

Concept note

Arria-formula meeting on raising effectiveness of atrocity crimes prevention: role of the United Nations Security Council and its Members 10 December 2018, 3 pm., UNHQ CR 6

Introduction

Prevention of genocide has been one of the focus of the United Nations from the very beginning. At its inaugural session in 1946, the UN General Assembly condemned genocide, invited Member States to enact domestic legislation for its prevention and punishment, recommended that international cooperation be organized between States for this purpose, and requested that a convention on that crime be drafted. The Convention on the Prevention and Punishment of the Crime of Genocide was adopted on 9 December 1948, not without tireless efforts of Raphael Lemkin, a Polish lawyer and linguist who coined the word “genocide”, proposed and consistently supported the idea of an international convention. While widely accepted, it is not yet universally ratified or acceded to, hence the appeal of the United Nations Secretary-General for universal participation in the said convention.

The prohibition of egregious behavior in the conduct of armed conflict i.e. war crimes, which are another form of atrocity crime, developed and was codified particularly in the Hague Conventions of 1899 and 1907, the Geneva Conventions of 1949 as well as in the two Additional Protocols of 1977, which enjoy high levels of acceptance.

Although no comprehensive international treaty has been yet dedicated exclusively to crimes against humanity, their notion has been steadily developed in the statutes and through jurisprudence of international, hybrid and domestic criminal courts and tribunals with jurisdiction over the said types of atrocity crimes. Moreover, the International Law Commission is currently developing Draft Articles on Crimes against Humanity.

The development of this international legal framework is undoubtedly a major achievement. Commendable is also the commitment and activity aimed at preventing atrocity crimes on the part of many UN Member States, the UN system and other stakeholders, including regional organizations and the civil society. It is also to be recognized that in certain circumstances the means of international criminal justice can contribute to the deterrence of further crimes and assist in the effort to prevent them.

Despite the above, atrocity crimes continue to be committed, with most grave and tragic consequences first and foremost for the affected populations. Moreover, the commission of atrocity crimes further impacts adversely the maintenance of international peace and security – the primary responsibility of the United Nations Security Council. Against this background, and in line with the need for a continued commitment to ensuring accountability, the means for supporting early prevention of atrocity crimes merit careful consideration of the Security Council Members.

Purpose and scope of the meeting

The meeting, organized on the 70th anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide as well as the Universal Declaration of Human Rights, will provide an opportunity to highlight the importance of atrocity crimes prevention. It will also allow to identify and discuss challenges and good practices relevant in the context of raising their effectiveness. Moreover, it will serve as a platform for consideration of *inter alia* the Council's and its Members' role and possible contribution to early prevention of atrocity crimes.

The participants are invited to focus their interventions on practical steps to make atrocity crimes prevention more effective at early stages – including through the Security Council's and its Members':

- possible contribution in appropriate ways towards mobilization of assistance for building local ownership and capacities that sustainably and effectively contribute to strengthening national resilience and mitigation of atrocity crimes commission risk, in order to promote the establishment and maintenance of international peace and security and avoid their endangerment, as provided by relevant articles of the UN Charter;
- endorsement of the development of an ever more systematic, structured and coordinated approach to information gathering, verification, analysis and dissemination to allow for a more integrated and comprehensive atrocity crimes commission risk assessment and effective early warning in order to facilitate *inter alia* the determination of a possible existence of any threat to peace;
- support for the enhancement of capabilities to manage situations of concern, the development of strategies, institutional preparedness and responsiveness as well as flexible reaction options in order to prevent aggravation of such situations;
- leadership on the development of an adequate, coordinated and consistent deterrent communication demonstrating unity and resolve as well as diplomatic, humanitarian and other peaceful means as needed, in accordance with the Charter of the United Nations, to help prevent atrocity crimes and maintain international peace and security;
- firm support for the international criminal justice system and its institutions as means of deterrence;
- demonstrated readiness to take collective action in a timely and decisive manner, with a clear objective, a coherent strategy and in accordance with the Charter of the United Nations to prevent atrocity crimes, bearing in mind their impact on the maintenance of international peace and security.

Format, participants and outcome

The Arria-formula meeting will be organized by the Permanent Mission of the Republic of Poland to the United Nations in partnership with the Permanent Missions of Belgium, Cote D'Ivoire, Germany, Kuwait and Peru to the United Nations, as well as in close cooperation with the UN Office for Genocide Prevention and the Responsibility to Protect and the UN Office of Legal Affairs. The Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, is to deliver remarks. Director of Policy and Planning of the Auschwitz Institute for Peace and Reconciliation and Program Director of the Global Edition of the Raphael Lemkin Seminar for Genocide Prevention, Ms. Samantha Capicotto, will also brief.

Representatives of all current and incoming Security Council Members are invited to deliver their remarks, no longer than three minutes, focused on practical proposals of action aimed at raising effectiveness of atrocity crimes prevention. Possible other participants of the open meeting may be offered an opportunity to deliver brief, focused remarks, time permitting. The Chair will prepare takeaways from the discussion.

Indicative questions for consideration

Participants may wish to consider the following questions in their statements:

- How could the Security Council and its Members contribute to enhancing early atrocity crimes prevention, in particular in situations and regions in danger of gross violence, given its significance for the maintenance of the international peace and security, including through conflict prevention? Could it for instance endorse wider dissemination and use of the Framework of Analysis for the Prevention of Atrocity Crimes, developed by the Secretary-General's Special Advisers on the Prevention of Genocide and on the Responsibility to Protect?
- Given its importance for enabling the Security Council to effectively and timely discharge its duties - in what ways could the Council and its Members contribute to further enhancement of the effectiveness of information gathering and dissemination, atrocity threat research, analysis and assessment as well as early warning mechanisms? What partnerships could be established or developed in that respect? Should, and if so, how in particular the reporting to the Council aimed at early identification of the risks of atrocity crimes, ascertaining situations and guiding decision-making could be enhanced? What roles could be played by the UN system as well as regional arrangements, such as the European Union's Conflict Early Warning System, the African Union's Continental Early Warning System, and the civil society?
- How to strengthen the deterrent effect of the international criminal justice system?
- In what ways could the Security Council and its Member States contribute to the strengthening of operational atrocity crime prevention? Which response capabilities should be particularly looked into?
- What is needed to increase the effectiveness of UN field presence in prevention of mass atrocity crimes? What can the Security Council do to strengthen and better tailor such presence for the said purpose? Could other stakeholders, including civil society organizations, also contribute towards that goal?