

Global Action to Prevent War and The Project for a UN Emergency Peace Service (UNEPS)

UNEPS in Context: Third Pillar Capacities and First Pillar Responses

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Conference Notes and Recommendations

I. Introduction

For two days, a diverse group of diplomats, academics and civil society leaders came together to focus energy on the tools and capacities needed to fully implement state and international community obligations under the Responsibility to Protect norm. There was general agreement among the group that the responsibility to address the threat or existence of atrocity crimes in specific national contexts requires more attention to the international community's 'toolbox' – from early warning mechanisms to standing, integrated, rapid-response, peacekeeping capacity – that must be developed in order to give appropriate, practical weight to the norms and values that guide the international system's duty to protect civilians from gross violence.

Our conversations were lively and occasionally even contentious. Participants represented a range of agencies, nationalities and issues, all united in a desire to end the threat of atrocity crimes that ravage families and communities. The tools under review – especially our proposal for a UN Emergency Peace Service (UNEPS) – all require technical sophistication, viable political strategies and abundant trustbuilding with diplomats as well as with the leaders of communities where atrocity crimes are most likely to threaten and where such response tools are most likely to be deployed.

One of the principle themes for the workshop was 'complementarity' – the premise that new tools and capacities must fold into and support an existing security structure which unfortunately still exhibits many gaps, limitations and unclear responsibilities. UNEPS, for instance, is not being developed as a stand-alone capacity, but one linked to existing UN-based and regional peacekeeping operations as well as to diverse early warning, preventive and legal mechanisms that likewise need to find more a more prominent place in the international community's response system for atrocity crimes.

The workshop discussions were based on multiple, shared, civilian protection/R2P/UNEPS resources, many of which are available through Global Action to Prevent War (GAPW) on request at coordinator@globalactionpw.org. More specifically, the workshop was punctuated by the launch of two new texts, the first of which was "Healing the Wounds: Speech, Identity and

Reconciliation in Rwanda and Beyond,” from the Human Rights and Genocide Clinic at the Benjamin Cardozo School of Law and GAPW. In addition, a team of UNEPS affiliates based at Rutgers University Law School shared their ‘Draft Statute for the Formation and Operation of the United Nations Emergency Peace Service for the Prevention of Genocide and Crimes against Humanity.’ This draft was based on extensive research and various levels of consultation with the broader UNEPS network. Both of those core resources can be downloaded at www.globalactionpw.org.

The following represents a distillation of a complex conversation with skilful presenters who will (under the rules established for the workshop) not be directly attributed. While content highlights from presentations and key questions from participants will be shared, the focus will be on recommendations that can help to shape our collective response during the coming years to close capacity gaps in the UN system that impede our ability to prevent and otherwise respond effectively when atrocity crimes threaten.

In addition to our four panels, we were particularly honored to have with us two leading UN figures in promoting the protection of civilians and efforts to end impunity for atrocity crimes. Ekkehard Strauss UN Human Rights Officer and author of “The Emperor's New Clothes: The United Nations and the Implementation of the Responsibility to Protect” opened the workshop with a spirited discussion on the shifting roles for R2P since the 2005 World Summit. Karen Odaba Mosoti, Head of the ICC Liaison Office to the United Nations took time off from her duties at the Eighth Session of the Assembly of State Parties to bring us her thoughts on some of the complementary capacities available through the ICC framework to help address the threat of atrocity crimes.

II. Content Highlights

- Application of the R2P norm must be situational, rather than categorical. Situations of potential or existing atrocity crimes are complex and must not be addressed through pre-set formulas. In the same way, it is important to avoid inflexible references to ‘sequencing’ regarding implementation of the R2P ‘pillars.’ Diverse circumstances call for ‘nimble’ applications of existing tools and capacities.
- The ratio between peacekeepers and ‘spoilers’ is often unbalanced in ways that guarantee that POC mandates cannot be adequately fulfilled. More troops in the field can serve as an effective deterrent to violence by ‘spoilers.’ We must remember that it is relatively easy to kill ‘spoilers,’ but the goal is to prevent the loss of life. Thus we need more widespread robustness and commitment on the prevention side. More ‘boots on the ground’ is only one of the deterrence-related options that should be examined.
- The Security Council is seen by many as a major impediment to clarity and robust engagement regarding civilian protection mandates. We need to interrogate the Council’s working methods with regard to POC and do more to limit the ability of Council members to exercise the veto in situations where there has been a clear finding regarding the immanent danger of atrocity crimes.

- Tools and capacities to address mass violence and hold perpetrators to account already exist. And we can insist that UN agencies and other regional and international organizations do all that they can with the tools at their disposal in responding to gross violence perpetrated by state and non-state actors. But we must not ask more of the ICC and other agencies than their mandates and capacity levels permit. The tendency to demand too much of any one office or organization invites skepticism and undermines collaborative engagement possibilities. We all have roles to play and can play them more vigorously and cooperatively.
- States and civil society actors have a dual obligation to promote effective guidelines and capabilities where civilian protection is concerned. We need clearer mandates and rules of POC engagement, but we also need reliable tools and capacities with which to engage. Much of the lack of response to atrocity crimes is less willful and based more on unclear mandates and insufficient capacities. But willfulness by some governments – including Council members -- is also a major contributing factor contributing to the persistent threat of mass violence.
- There are several dimensions of pre-crisis prevention that need to be addressed simultaneously – structural, ad hoc, and escalation. We must create flexible tools and sustainable structures, but we also need to think through how effectively (and quickly) we can mobilize our ability to respond when crises evolve from potential to actual violence.
- We need to stay attentive to the range of potential allies available to help us with both guidelines and capabilities. As much as civil society is doing regarding POC response and toolkit development, they must not ignore partnerships with governments and other international actors that can help sustain our endeavors and broaden their impact. It is especially important to make connections beyond ‘western’ countries and cultures and to provide meaningful pathways of engagement for government and civil society representatives from all global regions.
- Conflict prevention is an important skill for preventing and/or addressing atrocity crimes, but such priorities can sometimes marginalize attentiveness to such crimes in order to leverage short-term successes, such as the signing of formal peace agreements. We were reminded that any inattentiveness or even impunity in the short term can undermine sustainable peace in the longer term.
- UNEPS and related tools stress complementarity; however it is not clear in some cases characterized by grave social disorder – such as Somalia – what an appropriate and feasible ‘hand over’ capacity to a UNEPS deployment might look like. We need to examine the points at which civilian capacities can replace military capacities in post-conflict peacebuilding. But we also need to look at the potential relationships between rapid-response peacekeeping tools, more formal PKOs, and other national and regional security capacities, including legal mechanisms. In our frame of reference, all are needed in order to create an effective and seamless response when atrocity crimes threaten.
- For many, legitimacy is a key POC issue. We must examine the extent to which the UN retains legitimacy to respond in cases of atrocity crimes and also the ways in which existing PKOs –largely international blue helmets seconded from national militaries – would be impacted by a standing, service integrated, rapid response force. Legitimacy is also in part

a by-product of due diligence on the prevention side – eliminating threats to atrocity crimes and preparing carefully for timely response in (hopefully rare) instances where prevention and diplomacy fail. We must be fully prepared to put out the fire once it starts, but also to do all we can to ensure that fires themselves are less and less numerous.

- Any new response capacity proposed for the UN system implies multiple levels of trustbuilding that must be engaged deliberately, including trust in the technical competency of the proposal, trust in the people developing and ‘selling’ the proposal, and trust in the vessel (UN or regional organizations) that will house the capacity. Trustbuilding must be mainstreamed into any strategy for developing new POC or peacekeeping tools.
- UNEPS is more than a new capacity, but is in some critical ways a ‘game changer’ that requires ‘suspension of disbelief’ on the part of many in civil society and a rethinking of notions of national sovereignty and the structures of the UN’s security system on the part of states. As much as we know we need a UNEPS, we should not minimize the structural changes that would be required to accommodate it nor the unease that such changes might occasion.
- We do not know as much as we need to know about the ‘symptoms’ or characteristics of an ‘enabling’ environment for atrocity crimes, nor are we sufficiently clear about the motivations that prompt states to employ violence (or threats of violence) on this scale for purely political purposes. The more knowledge we can obtain here, the more likely will be the success of our multiple interventions.

III. Key Questions

- Do international laws and legal structures like the ICC have a deterrent effect on planning for or carrying out atrocity crimes? If so, how can we measure and expand that impact?
- How can we most effectively hold the Security Council accountable for its failures to rapidly and robustly address findings of potential atrocity crimes, including a lack of pre-crisis intervention?
- Whose task is it to lead and/or engage in contingency planning for atrocity crimes? Is there a role for civil society in this process or is it only governments or UN agencies that can be tasked with such planning? Can the UN’s human rights and genocide prevention offices provide guidance in this instance?
- What are the values and competencies that make a peace professional? How can we take ‘gold standards’ for assessment of such professionals and apply them to people trying to address mass atrocities in the field and who find themselves in need of context-specific, high-quality, remedial training?
- How can UN-based advocates more effectively promote ‘non-indifference’ to atrocity crimes among states, represented in part by more protective measures for refugees and other civilians, less impunity for offenders, and more attentiveness to threats of such crimes before the onset of actual violence?

IV. Recommendations for Action

- Continue to develop the UNEPS statute with an eye towards cultural inclusiveness, a balance of civilian and military capabilities, and consensus-driven strategies for promoting the UNEPS with governments and at the UN.
- Consider and decide on strategies to fortify the infrastructure available for developing and promoting UNEPS, including possible new offices in several global regions linked to a liaison office at the UN in New York.
- Develop templates to help governments fulfill their obligations to conduct robust contingency planning that can effectively and rapidly assess and address the threat of atrocity crimes. We should also advocate for voluntary assistance for states to help them develop laws and legal mechanisms to prevent/prosecute mass violence that are fair and transparent, and that can more directly support the work of the ICC and other international legal mechanisms.
- Provide more opportunities – at the UN and regionally – for diverse sectors of the civilian protection community to come together to assess issues, mandates, tools and structures, all of which are important to successful POC engagement and the full implementation of the three ‘pillars’ of the R2P norm.
- Consider the possibility of soliciting a ‘friends’ group of supportive states that can provide guidance on various issues related to standing peacekeeping capacity, including issues of complementarity with both the pillars of the R2P norm and the work of more conventional PKOs. We should also consider linking with other important ‘champions and potential champions’ with whom we can form natural alliances, including election monitors and other field-based professionals.
- Ensure that discussions on atrocity crimes held in the Security Council, General Assembly or other forums include diverse stakeholders with wide-ranging expertise in all matters pertaining to atrocity crimes, including experts on conflict prevention and alternatives to the violent resolution of conflict.
- Continue to assist the ICC in becoming ‘mainstreamed’ within the UN system and to do more to encourage states that have not yet done so to craft national laws that directly complement ICC mandates.

Conclusion

Our efforts and activities must continually strive for a balance between policy savvy and practical urgency. In a very real sense, ‘we don’t live with what we have we die with what we have.’ The development of tools and capabilities that can offer hope to new generations of potential victims must not be allowed to obscure our more urgent responsibility to the millions of civilians around the world who are currently under siege.

Sir Brian Urquhart, one of the pioneers of standing peacekeeping capacity, has wondered aloud if it will require ‘major shocks’ to get some movement on what could well become a critical component of effective international security. It appears that we have had those shocks, and that even such events have not fully persuaded the international community to act on complementary

capacities that can 'close the escape routes' for those seeking to avoid responsibility or accountability for the most severe of crimes.

We can and must do better. As one participant put it, "The international community must think more seriously about its obligation to prevent genocide and other mass atrocities and provide governments with the support they require, before bodies are in need of burial." As we all recognize, we have buried far too many already.