most African states have diverse religious or ethnic groups. Diversity on the continent evokes competition (for power and resources) and ethnic tensions, along with associated clashes and violence against particular identities. In South Sudan, a politically driven dispute among the ruling elite reflects underlying ethnic tensions, with violent clashes reported in seven of the ten states that make up the country.[14] While division is not a sufficient condition for instability or mass violence, societies with insidious differences along ethnic or religious lines create the essential atmosphere for discrimination, use of hate speech, and incitement to violence. Discrimination, particularly state-led, has been identified as a significant indicator of risk.[15] Stephen McLoughlin, research fellow at the Griffith Asia Institute, points out that two-thirds of the genocides and political mass killings of the last century have been preceded by ethnic conflict.[16] Such conditions are exacerbated by the dominance of particular ethnic groups in the state security services and key political positions, creating distrust between the state and sections of the population. Political competition marked by divisive ethnic or religious differences often pits the state against a particular group perceived as a threat to the status quo.[17]

The recent political crisis in Côte d'Ivoire provides an insight into how discrimination along ethnic lines can precede episodes of mass violence.

Social, Political, and Economic Inequality: Policies aimed at "depriving particular ethnic, religious or political groups of equal access to employment, education, wealth attainment or property ownership"[18] can be the product of deliberate exclusion or marginalization by a regime. Horizontal inequality in itself is not a sufficient indicator of risk, but of its propensity to exhibit patterns of discrimination. Denial of equal voting rights such as witnessed in Côte d'Ivoire, and unequal economic opportunities in CAR are some of the manifestations of inequality. Divisions between different ethnic or religious groups can manifest in segregation or inequality.[19] The 2007 postelection ethnic violence in Kenya was underpinned by inequitable land rights and marginalization of certain ethnic groups. Entrenched inequalities create a deep sense of injustice, which can trigger resistance or retribution by the marginalized group. In CAR, the overthrow of Bozize's regime turned the tide of political power that engendered violence and other forms of abuse against groups perceived as perpetrators or beneficiaries of lopsided economic policies by the state.

Repressive Regimes: Autocratic regimes significantly raise the risk of mass atrocities. States are especially prone to violent situations where government repression and state weakness coincide.[20] There is a strong link between state-sponsored repression and an increased risk of violent conflict. Empirical studies indicate a 78 percent probability of a civil war onset in repressive and weak states as opposed to 0.04 percent in nonrepressive states.[21] Other underlying factors contributing to violence in autocratic regimes are the concentration of power in the executive and the absence of institutional deterrents to hinder abuse of populations by the political elite. Because of inherent state weakness or perceived threats to a regime, despotic rulers may abuse less-privileged ethnic groups purely on the basis of their ethnicity or target persons from constituencies that are threatening to the status quo (as in Côte d'Ivoire), or incite one ethnic or religious group against another for political gain.[22]

Presence of Armed Groups or Militia: Rebel groups are more likely to exist and operate in weak states where citizens can also be easily coerced into membership.[23] Because of the continent's history of internal armed conflict and easy availability of arms, a significant number of armed groups operate across many countries. These groups may be sponsored by the state or a particular section of the population. This is exacerbated by the fact that militias are usually formed and mobilized along ethnic or religious lines in Africa, as demonstrated in South Sudan, Mali, Nigeria, Côte d'Ivoire, CAR, and elsewhere. Ethnicity is one of the most significant causative factors for the mobilization of nonstate armed groups. The risk of mass atrocity crimes is heightened in unstable countries where the rule of

law is weak or nonexistent, giving way to impunity. The presence of armed groups, however, does not underplay the capacity and potential for civilians to perpetrate mass violence. The Rwandan genocide clearly demonstrates how the average civilian can be turned into a vehicle for mass violence. Nonetheless, most of the brutal atrocities recorded in, for instance, South Sudan are reported to have been committed by uniformed personnel within security forces split into various factions. These are former rebel forces now integrated into the Sudan People's Liberation Army, and other rebel groups whose leaders competed for power and mobilized supporters along ethnic lines (Dinka, Nuer, Murle, Shilluk) in the southern bid for independence, resulting in atrocities by all sides. Similarly, CAR's mostly Muslim ex-Seleka forces and the predominantly Christian anti-balaka fighters have introduced a new ethno-religious dimension of violence to this crisis. Here, a complex mix of the presence of armed groups, coupled with ethnic or religious disparities and state weakness has resulted in devastating sectarian violence in the notoriously unstable country.

It is worth noting that while mass atrocities rarely take place in the absence of these risk factors, their presence does not suggest a direct correlation with mass violence. Many states exhibit one or more attributes of risk, whether inequality, marginalization, or repression. But it is difficult to discern when any one of these might ignite conditions for violence. Indeed there are instances where states have experienced these risks without an associated specter of mass atrocity. Nonetheless, the existence of these factors amplifies the potential for instability and creates the enabling environment for discrimination and impunity, thereby conditioning the commission of mass atrocity crimes. Additionally, risk factors may underpin other circumstantial forces that precede the perpetration of mass atrocities. These may include proximate factors or triggers such as elections, unconstitutional change of government or maintenance of power through unlawful means, and internal political unrests, which serve as catalyst for serious violations against identifiable groups within a population. Understanding the relationship and interaction between the causes and manifestations of mass atrocities is equally important for long-term prevention and mitigation measures.

What Structures and Governance Approaches Best Buffer Against Atrocity Risk?

Given that numerous risk factors can engender mass atrocity crimes, and in complex permutations, attempts at prescribing effective preventive strategies face similarly complicated challenges. The factors that cause mass atrocity crimes share some commonalities with the underlying causes of armed conflict or instability. As argued by sociologist and political scientist Jack A. Goldstone and colleagues, atrocity crimes like genocide almost always occur within the context

of instability.[24] Thus it is logical to reason that reducing the causal factors of instability will also help mitigate the risk of mass atrocities. Several authors have identified structural reforms as a key strategy in mitigating the risk of atrocities.[25] A principal consideration in addressing the structural causes of atrocity risk extends to building functioning, legitimate, and independent state institutions capable of ensuring good governance and equitable delivery of social services, the rule of law, and administrative justice.

Strong rule of law remains one of the most critical preconditions in mitigating the risk of mass atrocities against specific groups. The existence of strong rule of law ensures that the judiciary, legislature, and law-enforcement bodies protect individual and collective rights. Efficient rule of law facilitates an economic and political environment that constrains discriminatory government policies through accountable governance. Independent institutions create an environment for the separation of powers between the political elite and the justice and law-enforcement institutions, building legitimacy for a regime. The existence of strong and autonomous judiciary, police, and human rights commissions can significantly raise the opportunity cost of utilizing the offices of the state in pursuance of radical policies or the commission of mass atrocities by politicians.[26] A system that offers opportunities for redress within the justice system eliminates impunity for acts of violence and discrimination against vulnerable groups. Overall, good governance through independent security and justice institutions serve as an immune system against a descent into violence. Because of the inherent weaknesses of African states, multisector reform of the security and justice sectors will help address some of the structural factors influencing atrocity risk.

Social, Economic, and Political Inclusion: Prioritizing equality between identity-based groups can serve as a structural tool to prevent mass atrocities. Providing equal access to education, employment, or the means of production help eliminate horizontal inequalities that enable opportunistic actors to mobilize groups along ethnic, religious, or political lines and justify extreme violence against other groups.[27] While horizontal inequality is not limited to fragile and failed states alone, their interaction with other risk factors heightens the risk of mass atrocity crimes. Providing equal access to the means of survival and instituting deliberate policies and programs to target marginalized populations will reduce two operational risk factors associated with horizontal inequality. First, they tamper recourse to extreme measures by the marginalized group to address real or perceived inequality, such as was evident between the Hutus and Tutsis in the Rwandan genocide. Second, they neutralize group mobilization aimed at preserving the status quo, which often breeds violence against perceived threats. Such mobilization has unfolded in CAR's political and ethnoreligious crisis.

Developing structures and instituting measures to mitigate atrocity risks present enormous challenges to African states because of resource constraints, but more crucially because of weak and in some cases nonexistent preventive structures. A combination of these resource constraints and structural challenges has led many African states to prioritize regime security over human security. This necessitates meaningful assistance to develop the capacity of the state to prevent atrocity risks.

International Assistance to Build State Protection Capacity

Paragraph 138 of the World Summit Outcome Document places the state at the center of the responsibility to protect populations from mass atrocities.[28] However, this normative presumption has been found to be fictive in many African countries. Some states simply lack the capacity to assume the protection responsibilities required of them. They are weak, beset with corruption, and unable to control their territories and prevent abuse by state or private agents.[29] This has significant implications for determining responsibility for mass atrocities prevention and addressing them effectively. Because of the necessity of state capacity to prevent mass atrocities, the international community is obliged to assist states in building their capacity for effective preventive action.[30] But how should we define "state protection capacity" in terms of international assistance? How do we know when a state has acquired that capacity?

State protection capacity is a hard phenomenon to define because of its multidimensional nature and the sociopolitical factors underpinning it. Generally, a state is said to possess protection capacity when mechanisms exist to address the underlying causes and manifestations of atrocity risk. For instance, the existence of an institutional capacity to provide basic social services to the entire population and strong rule of law help eliminate prejudice and restrain the use of violence by public and private agents. The ability of law enforcement to detect perpetrators of violence for prosecution and maintain order is an important indicator of a state's capacity to protect a population from threats to its security. A criminal justice system and its ability to dispense justice is also a determining factor for a state's capacity to protect. This could be measured by the potency and fairness of the legal system, and the extent to which the law is generally respected. [31] The absence of armed or rebel groups can signal a strong state capable of repressing rebel activities or accommodating grievances through institutionalized channels.[31] A state's capacity to repress dissident movements increases the cost of rebellion. While this can be a disincentive to revolt, it can equally become a recipe for mass violence. A state's ability to integrate rebel activities within a formal structure minimizes the motivation for aggressive actions.

Yet the specific dynamics of protection capacity may vary from state to state. In some cases, for instance, Somalia and Libya, the state may fail completely. In other cases, such as Mali, South Sudan, and the Democratic Republic of Congo (DRC), partial collapse of the state may well expose sections of the population to mass violence. Thus international assistance should be tailored to the specific dynamics in each state by prioritizing the factors most critical for the prevention of atrocity crimes. For instance, designing aid programs to mitigate CAR's unstable governance and internal security issues could focus on justice sector reform, security sector reform, and governance reform. Aid programs targeting sustainable and inclusive governance could ameliorate the potential drivers of conflict in the country.

While strengthening state protection capacity holds several advantages for atrocity prevention, it can also serve as a tool for political repression. Adam Branch, professor of political science at San Diego State University, argues that the more reliant a state is on external support, the less accountable it becomes to its population. Branch further notes that improved protection capacity can also translate into increased "discretionary authority and security powers."[33] "In the name of protection, the African state can boost its military, police, and intelligence, taking advantage of externally provided material and symbolic resources to increase political repression and militarization."[34] The Special Program for Peace, Security and Development in Northern Mali provides a useful illustration of how poorly devised international support, rather than enhanced state resilience, can aggravate social cleavages and grievances that contribute to the advent of atrocity crimes. The program, which was sponsored by the European Union, United States, World Bank, and United Nations Development Program, and envisaged the creation of 11 governance and development centers in the north of the country, was heavily focused on increased state security presence in the region. The program neglected the governance and development elements as the government used it to reassert state authority in the marginalized and unstable region. The resultant militarization stirred up longstanding negative sentiments that played a proximate role in Mali's descent into violence. Because of the peculiar weakness of the state, there is the danger of international assistance getting sucked into an endless state-capacity-building expedition. Exclusive reliance on the state in capacity-building efforts by the international community, though well-intentioned, can result in devastating unintended consequences.

Given the above dilemma, international efforts at strengthening state protection capacity should take into account the peculiarities and nuances of the state. To have the biggest impact on mitigating atrocity risk, development actors should be conscious of the sources of risk and resilience in a particular country and the latent hazards associated with their actions.

Nonstate Actors in Atrocity Prevention

While the state has the responsibility to protect populations from the four crimes—genocide, war crimes, ethnic cleansing, and crimes against humanity—it is argued that atrocity prevention should incorporate local sources of resilience where civil society actors are better placed to address the causes and symptoms of atrocity crimes. African countries have peculiar challenges of weak state structures for prevention, and institutions mostly limited to metropolitan areas. There are remote areas where the state is not present and where the average citizen rarely encounters the state, except through occasional security exactions. In CAR, armed groups easily expanded their operations and committed severe abuses, exploiting the virtually ungoverned regions outside the capital, Bangui. Existing governance structures in such ungoverned spaces have limited or no correlation with the state. This is the nature of the African state. The absence of the state, however, does not signify failure to protect populations or prevent mass atrocities even though it is a significant factor. Neil Englehart, Associate professor of political science at Bowling Green State University, notes that the absence of state institutions in peripheral areas does not produce a void.[35] While he argues further that the vacuum created is occupied by "petty despots," this paper contends that a strong local civil society can curtail serious abuse by rent-seeking individuals and organizations. This has been demonstrated in several African societies where hybrid forms of security, peace, and justice provision are in existence, for example in Ghana and Liberia.

Local nonstate actors can be an important source of social resilience. As stated in a July 2014 report of the UN secretary-general, "efforts to prevent or respond to atrocity crimes can succeed only if they are the product of inclusive processes that engage national and local authorities, as well as civil society, including human rights organizations, traditional leaders and women's groups."[36] Those "inclusive processes" can be operationalized through nonstate preventive action as well as a hybrid prevention strategy. Supporting a hybrid prevention strategy in places with limited state presence or capacity will help build national resilience. In such instances, nonstate actors often run parallel with state institutions, filling in the gaps created by a state's deficiencies. Ghana's National Peace Council (NPC) offers a useful model of how government and local civilian actors—including traditional leaders, women's groups, youth groups, and faith-based groups—can be effective forces for violence mitigation. The NPC was created in 2006 and legally established by an act of parliament (the National Peace Council Act of 2011). Its core function is to "prevent, manage and resolve conflict and to build sustainable peace."[37] The NPC has a three-tier operational structure, with national, regional, and district-level councils composed of 13 appointed members who represent diverse stakeholders across Ghanaian society. Through several initiatives, the NPC played a key role in preventing ethnic cleavages from resulting in widespread violence, particularly during the 2008 and 2012 elections. These efforts have enabled the NPC to institutionalize mechanisms for peace building and crisis response that can serve as a means to prevent mass atrocities.

Besides government-civil society partnerships, traditional and religious leaders are also relevant in defusing tensions at the local level. Unlike state institutions, they usually maintain a presence all over the country, and understand the social, economic, and political conditions in the community.[38] Through existing nontraditional security and justice mechanisms, they can be effective in early warning and response by resolving potential situations of mass atrocity and sharing information about local conditions with state authorities.

Collaboration between such informal networks and formal structures provides effective early warning capabilities for preventive action. Local civil society commands an active role in representing the protection needs of populations at risk and facilitating the implementation of reform agendas in remote areas, although it is often excluded from domestic reform programs.[39] Because of the peculiar limitations of the state, more emphasis should be placed on building the capacity of nonstate actors, including traditional and religious institutions, to identify and monitor risk factors preceding mass atrocity crimes. The concept of protection capacity should be broadened to include nonstate actors that in many places provide a critical buffer against atrocity risk relative to the state.

Conclusion

This brief highlights the preeminence of prevention in the advancement of the R2P agenda. While emphasizing the centrality of the state in preventive action, it challenges the conventional notion of limiting the responsibility for preventing mass atrocity crimes to the state, particularly in an African context. This argument is premised on the fact that the capacity of most African states to assume the protection responsibility is simply poor because of the unique structural challenges that those states face on the continent. State institutions are mostly limited to metropolitan areas, leading to marginalization of entire sections of the population. Naturally, this calls for strengthening state protection capacity to enable state institutions to undertake mitigation measures to address the risk of atrocity. Tailoring international assistance to the specific dynamics in each state will also ensure the utilization of an atrocity-prevention lens in effective preventive efforts. Utilization of such a lens will necessitate building functioning, legitimate, independent state institutions capable of ensuring good governance and equitable delivery of social services, the rule of law, and administrative justice.

However, improved state protection capacity may evoke unintended consequences, especially where the interests

of the state do not align with those of the international community. Thus it is recommended that in advancing R2P, international assistance should be broadened to incorporate nonstate actors as an important source of social resilience. If a state is found culpable of serious violations or is unable to assume its protection responsibilities, then international assistance will best succeed if it looks beyond the state to incorporate nonstate actors in the mass-atrocity-prevention equation. In other words, addressing structural challenges from the roots and leveraging the resources of resilience are both required to prevent mass atrocity crimes.

Endnotes

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