Opportunities for Early-warning and Prevention of Atrocity Crimes
Key Objectives

- Understand the **main elements of prevention**: why it is important; who is responsible; when it should happen; and how it can be done;

- Be acquainted with the **Framework of Analysis** developed by the Office on **risk factors** and **indicators** of atrocity crimes and its possible use to develop prevention strategies.

- Reflect on **challenges** in the prevention of atrocity crimes.
Prevention - What?

Legal obligation

- Genocide Convention (Art. 1)
- Geneva Conventions (Art. 1)
- International human rights law (ex. Art. 2 CAT)
- Customary international law
Prevention - What?

Prevention of Atrocity Crimes

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Conflict Prevention
Prevention - Why?

1) To avoid the loss of human life

2) To avoid physical, psychosocial and psychological damages and trauma
Prevention - Why?

3) To **maintain** peace and ensure national, regional and international **stability**

4) To **maintain** the State’s **sovereignty**

5) To **avoid** serious **financial costs** and **economic damage**
Prevention - Why?

No State can consider itself immune to the risk of atrocity crimes.

S-G, 2013 RtoP report
Prevention - Who?

1) **Territorial State:** Obligation of *due diligence*

- Genocide Convention
- International Humanitarian Law
- Customary law
- ICJ ruling
Prevention - Who?

2) Other States: Obligation of due diligence

  Bosnia & Herzegovina v. Serbia & Montenegro
  - Not territorially limited
  - Directly proportionate to the State’s ability and influence over the relevant actors
  - State knows or should have known of serious risk of genocide
Prevention - Who?

3) **International community**

- ICJ Judgment - all States have a responsibility to prevent, but duty to act is triggered only when State has ability and influence.

- Responsibility to Protect – Pillar II and III
Prevention - When?

• Outside of crisis situations
• During emergence of crisis
• During crisis
Prevention - How?

Mandate SA Prevention of Genocide  
(established in 2004)

• To monitor situations of concern;

• To act as a mechanism of early warning;

• To make recommendations to the SG and SC;

• To liaise with the UN system on prevention activities.

• To support the development of preventive strategies
Prevention - How?

Mandate SA Responsibility to Protect
(established in 2007)

- To advance the conceptual, political and operational aspects of the Responsibility to Protect
Prevention – How?

UN Office on Genocide Prevention and RtoP

EW system

1. Info Gathering/Processing
2. Risk Assessment
3. Alert
4. Policy Recommend / Response
Prevention – How?

Framework of Analysis

Early Warning tool for the qualitative assessment of the risk of atrocity crimes
Framework of Analysis

Scope

- Genocide,
- Crimes Against Humanity
- War Crimes (human life)
- Ethnic cleansing

Atrocity crimes
Framework of Analysis

Basis

Atrocity Crimes

As processes, not as events.
Framework of Analysis

How it works

1. Understand the process

2. Identify causes and precursors and possible triggers

3. Monitor evolving scenario

4. Address causes and precursors so as to prevent their manifestation or further development.
Framework of Analysis

Main characteristics

• Reflects research on current and past cases;
• Reflects international law standards;
• Provides an integrated analysis;
• Provides consistency of approach;
• Is publicly available;
• Can be adapted.
Framework of Analysis

Analytical tools

• **Risk factors** - conditions that increase the risk of or susceptibility to negative outcomes. Can be structural or dynamic; common or specific.

• **Indicators** - different manifestations of risk factors. Assist in determining the degree to which an individual risk factor is present.
Framework of Analysis

Assessment tools

Risk Factors:

• **Common** - identify the probability of atrocity crimes overall, without necessarily identifying the type of crime.

• **Specific** – reflect the legal definitions of the crimes and the elements and precursors that are particular to each of them.
Framework of Analysis

Accuracy

Risk ≠ Inevitability

However, atrocity crimes are rarely committed in the absence of all or most of the risk factors identified.
## Framework of Analysis

### COMMON RISK FACTORS
1. Situations of armed conflict or other forms of instability
2. Record of serious violations of international human rights and humanitarian law
3. Weakness of State structures
4. Motives or incentives
5. Capacity to commit atrocity crimes
6. Absence of mitigating factors
7. Enabling or preparatory action
8. Triggering factors

### SPECIFIC RISK FACTORS

#### Genocide
9. Intergroup tensions or patterns of discrimination against protected groups
10. Signs of an intent to destroy in whole or in part a protected group

#### Crimes Against Humanity
11. Signs of a widespread or systematic attack against any civilian population
12. Signs of a plan or policy to attack any civilian population

#### War crimes
13. Serious threats to those protected under international humanitarian law
14. Serious threats to humanitarian or peacekeeping operations
Framework of Analysis

Common Risk Factor

1. Situation of armed conflict or other forms of instability

• International or non-international armed conflict;
• Security crisis;
• Humanitarian crisis or emergency;
• Political instability;
• Economic instability;
• Social instability.
Framework of Analysis

Common Risk Factor

2. Record of serious violations of international human rights and humanitarian law

- Past or present serious violations of IHRL and IHL;
- Past or present atrocity crimes or their incitement;
- Impunity, tolerance, justification or denial of violations or crimes;
- Perception of State responsibility/involvement/incitement of violations, crimes or support to perpetrators.
- Widespread mistrust in State institutions as a result of impunity.
Framework of Analysis

Common Risk Factor

3. Weakness of State structures

- National legal framework not compliant with international human rights standards;
- Lack of capable, effective, representative national institutions (judicial, law enforcement, NHRIs);
- Political interferences, high levels of corruption, poor governance;
- Lack of effective mechanisms of oversight or accountability;
- Lack of resources to implement protective measures for population.
Common Risk Factor

4. Motives or incentives

- Political, economic, strategic or military interests;
- Real or perceived threats against interests/objectives of perpetrators;
- Ideologies based on extremist views of identity;
- Politicization of past grievances, tensions or impunity;
- Social trauma caused by past violence or crimes.
Framework of Analysis

Common Risk Factor

5. Capacity to commit atrocity crimes

• Availability or human, material or financial resources;
• Links with other internal or external armed forces or groups, including militia and paramilitary involved in violations/crimes;
• Availability of support from internal or external actors;
• Presence of commercial actors or companies serving as enablers.
• Strong culture of obedience to authority.
Framework of Analysis

Common Risk Factor

6. Absence of mitigating factors

- Lack of empowerment or capacity of population to protect itself;
- Lack of strong/organized/diverse national civil society and media;
- Lack of ties to external actors;
- Lack of cooperation with human rights mechanisms;
- No or limited physical presence of international or regional actors, or interest to engage or provide support;
- Absence of early warning mechanisms for atrocity prevention.
Framework of Analysis

Common Risk Factor

7. Enabling circumstances or preparatory action

- Changes in legal/administrative/security frameworks (emergency laws, extraordinary security measures, etc);
- Creation, increased support/presence/activity of NSAG;
- Deterioration of human rights situation;
- Increased inflammatory rhetoric, propaganda or hate speech;
- Destruction of property or infrastructures related to identity or survival;
- Severe restrictions on activities, services or movements of international organizations, civil society or other, or their expulsion.
Common Risk Factor

8. Triggering factors

- Deployment of security forces or commencement of hostilities;
- Spillover of armed conflicts/tensions from neighbors;
- Sudden regime changes or transfer of powers;
- Attacks against life, physical integrity, liberty or security of prominent individuals (religious leaders, politicians, etc).
- Census, elections and associated activities;
- Special events: religious; marking past crimes or traumatic episodes;
- Natural disasters; discovery of natural resources; exploitation projects;
- Economic crisis; etc.
Specific Risk Factor: Genocide

9. Intergroup tensions or patterns of discrimination against protected groups

- Past or present serious discriminatory practices, policies or legislation against protected group;
- Denial of existence of protected groups or of recognition of elements of their identity;
- Past or current violations or crimes against protected group;
- Past or current tensions or conflict between groups or with the State;
- Lack of mechanisms/initiatives to deal with identity-based issues.
10. Sings of an intent to destroy in whole or in part a protected group

- Documentation from which intent is revealed or inferred;
- Targeted elimination or widespread or systematic discriminatory practices or violence;
- Policies or measures seriously affecting reproductive rights or contemplating separation or forcible transfer of children;
- Methods or means of violence particularly harmful, dehumanizing, humiliating or prohibited by IHL;
- Destruction of livelihoods or cultural/religious symbols and property.
11. Sings of a widespread or systematic attack against any civilian population

- Patterns of violence against the life/physical integrity, or property, livelihood or religious/cultural symbols;
- Establishment of new political or military structures;
- Increased level of organization or coordination of violent acts;
- Access or increased use of public/private resources for military or belligerent action;
- Development or increased use of means or methods of violence incapable to distinguish civilian and military targets.
Framework of Analysis

Specific Risk Factor: Crimes Against Humanity

12. Signs of a plan or policy to attack any civilian population

- Documentation from which a plan or policy is revealed or inferred;
- Adoption of discriminatory security procedures;
- Adoption of measures that alter composition of population;
- Establishment of parallel institutions or autonomous military structures;
- Preparation/mobilization of armed forces, or access and use of weapons not easily available;
- Facilitating or inciting violence;
- Widespread of systematic violence against the life/physical integrity, or property, livelihood or religious/cultural symbols.
Framework of Analysis

Specific Risk Factor: War Crimes

13. Serious threats to those protected under IHL

- Fragmentation of parties to the conflict or disintegration or absence of chains of command;
- Mistrust between parties;
- Increased radicalization or extremism of parties;
- Promotion of ethnicity or religion as allegiance to a party;
- Evidence of conduct related to the planning, development, production, storage, acquisition, availability or threats of use of weapons/instruments prohibited by IHL;
- Conduct interfering with delivery of aid or access to livelihoods.
Specific Risk Factor: War Crimes

14. Serious threats to humanitarian or peacekeeping operations

- Fragmentation of parties to the conflict or disintegration or absence of chains of command;
- Perceptions of partiality, political interference or support to opposing party;
- Increased intensity of conflict and scarcity of resources;
- Interference with access, movement or activities;
- Tampering with or removal of signs identifying protected objects or operations;
- Attacks to locations in close proximity to protected operations or their routes.
Framework of Analysis

Tips for Analyst/monitor

• Not all risk factors need to be present;
• The more risk factors/indicators present, the greater the risk.
• Early identification of risk factors - greater opportunities for early prevention;
• Risk factors and indicators are not ranked - importance will differ according to particular context;
• Be flexible when considering and weighing all the elements;
• Situate risk factors and indicators within broader political, contextual, historical and cultural analysis;
• Be open to new elements that might surface.
Challenges

Assessment & Early warning

• Capacity;

• Obtaining relevant, timely and critical information;

• Large number of countries with risk factors;

• Changes in conflict dynamics;

• General conflict prevention perspective;

• Measuring success.
Challenges

• Sensitivity of States;

• Difficult to demonstrate added value of prevention – tendency to focus on response over prevention;

• Stimulating change - prevention as a long-term strategy;

• Limited resources of policy makers – long term investment;

• Must be rooted in both national and international efforts;

• Political will and leadership;