



## **UN human rights mechanisms in prevention of atrocity crimes: the context of mass atrocities in Ukraine**

Anna Sayko

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School of Global Studies, University of Gothenburg  
Pedro Arrupe Human Rights Institute, Deusto University  
School of Humanities and Social Sciences, University of Roehampton  
Department of Social Sciences, University of Tromsø – Arctic University of Norway

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Supervisor: Dr. Caitlin Knight

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## Abstract

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There has been limited examination of the current and potential capacity of the UN human rights mechanisms to effectively engage in preventive measures. The international community, mainly through the UN Security Council, focuses on peaceful conflict resolution, mediation and political interventions, narrowing the scope of atrocity prevention to security, diplomacy and politics. However, by reassessing the stages of atrocities from a human rights violations perspective, international human rights mechanisms can develop timely and effective early warning systems. The research focuses on the role of the UN human rights mechanisms in preventing atrocity crimes and risk factors analysis of gross human rights violations categorized as atrocity crimes. By analysing prevention tools developed by the UN institutions, the research intends to contribute to a better understanding of their capacity, limitations, and potential areas for improvement in preventing atrocity crimes. The investigation aims to provide insights for future efforts of atrocities prevention in Ukraine and enhance the effectiveness of international human rights mechanisms in the early warning and risk assessment for atrocities. The research highlights the importance of improving the theory and practice of atrocity prevention, considering the severe consequences of inaction to prevent the escalation of atrocity crimes in Ukraine.

**Key terms:** atrocity prevention, atrocity crimes, Ukraine, risk factors, early warning, urgent actions, the United Nations mechanisms, Responsibility to Protect (R2P).

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## *Abbreviations*

**R2P** - Responsibility to Protect

**CAH** - Crimes against humanity

**CAT** – The Committee against Torture

**CERD** - The Committee on the Elimination of Racial Discrimination

**CED** - The Committee on Enforced Disappearances

**COBs** - Concluding Observations

**CoI**- Commission of Inquiry

**CSOs** - Civil society organisations

**ICC**- The International Criminal Court

**ICJ**- The International Court of Justice

**ICERD**- The International Convention on the Elimination of All Forms of Racial Discrimination

**GA** - The General Assembly

**OSAPG** - Office of the Special Adviser on the Prevention of Genocide

**RF**- Russian Federation

**SC** - The Security council

**SPT** - The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

## Table of Contents

<b>Chapter 1. Introduction</b> .....	<b>7</b>
Main concepts .....	8
Research context: situation of armed conflict, occupation, and instability in Ukraine from 2014... ..	11
Research problem area.....	12
Presentation of the dissertation .....	14
Methodology .....	15
Theoretical approach .....	15
Limitations .....	17
<b>Chapter 2 Previous research in the field of prevention</b> .....	<b>19</b>
What is atrocity prevention? .....	19
Prevention and the Responsibility to Protect .....	20
Prevention in criminology .....	21
Prevention in the public health .....	21
Prevention of genocide .....	22
Prevention of torture .....	24
<b>Chapter 3. Analysis of the institutional capacities of the UN human rights mechanism for atrocity prevention</b> .....	<b>25</b>
The Office of the Special Adviser of the Secretary-General on the Prevention of Genocide .....	25
The Framework of Analysis of the risk factors .....	27
Security Council .....	28
The Human Rights Council .....	29
The Committee against Torture .....	30
The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) -confidential prevention.....	31
The Committee on the Elimination of Racial Discrimination - risk factors for Prevention.....	32
The Committee on Enforced Disappearances .....	33
<b>Chapter 4. Analysis of the atrocity prevention in the context of the armed conflict in Ukraine</b> .....	<b>36</b>
Minsk Agreements-mediation efforts .....	36
UN monitoring mechanisms operating in Ukraine .....	37

Assessment of the monitored information .....	39
Special Adviser on the Prevention of Genocide.....	42
<b>Chapter 5 Discussion .....</b>	<b>43</b>
Coherence of the UN treaty bodies and OSAPG/R2 in the prevention of atrocity crimes .....	43
UN treaty bodies - procedures for prevention, risk assessment and cooperation .....	43
OSAPG/R2P – prevention capacities .....	45
Early warning -moral principle or legal obligation? .....	45
Prevention of atrocity crimes during the armed conflict .....	47
<b>Chapter 6 Conclusions and recommendations .....</b>	<b>48</b>
Bibliography .....	52
Appendix 1, 2.....	60

## Chapter 1. Introduction

*“Atrocity crimes are considered to be the most serious crimes against humankind. Their status as international crimes is based on the belief that the acts associated with them affect the core dignity of human beings...” (Framework of Analysis for Atrocity Crimes, 2014).*

The 2005 United Nations World Summit's resolutions on the Responsibility to Protect (R2P) identify genocide, war crimes, ethnic cleansing, and crimes against humanity as fundamental crimes that require prevention (GA, 2005).

A common observation framed by research in atrocity prevention is that atrocity crimes are not ‘random’ events, but usually reflect a complex interaction of different risk factors over an extended period (Bellamy, 2015; Harff, 2003; Reike, 2015). Those crimes typically evolve through a dynamic process that provides opportunities for intervention to prevent their occurrence. Scholars have argued that it is advantageous to act to prevent atrocity crimes from being committed, given the barriers and high costs of reacting once they are already underway (Bellamy, 2015; Stanton, 2009). Unquestionably, prevention of atrocity crimes is to preserve human life and safeguard fundamental human rights. Moving beyond moral and human rights perspective, those crimes generate refugee flows, internal displacement, humanitarian crisis and destabilization of the region, lead to individual and collective trauma. Their long-lasting impact can be observed as decades of access to justice and restoration of rights for survivors (Heidenrich, 2001).

Yet, the approach of the international community to the atrocity crimes remains reactive with the focus on accountability efforts. It entails directing efforts towards crisis response and addressing the extensive aftermath, including consequences that may not be adequately addressed at the present stage. The situation of the commitment of the evolving of the atrocity crimes in Ukraine, joining the list of massacres of unprevented atrocities in South Sudan, Ethiopia, Kosovo, etc., once again questioned the efficiency of the preventive system at the international level and pushed forward for the development of early warning.

### *1.1 Main concepts*

“*Atrocity crimes*” as an umbrella term for genocide, crimes against humanity, war crimes, and ethnic cleansing is operationalized by the 2005 World Summit document that endorsed the RtoP doctrine (UNGA, 2005). The concept of mass atrocity is not defined by the international law per se, but results from the overlap of two primary categorizations: legal, founded in the Rome Statute of the International Criminal Court, and operational, based on the Responsibility to Protect (RtoP) framework.

#### *Genocide*

Article II of the Convention on the Prevention and Punishment of the Crime of Genocide (1948), re-embodied in Article 6 of the ICC Statute, defines the crime of genocide as: “following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) “Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group” (UNGA, 1948).

The contextual elements of genocide are defined by the Article 6 of the ICC elements of crimes as:

- (a) “such person or persons belonged to a particular national, ethnical, racial or religious group.
- (b) The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
- (c) The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction” (ICC, 2011).

According to Lemkin, genocide did not necessarily involve the immediate physical destruction of a national or ethnic group. Instead, it encompassed various actions aimed at undermining the essential foundations of the group's existence, ultimately leading to the group's annihilation



as a whole (Schabas, 2000). A limited definition of such groups, however, raises a question of exclusion of other victims' groups, such as those based on gender, sexual identity, political views, economic class, etc (Schabas, 2000, p. 154).

### *Crimes against humanity*

The systematic and widespread nature of the crimes committed during the Holocaust highlighted the need for a new category of international crimes that would address the most egregious human rights violations committed against civilians. As a result, the concept of crimes against humanity was developed and recognized as a distinct category of international crimes, gaining its legal credibility (Kuperberg & Hagan, 2022). The term "crimes against humanity" is defined by Article 7 of the Rome Statute of the International Criminal Court as following acts:

- (a) "Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health" (UNGA,1998).

In addition to these acts, three common elements must be established:

- "The acts must be committed as part of a widespread or systematic attack;
- The acts must be directed against a civilian population; and
- The acts must be committed with knowledge of the attack" (ICC, 2011).

Although crimes against humanity are mass crimes committed against civilian population, they do not necessarily target a specific group and can be committed in a peacetime.

### *War crimes*

Unlike genocide and crimes against humanity, war crimes invariably occur within the context of an armed conflict (Dieng & Welsh, 2016). Article 8 of the Rome Statute defines war crimes as: grave breaches of the Geneva Conventions (1949), namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention (UNGA, 1998).

War crimes can target a wide range of victims, encompassing both combatants and non-combatants. In international armed conflicts, victims are protected by the four 1949 Geneva Conventions, which include (1) the wounded and sick in armed forces on the battlefield; (2) the wounded, sick, and shipwrecked members of armed forces at sea; (3) prisoners of war; and (4) civilian individuals (ICRC, 1949). This protection is also extended to those covered by the 1977 Additional Protocol I (ICRC, 1977). In the context of non-international armed conflicts, Common Article 3 of the four 1949 Geneva Conventions safeguards "persons taking no active part in the hostilities, including members of armed forces who have surrendered or been rendered 'hors de combat' due to illness, injuries, detention, or other reasons" (ICRC, 1949) It also includes those protected under the 1977 Additional Protocol II (ICRC, 1977).

The contextual elements of the war crime defined by the ICC as follows:

- (a) "Such person or persons were protected under one or more of the Geneva Conventions of 1949.
- (b) The perpetrator was aware of the factual circumstances that established that protected status.
- (c) The conduct took place in the context of and was associated with an international armed conflict.
- (d) The perpetrator was aware of factual circumstances that established the existence of an armed conflict" (ICC, 2011).

### *Ethnic Cleansing*

Ethnic cleansing is generally used to describe mass violence and efforts to purge an area of a specific group, carried out against a population based on ethnicity or other group membership, which does not meet the stringent legal definition of genocide (Manashaw, 2005).

It is considered a specific atrocity category in the international law interpretations by courts, soft law, and literature. Ethnic cleansing is often used to describe a range of crimes that, if considered individually, would require individual international responsibility as separate international crimes. A United Nations Commission of Experts on IHL violations in former Yugoslavia defined ethnic cleansing in its report S/25274 as "... rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area" and in its report S/1994/674, as "... a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas" (Security Council, 1993). These crimes may include acts such as forced displacement, mass killings, torture, sexual violence, and destruction of property based on ethnic or religious grounds (Security Council, 1993). While the term "ethnic cleansing" is not explicitly defined as an international crime in the strict sense, the underlying acts that constitute ethnic cleansing can fall under existing categories of international crimes, such as crimes against humanity or war crimes. It is important to note that the lack of a specific international crime of "ethnic cleansing" does not diminish the gravity or legal consequences of the individual acts that contribute to such a phenomenon.

*Research context: situation of armed conflict, occupation, and instability in Ukraine from 2014*

The armed conflict in Donetsk and Luhansk regions in Ukraine, which has persisted since mid-April 2014 and has been exacerbated by the influx of militaries and weapons from the Russian Federation, including former military personnel and servicemen on leave, is responsible for the majority of infringements on the right to life in Ukraine in the past two years (HRC, 2023). According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), it is estimated that between only between the mid-April 2014 and May 31, 2016, at least 9,404 individuals lost their lives as a consequence of the conflict, with up to 2,000 of them being civilians. The overwhelming majority of civilian casualties resulted from indiscriminate shelling of residential areas, a clear violation of the fundamental principle of distinction outlined in international humanitarian law (HRC, 2023).

In the same month, a comprehensive aided by Russian security forces unmarked "self-defense" military units seized administrative buildings and military bases across Crimea and installed a pro-Russian leadership. Following an illegal referendum on Crimea's status, RF President Putin and Crimea's leadership signed agreements claiming to make Crimea and

Sevastopol part of the Russian Federation. Between February and April, “self-defence” units committed severe abuses, including abductions, attacks, torture, and harassment of activists, journalists, and others they suspected of being “pro-Kyiv”. Crimean Tatars, the predominantly Muslim ethnic minority of the Crimean Peninsula, faced increased harassment and persecution. In May 2014, the authorities banned all mass gatherings before the 70th anniversary of the community’s deportation. Over 16,000 people have fled Crimea since March 2014, primarily for mainland Ukraine (Human Rights Watch, 2015).

On February 24, 2022, the Russian Federation launched a large-scale armed attack against Ukraine. Russian forces commenced strikes across the country and entered the territory of Ukraine in ten regions: Kyiv, Chernihiv, Donetsk, Kharkiv, Kherson, Luhansk, Mykolaiv, Sumy, Zaporizhzhia and Zhytomyr (HRC, 2022; GA, 2022; OHCHR, 2022). The armed attack and associated hostilities led to a grave deterioration in the human rights situation across the country (OHCHR, 2022), constituted devastating consequences for civilian populations and private property (Human Rights Watch, 2023). Populations under occupation were targeted for grave human rights violations, including extrajudicial killings, unlawful detention, torture, cruel treatment, and CRSV (OCHA, 2023).

### *Research problem area*

The following section is a brief introduction to the theories and considerations concerning the theoretical framework for prevention. Not only is the meaning of prevention of atrocity crimes is not clarified in the international law, but there is also a lack of substantial indication regarding the content of this concept. The broad nature of atrocities composing of four different crimes with the own contextual elements complicates the establishment of obligations for their prevention. As a result, the mandates of the UN human rights mechanisms may not outline neither clear steps, nor specific obligations for preventing atrocity crimes. Additionally, the literature proposes various notions and scope of prevention from early warning to the military interventions. In fact, for many years, there has been a lack of research on the link of the capacities to prevent human rights violations with the obligation to prevent atrocity crimes.

The effectiveness of preventing atrocity crimes is examined through the lens of institutional liberalism theory, which includes a system of moral values reflected in the R2P concept and in the international human rights standards. Realism theory helps to identify and consider practical factors of effectiveness, such as state interests, political will, and sovereignty. In the context of the prevention of atrocity crimes in Ukraine the Russian

government's reluctance to engage with the international community undermines the potential for effective cooperation. As most non-coercive policy tools rely on cooperation, the absence of self-interest on Russia's part creates a significant hurdle.

The theories of institutional liberalism and realism are included within the analysis to determine capacities and limitations of the UN human rights mechanisms in prevention of atrocity crimes in general, as well as, in the case study of the prevention of atrocities in Ukraine.

In order to address the problem area, research aims to answer the following questions:

1. Which conceptual framework for prevention is applied to address atrocity crimes in theory and practice?
2. Which prevention models are utilised by the UN human rights mechanisms in their mandate and practice?
3. How have the UN human rights mechanisms addressed and conveyed early warnings related, risk assessment and R2P efforts regarding atrocity crimes in Ukraine from the start of the armed conflict in eastern Ukraine and the annexation of the Autonomous Republic of Crimea in 2014 until the escalation of the full-scale armed conflict in 2022?

#### *Presentation of the dissertation*

*The first chapter* of the dissertation is constructed by a methodological section presenting the considerations underlying the methods utilised within the research. The section includes a presentation of a case study of atrocities committed in Ukraine as a methodological strategy, considerations regarding the research problem area and research questions, theoretical considerations, and, ultimately, the delimitations of the conducted investigation. *The second chapter* reviews concepts of prevention in the different fields of study, discloses the Responsibility to Protect concept, its emerging and framework of the application. *The third chapter* describes institutional capacities of the UN human rights mechanisms for the prevention of human rights violations. *The fourth chapter* analyses the case study of the way UN human rights mechanisms addresses escalation of atrocities in Ukraine. *The fifth chapter* presents the interview results, reflects on the coherence of the UN mechanisms, and discusses prevention of the atrocity crimes during the armed conflict. *The sixth chapter* provides conclusions and recommendation for the relevant stakeholders.

## *Methodology*

The methodology used in this dissertation consists of a combined (deductive and inductive) qualitative content analysis of the mandates of the selected UN human rights mechanisms in relation to prevention capacities; reports, resolutions, and public statements of the selected UN human rights mechanisms in Ukraine since 2014 in relation to application of the R2P principle; and thematic analysis of the interviews. This approach is suitable when the project seeks to investigate particular issues but also intends to allow room for the exploration of unforeseen facets of participants' experiences or the manner in which they attribute significance to phenomena (Shava & Hleza, 2021). The aim of this analysis is to evaluate the capacity of the UN system to prevent atrocity crimes.

The case study strategy reviewed the international engagement in Ukraine from the perspective of preventing atrocity crimes and peace negotiation. In order to identify a framework of analysis for reported human rights violations during the period prior to May 2022, when the escalation of atrocities in Ukraine occurred, an assessment of the HRMMU and CoI reports would be a valuable resource. These reports provide a comprehensive account of the human rights situation in Ukraine, shedding light on the nature and extent of violations the affected population, the responsible parties, and the overall context in which these violations occurred. The risk assessment analysis will be conducted by analysing primary information collected by the HRMMU and Independent Commission of Inquiry in Ukraine using common and specific risk factors develop in the Framework of analysis for atrocity crime by the OSAPG.

The case study strategy reviewed the international engagement in Ukraine from the ability of preventing atrocity crimes to utilise policy tools of the R2P to prevent atrocity crimes in Ukraine. It is investigated how the following R2P tools have been utilised: 1) Mediation and Political Dialogue 2) Risk assessment 3) Early warning.

Qualitative content analysis does not produce counts and statistical significance; instead, it uncovers patterns, themes, and categories important to a social reality. Presenting research findings from qualitative content analysis is challenging. Although it is a common practice to use typical quotations to justify conclusions (Schilling, 2006).

The thematic analysis is applied for the interviews. The development of themes is a common feature of qualitative data analysis, involving the systematic search for patterns to generate full descriptions capable of understanding the phenomenon under investigation.

In the final semester of my dissertation work, I have completed an internship with the Committee against Torture, the Office of the United Nations High Commissioner for Human Rights (OHCHR). This internship provided me with the valuable opportunity to conduct interviews with practitioners in the relevant field. The individuals interviewed for this research were the OHCHR experts, including from the Committee on the Elimination of Racial Discrimination, the Committee against Torture, and the Subcommittee on Prevention of Torture. Participants were chosen based on their significant expertise in human rights and their extensive professional experience within relevant United Nations mechanisms. Interviews lasted, on average, 45-60 minutes.

Interviewing is used as a complementary research method aiming to enrich investigation with the insights from practitioners about IHRMs' mandate implementation. After transcribing the interviews from audio to text, the textual content is organised and grouped into 3 main thematic categories:

- procedures for prevention;
- risk assessment;
- cooperation.

Before participating in the interviews, the interviewees were provided with information regarding the project's objectives, the individuals responsible for the research project and their contact details, the voluntary nature of participation, the criteria for selecting participants, the interview process schedule, privacy and data storage policies, and the rights of the participants. This information, along with the consent form, was presented in written form, explained to the participants prior to the interview, and signed by them.

### *Theoretical approach*

The theories of institutional liberalism and realism are included within the analysis to determine capacities and limitations of the UN human rights mechanisms in prevention of atrocity crimes in general, as well as, in the case study of the prevention of atrocities in Ukraine. The following section is a brief introduction to the theories and considerations concerning the theoretical framework. The institutional liberalist approach enables the perception that institutions affect state behaviour and enhance the interest of all people. The realist theory enables the reflection that self-interest, sovereignty, and unequal power balance affect the international community and its abilities.

The institutional liberalist approach enables the perception that institutions affect state behaviour and enhance the interest of all people. The realist theory implies that self-interest, sovereignty and unequal power balance affect the international community and its abilities. Institutional liberalism doesn't guarantee perpetual progress, but it provides a basis for optimism about improvement, while incorporating institutional safeguards against regression. The coherence of multilateral institutions is currently facing challenges (Keohane, 2012).

Institutional liberalism doesn't guarantee perpetual progress, but it provides a basis for optimism about improvement while incorporating institutional safeguards against regression. The coherence of multilateral institutions is currently facing challenges (Keohane, 2012).

Manifestations of institutional liberalism, according to Keohane's theory, include 4 major aspects, such as moralism, legalism, legalisation and coherence (Keohane, 2012).

Moralism is the perspective that moral principles offer valuable, though not necessarily exclusive, guidance on how political actors should conduct themselves. It holds that the actions of those in positions of power can be appropriately assessed based on their adherence to broader moral principles primarily designed to govern individual conduct. Keohane highlights that R2P serves as an illustration of moralism. Even though R2P is not a legal norm itself, it represents a collection of moral principles that offer valuable guidance for political decision-making (Keohane, 2012).

Legalism represents a method of protection based on the rule of law. For institutional liberals, the focus on the law is not rooted in a simplistic belief in the inherent goodness of humans or the automatic efficacy of rules. Rather, it stems from the understanding that individuals require institutional constraints to ensure their conduct aligns with societal norms (Keohane, 2012).

The process of legalisation can also arise not solely from pragmatic considerations but from a profound conviction in the legitimacy or suitability of legal institutions to address issues and settle disputes. In other words, it can be grounded in a particular perception of the social purpose served by legal structures (Keohane, 2012).

Coherence in this context is a characteristic of institutions. It pertains more to the interplay and connections between institutions rather than the attributes of any individual institution. When institutions are coherent or belong to coherent clusters, they exhibit well-defined lines of authority that establish which rules are relevant for a given situation, or at the very least, which adjudicatory institutions have the authority to decide which rules are applicable.



While the institutional liberalist approach enables the perception that institutions affect state behaviour and enhance the interest of all people, the realism challenges these positive connotations on institutions, helping to avoid one-sided approach. The realist theory propose the reflection that self-interest, sovereignty, and unequal power balance affect the international community. Realists generally share the belief that the United Nations does not deliver on its promised potential. Kenneth Waltz, for instance, dismisses the idea of the UN playing a role as a regulator within a collective security system because it fundamentally reflects the interests of individual states (Waltz, 2010). He emphasizes that states, regardless of their specific characteristics or ideologies, are all subject to similar pressures and constraints due to the structure of the international system. The state behaviour is shaped by the distribution of power and the need for self-preservation in a competitive international environment (Waltz, 2010).

### *Limitations*

The possibilities and mechanisms for prevention serve as an example of how international mechanisms can utilize their mandates and cooperation to ensure prevention. However, the dissertation does not aim to conduct a comprehensive analysis of all the UN mechanisms. The selection of mechanisms was based on the concept of R2P (Human Rights Council, General Assembly, Security Council, Special Advisor on genocide and responsibility to protect), the relevance of international mechanisms in addressing human rights violations that may constitute atrocity crimes (UN Treaty Bodies), and UN mechanisms that have been conducting regular monitoring of human rights violations in Ukraine since the beginning of the armed conflict.

Criticism of existing prevention tools and methodologies for mass atrocities is valid, as they can have limitations and gaps that hinder their effectiveness. Preventing atrocities is indeed a complex and challenging task. Even with abundant enthusiasm, consensus, and resources, it is unlikely that the United Nations or any organization could prevent every single atrocity (Lupel and Bellamy, 2015; Straus, 2008). First, the prevention of atrocities often involves addressing deep-rooted and complex societal, political, and historical factors. These include factors such as long-standing conflicts, deep-seated prejudices, structural inequalities, and the manipulation of identity politics. Resolving these underlying causes requires sustained and comprehensive efforts that go beyond the capacity of any single organization. Some scholars have argued that these tools, such as early warning systems, can be manipulated by local political elites to legitimize their regimes, resulting in a "rally round the flag effect", undermining the credibility

and timeliness of early warning information (Luck, 2006). Consequently, certain steps towards changing the prevention patterns should not be seen as a panacea that will stop the commission of grave violations. The results, conclusions, and discussion of the research should be considered as potential recommendations for incorporation a prevention system in the work of various international human rights mechanisms.

## **Chapter 2 Previous research in the field of prevention**

### *What is atrocity prevention?*

After numerous empirical research were conducted on the Jewish Holocaust, regimes of Stalin and Mao, massacre in Bosnia and Kosovo, Rwanda, Darfur and South Sudan, attention of policymakers and academics turned to the concepts of prevention and early warning. Cecilia Jacob (2022) identifies atrocity prevention as a set of strategies and interventions to prevent or halt episodes of widespread and systematic violations of human rights. Atrocity prevention frameworks recognize the importance of distinguishing between different phases of risk, violence escalation, and imminence. By understanding these different stages, it becomes possible to determine the most effective tools and interventions to respond to each stage of violence (Jacob, 2022).

Prevention of gross human rights violations falls into categories of early-stage or structural prevention, including measures to strengthen domestic legislation, promote good governance, and protect vulnerable minorities; direct or operational prevention to diffuse or stabilise escalating conflict, including measures such as mediation, preventive diplomacy and sanctions (Mayerson, 2011). Early-stage or structural prevention addresses root causes and underlying factors that contribute to the risk of human rights violations by improving legal frameworks, ensuring accountability, and promoting inclusive policies. The target prevention category focuses on intervening in ongoing conflicts or situations of tension to diffuse or stabilize the situation before it escalates into gross human rights violations. Measures in this approach include various conflict resolution mechanisms such as mediation, preventive diplomacy, and negotiation. Additionally, targeted sanctions or other diplomatic tools may be used to exert pressure on parties involved in the conflict and encourage them to cease human rights abuses.

This chapter will cover five different fields which are prevention and the responsibility to protect, prevention in public health, prevention in criminology, prevention of genocide and the prevention of torture. The selection of these five fields is primarily based on their notable and recurring application of prevention strategies, as well as the observable evolution of the prevention concept within each field, which will be demonstrated in the following sections.

### *Prevention and the Responsibility to Protect*

Article 1 of the UN Charter shows the general idea of the joint commitment of the international community to prevent atrocity crimes as “to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace for the suppression of acts of aggression or other breaches of the peace” and to implement the concept of prevention of war “never again” (UN, 1945).

However, the failure of the international community to prevent numerous cases of atrocities following WW II, including those committed in the 1990s (Balkans, Rwanda, Afghanistan, NATO military intervention in Kosovo), brought the necessity to decide on more concrete mechanisms and actors of prevention. In September 1999, during his annual report presented to the UN General Assembly, Kofi Annan contemplated the future of human security and intervention in the coming century. He urged Member States to unite and find shared principles within the UN Charter, emphasizing the importance of acting collectively to protect and defend the well-being and dignity of all people, regardless of their nationality or origin.

Joint RtoP is articulated in paragraphs 138 and 139 of the World Summit Outcome Document. The principle focuses on the obligation of states to prevent and hold accountable for genocide, war crimes, and crimes against humanity; for the international community to assist states in their obligations under international humanitarian law; and promote compliance with the law. The document establishes three pillars of the responsibility to protect. The first reiterates obligations incumbent on each state under international law to protect its population from atrocity crimes. The second describes the responsibility of the international community to assist a state in protecting its civilians from atrocities (GA, 2005). This obligation has its basis in international laws such as the Geneva Conventions, the Genocide Convention, the Rome Statute of the International Criminal Court, and the Convention Against Torture.

The third pillar places responsibility on the international community, through the UN, to intervene where states are ‘unwilling’ or ‘unable’ to protect their citizens. The international community’s responsibility is to act through the United Nations Security Council collectively and promptly, according to the UN Charter, specifically Chapter VII, when national authorities demonstrate a clear failure to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. This collective action conceived as coercive or non-coercive prevention measures, may be undertaken on a case-by-case basis and with the cooperation of relevant regional organizations (GA, 2005; GA 2009). The objective is to ensure timely and decisive intervention to prevent and address these grave international crimes.

### *Prevention in criminology*

Criminological approaches to prevention are situational crime prevention and social crime prevention. The first focuses on manipulating the immediate environment to reduce opportunities for crime. It aims to increase the effort, risk, and discomfort for potential offenders. Strategies include target hardening, increasing surveillance, and implementing access controls. The last aims to address the underlying social factors that contribute to crime. It focuses on reducing poverty, inequality, and social exclusion and promoting social development, education, employment, and community engagement (Reike, 2014). This approach is reflected in the structural prevention of atrocity crimes, focusing on long-term intervention by changing structural and dispositional risk factors, such as establishment and development of democratic institutions, quality education, and economic development are substantial parts of direct prevention (Rieke, 2014). The challenges occur in measuring the impact of this approach, as establishing a direct causal link between distant social conditions and the actual commission of a crime is challenging and often difficult to prove empirically.

Criminological thinking commonly encompasses four dimensions when it comes to crime prevention: perpetrators (likely offenders), victims (suitable targets), situations (time and place), and third parties (capable guardians) (Reike 2014). These elements are formulated as a potential offender, a suitable target, and the absence of a capable guardian. This theory suggests that for a crime to occur, these four elements must converge in a specific time and place (Hollis, Felson and Welsh 2013).

By identifying risk factors associated with potential offenders, interventions can be designed to deter them and direct prevention efforts. The perpetrator dimension focuses on understanding the characteristics, motivations, and behaviours of individuals likely to engage in criminal activities. Victims (suitable targets): identifying potential victims of atrocity crimes and understanding the reasons for their vulnerability is crucial in developing early warning strategies and strengthening their resilient capacity. Third parties (capable guardians) for the prevention of atrocity crimes could be represented by the international human rights mechanisms and their prevention capacity.

### *Prevention in the public health*

The model of deductive reasoning for the prevention of atrocity crimes from the public health approach was proposed by Reike, Sharma, and Welsh (2015). The public health approach to prevention involves considering three categories when addressing the incidence of disease: the population at large, a subset of the population with shared risk factors, and specific individuals showing signs or symptoms of the disease. In the context of preventing atrocity crimes, the framework can be applied as follows:

1. All member states of the UN system: the first category includes all member states of the United Nations, emphasizing a broad approach to prevention. This involves promoting universal values and human rights and fostering a culture of peace and tolerance. Efforts in this category aim to create a global environment that discourages atrocity crimes.

2. Subset of states with identified risk factors: the second category focuses on a subset of states that exhibit specific risk factors associated with atrocity crimes. These risk factors can include social, political, economic, or historical factors that make these states more susceptible to such crimes. Strategies in this category, called systemic approaches, target these states to address the underlying causes and mitigate the risk of atrocity crimes.

3. Countries or regions with evidence of preparation or low-level incidence: the third category narrows the focus to particular countries or regions with either evidence of preparation for committing crimes or a low-level incidence of such crimes. This targeted approach aims to address specific situations and populations at risk. Strategies in this category, referred to as targeted approaches, involve interventions such as early warning systems, risk assessments, diplomatic efforts, peacebuilding initiatives, and strengthening the rule of law to prevent the escalation of violence and protect vulnerable populations (Reike, Sharma, Welsh, 2015).

### *Prevention of genocide*

Genocide and ethnic cleansing are considered the group-centred atrocities, while war crimes and crimes against humanity are individual-centric (Kuperberg and Hagan, 2022, p.38).

Adam Jones, a prominent scholar in the field of genocide studies, has proposed several risk factors for genocide. While the specific list may vary depending on different analyses and contexts, some common risk factors include:

1. A history of genocide and intercommunal conflict” Countries or regions with a history of violence, conflict, or past instances of mass atrocities may be at a higher risk of recurrence if underlying causes and grievances remain unaddressed.

2. Severe economic crisis- economic upheaval can be an influential factor in genocidal violence, creating opportunities for looting, pillaging, and other forms of opportunistic behaviour.

3. “Mobilization along lines of communal cleavage” – is characterized by the concept of identity. While it can be a neutral factor, in term of mobilization for commitment of mass atrocities it may be manipulated as political tool. Among examples is supernational soviet identity that was actively used for mobilization of population across USSR to participate in the military interventions. Smeulers, Alette and Fred Grünfeld (2011) overviewed preparation stages towards genocide as identification, expropriation, segregation and transportation.

Genocide studies provide several frameworks set out and analyse the process of dehumanization that starts with heightened group identity and prejudice; progresses to scapegoating and demonization that can ultimately lead to mass atrocities and the annihilation of a target group. Dr. Gregory Stanton’s ‘Ten Stages of Genocide’ enumerate a non-linear process that includes classification, symbolization, discrimination, dehumanisation, organisation, polarisation, preparation, persecution, extermination, and finally, denial (Stanton, 2009).

Barbara Harff’s observation highlights an important aspect of genocide: the role of pre-existing patterns of state behaviour and state-society relations. 1. Genocide perpetrators often have a history of engaging in mass violence, as they may view it as a strategic response to perceived threats to state security or their own grip on power. 2. Severe economic crisis- economic upheaval can be an influential factor in genocidal violence, creating opportunities for looting, pillaging, and other forms of opportunistic behaviour. 3. “Mobilization along the lines of communal cleavage” – is characterized by the concept of identity (Harff, 2003). While it can be a neutral factor in terms of mobilization for the commitment to mass atrocities, it may be manipulated as a political tool. Among examples is a supernational Soviet identity that was actively used for the mobilization of the population across the USSR to participate in military interventions. As Johnston (2011) described, supernational Soviet identity and a shared sense of “Sovietness” were actively promoted by the Stalin-era government, including through art, cinematography, popular media, as well as education.

The risk factors for genocide include the existence of war and armed conflict, which not only provides a motive for mass killings but also creates an environment conducive to such violence. Economic and social instability and crises are also recognized as contributing factors, as they can generate motives for violence and undermine the capacity of state actors to effectively respond to prevent atrocities. Another risk factor is the presence of an exclusionary

ideology that promotes the creation of group identities based on hierarchical divisions. Such ideologies can fuel tensions and animosities among different groups, increasing the likelihood of atrocity crimes. Additionally, an authoritarian government characterized by unquestioning obedience to leaders and elites can weaken normative checks and accountability mechanisms, making it easier for orders to commit violence to be carried out. Furthermore, a history of previous atrocity crimes in a particular context can contribute to a heightened sense of grievance and perceived threat, potentially escalating the risk of further atrocities (Jones, 2017).

### *Prevention of torture*

Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment outlines the obligations of State Parties to prevent acts of torture. It requires State Parties to take effective legislative, administrative, judicial, or other measures to prevent acts of torture from occurring (GA, 1984). Additionally, when acts of torture are committed as part of a widespread or systematic attack against a civilian population, they can constitute a crime against humanity (GA, 1998). This is a significant legal and moral principle aimed at preventing and prosecuting acts of torture in situations where they are part of a larger, organized, and widespread pattern of abuse against civilian populations.

According to the Article 7(1)(f) of the Rome Statute, torture can be considered a crime against humanity when it is part of a widespread or systematic attack directed against any civilian population with the knowledge of such an attack (GA, 1998). The definition of torture in the statute includes the intentional infliction of severe physical or mental pain or suffering on a person who is under the custody or control of the accused. However, it excludes pain or suffering that arises solely from lawful sanctions (GA, 1998). War crimes, as defined in Article 8(2)(a)(ii) of the Rome Statute, encompass grave breaches of the Geneva Conventions, including acts such as torture and other inhuman treatment against protected persons under the relevant Geneva Convention (GA, 1998). The Elements of Crimes provide further details, specifying that for torture to be considered a war crime, the inflicted pain or suffering must have been intended for purposes such as obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination (ICC, 2015; Giorgou, 2015).



### **Chapter 3. Analysis of the institutional capacities of the UN human rights mechanism for atrocity prevention**

#### *The Office of the Special Adviser of the Secretary-General on the Prevention of Genocide*

The OSAPG was created to improve timely, effective early warning and prevention of atrocity crimes. According to Barnett (2002), the tragedy of the genocide in Rwanda that took place in 1994 catalysed the reflection process of the inability to conduct timely and effective prevention and response by the UN system. A major gap in the United Nations' ability to effectively respond to cases of genocide signified the necessity of the establishment of a mechanism within the international system that could raise the alarm and draw attention to the occurrence or likelihood of genocide and other atrocity crimes. In 2004 the former UN Secretary-General -Kofi Annan introduced the Action Plan to Prevent Genocide, which led to the appointment of a Special Adviser on the Prevention of Genocide. Thus, the new institution with the precise mandate to 'act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention potential situations that could result in genocide' was created in 2004 (UN Security Council, 2004).

Kofi Annan also framed the main functions of the new mechanism in his letter dated 12 July 2004 to the president of the Security Council in the following directions: "(a) collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide; (b) act as a mechanism of early warning to the Secretary General, and through him to the Security Council, by bringing to their attention potential situations that could result in genocide;(c) make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide; (d) liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations capacity to analyse and manage information relating to genocide or related crimes" (Security Council, 2004).

The Special Adviser to the Secretary-General on the Prevention of Genocide acts, inter alia, as an early warning mechanism to prevent all four categories of atrocity crimes. The parameters for early warning analysis are expanded to encompass not only genocide but also crimes against humanity, war crimes, and ethnic cleansing. This focus aligns with the principles of the responsibility to protect, as articulated in the 2005 World Summit. The mandate is tailored for the conduction of specialized analysis of the events that lead to the commitment of

atrocities. The information-gathering capacity of the mechanism does not entail direct monitoring of primary data in the field but rather its consolidation and analysis from the UN system (Hehir, 2010).

Woocher (2006) noted that the Special Advisor is aimed to focus on operational prevention, such as early warning and immediate actions, instead of long-term structural prevention. The challenge of determining the appropriate timing for the Special Adviser's intervention in situations that have the potential to lead to genocide. The dilemma lies in finding the optimal point of entry on the continuum between a dormant situation and the escalation of tensions into large-scale violence or the actual manifestation of genocide. Premature engagement in the very early stages of a situation could raise concerns about interference in matters that are typically opposed by the principle of sovereignty. However, late intervention undermines the purpose of timely and "early" warning (Akhavan, 2006).

The mechanism has received very little attention within academia and has been overlooked within the UN system on occasion. One of the probable reasons for this might be due to the visibility of OSAPG's actions. Considering the mandate and information from the official website of the mechanism, one may come to the conclusion that its functions are performed in a confidential way. An important aspect to consider is the balance between the Special Adviser's role as a behind-the-scenes actor engaging in quiet diplomacy and early prevention efforts versus being a visible public advocate drawing attention to situations at risk of escalation or involving genocide and similar crimes. The question arises as to how much weight should be given to each approach. Akhavan (2006), for instance, names these aspects as quiet diplomacy and public advocacy. Quiet diplomacy is seen as a more effective way to conduct dialogue with Member State that has the primary responsibility to prevent atrocity crimes within its jurisdiction and quite often compounds the main perpetrator, while public "naming and shaming" by calling attention to situations may result in significant risk for victims and contribute to faster escalation.

At the same time, the promotion of awareness and public advocacy plays a key role from the perspective of the accumulation of attention and resources necessary for early warning. Hehir (2010) provides an assessment of the OSAPG role based on interviews with Special Advisors and related experts. His analysis identified awareness raising within the UN system and wider society as one of the significant challenges facing the Special Adviser's office. Moreover, the lack of awareness may hinder the office's ability to fulfil its mandate of providing early warning of potential mass atrocities. It is important for the Special Advisor to

remain flexible in delivering early warning in an effective manner. The communication function serves as an early-warning instrument for the United Nations, allowing for prompt action and preventive measures to be taken. Therefore, settled cooperation and communication of the Special Adviser with the UN mechanisms are essential to ensure the mechanism's continued relevance and effectiveness in preventing and responding to mass atrocities.

#### *The Framework of Analysis of the risk factors*

In 2009 the Office of the Special Adviser on the Prevention of Genocide developed a framework of analysis for genocide. The Office of the Special Adviser on the Prevention of Genocide recognized the need to expand its Framework of analysis beyond the risk of genocide to also include crimes against humanity, war crimes, and ethnic cleansing (UN Office on Genocide Prevention and Responsibility to Protect, 2014, p.5) Current framework aims to identify risk factors, analyse their interplay, and guide preventive actions to mitigate the risk of atrocity crimes. The Office supports and encourages its utilization by international, regional, and national stakeholders as a tool for early warning systems or other methods employed for monitoring, evaluation, and prediction (Dieng & Welsh, 2016).

The Framework of Analysis for Atrocity Crimes comprises 14 risk factors. Risk factors are defined by the Framework as “conditions that increase the risk of or susceptibility to negative outcomes, including behaviours, circumstances or elements that create an environment conducive to the commission of atrocity crimes, or indicate the potential, probability or risk of their occurrence” (UN Office on Genocide Prevention and Responsibility to Protect, 2014, p.5). The indicators included in the Framework are different manifestations or specific examples of each risk factor, helping in assessing and determining the degree to which a particular risk factor is present in a given context (UN Office on Genocide Prevention and Responsibility to Protect, 2014, p.6). The specific risk factors in the Framework are unique to each type of atrocity crime and reflect the distinct elements and precursors of those crimes.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian law
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
Genocide		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
Crimes Against Humanity		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
War Crimes		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations
Each of these Risk Factors are accompanied by 6-18 more specific Indicators, which can be used to more precisely identify and analyse the risks of atrocity crimes. These indicators and further information on the full UN Framework of Analysis for Atrocity Crimes can be accessed at the UN website at <a href="http://www.un.org">www.un.org</a> .		

*Figure 2 “Risk Factors by the Framework of Analysis for Atrocity Crimes”, Asia Pacific Centre for the Responsibility to Protect, 2022*

### *Security Council*

Scholars in the field of atrocity prevention often refer to the Security Council as the “last instance” of the UN system. Indeed, The United Nations Security Council acquired a robust capacity for the prevention of genocide and mass atrocities and is the only organ within the organization that possesses the authority to issue binding or mandatory orders to its Member States (Shabas, 2010, p. 12). Through the adoption of resolutions, the United Nations Security Council has the power to authorize a range of actions, including peacekeeping operations, international sanctions, and military interventions (Mayersen, 2011). According to Article 24 of the UN Charter, “the Security Council bears primary responsibility for the maintenance of peace and security internationally.” Due to the significant agenda and constraints in terms of resources and time, SC tends to prioritize situations that are in a state of crisis or are on the brink of a crisis. This emphasis on addressing situations when gross human rights violations already occurred on a significant scale underlines the function of providing a credible threat of reaction within operational prevention and post-factum prevention.

The Security Council has multiply faced criticism for its lack of timely and decisive actions to protect civilian populations that, in many cases, led to a perception of failure and a loss of confidence in its ability to prevent mass atrocities. Among others is the situation of escalating violence in Bosnia and Kosovo in the 1990s, from the recent cases – the escalation of atrocities in Ukraine in 2022. The ongoing debate applicable to most case studies is whether R2P would persuade the Security Council to authorize the prevention. As Mayersen noted, “It is Security Council policy and practice, rather than capacity constraints, that best explain these failures” (Mayersen, 2010, p.207).

### *Human Rights Council*

According to Luck (2019), the responsibility to prevent mass atrocities should not be solely attributed to the Security Council. The Council is tasked with promoting effective coordination and integration of human rights across the United Nations system. This includes ensuring that human rights considerations are mainstreamed into the work of various UN entities and programs. The aim is to enhance the overall effectiveness and impact of human rights promotion and protection within the UN system (GA, 2006).

Scholars have recognized the potential of the Human Rights Council, particularly through its Universal Periodic Review (UPR), to raise awareness about ongoing crises.

Although the UPR is not specifically designed as an early warning mechanism, it can serve as a platform to highlight ongoing human rights crises and draw attention to concerning situations.

During the UPR process, states have the opportunity to raise pressing issues, and civil society organizations can present evidence and reports regarding ongoing human rights violations. However, it is important to acknowledge that the UPR has certain limitations in terms of timely response and immediate crisis intervention. The UPR operates on a fixed four-and-a-half-year cycle, with each State undergoing review at predetermined intervals. This timeframe may not always align with the urgency of an ongoing crisis, and the primary focus of the UPR is to assess the overall human rights situation rather than provide immediate emergency responses (GA, 2009).

### *The Committee against Torture*

The Committee Against Torture invokes violations of rights enshrined in the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). The Committee Against Torture is composed of a panel of 10 independent experts who convene twice a year to review individual complaints filed by individuals claiming violations of their rights as protected by CAT. The Committee Against Torture has the authority to receive and examine individual communications, commonly referred to as complaints. The complaints that CAT receives are mostly submitted by individuals. However, CSOs are also eligible to submit complaints on behalf of individuals (CAT expert, 2023). The Committee first examines the admissibility of communication based on specific criteria. If the communication is deemed admissible, the Committee proceeds to evaluate its merits. The decisions made by the Committee in this regard are considered to have a quasi-judicial nature, reflecting the Committee's role in assessing and adjudicating human rights violations. The individual complaint procedure works in collaboration with the Human Rights Committee (HRC) and the CAT Secretariat to help identify human rights violations and their patterns. By receiving and examining individual complaints related to torture and other forms of ill-treatment, the CAT, in coordination with the HRC, ensures a thorough assessment of alleged violations (CAT expert, 2023). The collaboration with the CAT Secretariat supports the effective management and coordination of the complaint process, enabling the identification of patterns of human rights abuses.

As per Article 20 of the Convention, the Committee Against Torture (CAT) has the authority to receive information and initiate inquiries regarding allegations of systematic

practice of torture in a state party. However, this procedure can only be carried out if the State party has not declared its non-recognition of this competence, as mentioned in the respective chapter of the annual report. The process is confidential and relies on the cooperation of the State party involved (Callejon, Kemileva and Kirchmeier, 2019).

The reporting procedure involves a comprehensive analysis of various sources of information. This includes reviewing the state reports on the implementation of previous concluding observations by the Committee, examining relevant documentation from regional human rights mechanisms, considering submissions from NGOs and UN entities, and engaging in a state dialogue during public sessions. Throughout this process, Committee experts may identify and take note of human rights violations that may potentially constitute atrocity crimes (CAT expert, 2023). These recommendations are then reflected in the Committee's concluding observations. The implementation of the recommendations is carried out through the follow-up procedure. However, in some cases, challenges arise due to the lack of cooperation from states, insufficient provision of statistics in the state report, and difficulties in implementing the recommendations in practice (Committee Expert, 2023). For instance, Nicaragua refused cooperation with the CAT and SPT and questioned the legitimacy of the treaty body procedure (UN, 2022).

*The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) - confidential prevention*

SPT was created under the Optional Protocol to the Convention Against Torture (OPTCAT) and was designed as a preventive mechanism to prevent torture and ill-treatment of persons deprived of their liberty: a system of regular visits by members of the SPT to places of detention, and the creation by states of national preventive mechanisms (NPMs). The mechanism is unique within the UN system since it operates mostly confidentially.

Among SPT's operational functions are visits to States parties. The SPT visits States parties, where it has the authority to visit any facility or location where individuals may be deprived of their liberty. These visits aim to assess the treatment and conditions of persons in detention and prevent torture and ill-treatment. First, the Subcommittee experts meet with the state authorities, usually the executive, legislative, and judicial branches. During visits, the Subcommittee on Prevention of Torture (SPT) engages with civil society and international organizations, and its main focus is to inspect various places where individuals are deprived of their liberty. These locations can include prisons, police stations, psychiatric institutes,

children's homes, and even areas within airports, such as basements. The SPT conducts confidential interviews with individuals in these places, ensuring no guards or authorities are present. The interviews cover topics such as their conditions of detention and whether they have experienced torture or mistreatment. The information gathered during the visit is compiled into a report, later submitted to the respective state party (SPT expert, 2023). Besides, the SPT provides guidance and support to States parties in establishing National Preventive Mechanisms (NPM) as required by the Optional Protocol to the Convention Against Torture (OPCAT). It also offers advice and assistance to both the NPM and the State Party in ensuring the effective functioning of the NPM to prevent torture and improve detention conditions.

SPT collaborates with the Committee against Torture and UN General Assembly, as well as with NPMs. As an independent treaty body, it is crucial for the Subcommittee to clearly convey to the state party that its report is an independent assessment. To provide a fictional example based on real situations, in some instances, if the SPT issues an unfavorable report, there might be a lack of understanding on the part of the state party that the SPT operates separately from other UN colleagues, such as the Office of the High Commissioner for Human Rights (OHCHR). This could potentially lead to negative reactions from the state party, including possible retaliation or strained relationships with UN colleagues working in that country (SPT expert, 2023).

### *The Committee on the Elimination of Racial Discrimination - risk factors for Prevention*

The Committee on the Elimination of Racial Discrimination (CERD), as the mechanism within the OHCHR treaty bodies system, monitors the implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its States parties via reviewing periodic reports submitted by States parties and engaging in a constructive dialogue with them, providing recommendations, concluding observations (COBs) and conduct preventive measures. The work of the Committee includes early warning and urgent action procedures to address violations of the Convention. The early warning procedure of the Committee on the Elimination of Racial Discrimination (CERD) serves the purpose of notifying relevant stakeholders, institutions, and the Office of the High Commissioner about potential concerns. While it is challenging to determine whether a situation will escalate to the level of genocide, the Committee can take actions such as sending letters and making decisions as part of its early



warning efforts. However, the effectiveness of these actions largely relies on the cooperation and response of the respective State involved (CERD expert, 2023).

Urgent procedures are activated when immediate attention is needed to prevent or limit the scale or number of serious violations of the Convention. They are put in place to address urgent and critical situations requiring prompt action to protect individuals or groups facing racial discrimination. The aim is to respond swiftly and effectively to mitigate the harm caused and uphold the principles of the Convention. Both early warning measures and urgent procedures serve as important tools for the Committee to fulfil its mandate of promoting and protecting human rights by addressing and preventing racial discrimination.

The indicators for the urgent procedures are considered in assessing the significance of a situation, including factors such as the gravity and scale of the situation, the escalation of violence, and the potential for irreparable harm to victims of racial discrimination based on race, color, descent, or national or ethnic origin. The significance of indicators is evaluated based on the urgency to prevent and mitigate serious violations of the Convention. The mandate of the mechanism also includes the possibility of organizing thematic discussions (Callejon, Kemileva and Kirchmeier, 2019). Thus, In March 2005, CERD organized a thematic discussion to address the issue of preventing genocide. During this meeting, CERD adopted a declaration on the prevention of genocide, which it presented for consideration to various stakeholders, including state parties, the Subsidiary Body on Prevention of Genocide (SAPG), the Secretary-General (SG), and the Security Council (SC). The application of risk factors presents a challenge as it often depends on external intervention.

#### *The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances*

The discussions regarding establishing the necessary legal framework, definitions, and provisions to recognize enforced disappearance as a crime against humanity within the context of the draft Convention were addressed from the beginning of the early stages when dealing with the issues of offenses and penalties. The Working Group tasked with developing the draft Convention on enforced disappearance emphasized the need to clearly outline the circumstances under which enforced disappearance could be categorized as a crime against humanity and underscored the importance of recognizing the principle of imprescriptibility, meaning that there should be no time limit for prosecuting and seeking justice for crimes of

enforced disappearance. The decision of disclosure enforced disappearance as a crime against humanity in the Convention was presented by an argument that the human rights perspective would ensure broader application of existing international instruments, namely the Rome Statute of the ICC. The Rome Statute primarily focuses on prosecuting individuals responsible for the most serious crimes of concern to the international community, such as genocide, war crimes, crimes against humanity, and the crime of aggression. It is designed to ensure accountability for these grave offenses. While the Rome Statute has a specific mandate related to criminal justice and accountability, it does not directly address all aspects of human rights protection and prevention. Human rights treaties, on the other hand, encompass a broader range of norms and provisions aimed at proactive prevention (Commission of Human Rights, 2004). Therefore, the Working Group decided to include a separate article in the draft Convention specifically addressing enforced disappearance as a crime against humanity. The final text, after modifications during the 2005 session, is reflected in Article 5 of the Convention, affirming that the widespread or systematic practice of enforced disappearance qualifies as a crime against humanity in accordance with the definition established in relevant international law. It also stipulates that such conduct shall be subject to the consequences and penalties prescribed under applicable international law.

The Committee on Enforced Disappearances was created in December 2010 after the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance. It commenced its work in 2011 and is one of the ten human rights treaty bodies. The Committee comprises ten independent experts who are selected by the States parties that have ratified the Convention. The Committee on Enforced Disappearances has the authority to address issues related to States that have ratified or acceded to the Convention. The Convention is a binding international human rights treaty that applies to States parties.

Article 30 of the Convention determines Committee's urgent actions capacities as "to request a state party to take immediate measures to locate a disappeared person. Where necessary, the Committee can request the State party concerned to adopt interim measures of protection: (i) To protect the disappeared person, the person's family or relatives, or any persons linked with the case; (ii) To protect pieces of evidence that may be of relevance for the case" (GA, 2010). Other procedures of the Committee include Individual complaints (art. 31), Inter-State complaints (art. 32), General comments (rule 56 of the Committee's rules of procedure), and Examination of States' reports (art. 29). The "Urgent Action procedure" is designed to locate and protect individuals who have disappeared, but the significant workload

associated with this procedure poses a challenge (Committee expert, 2023). Under Article 34 of the Convention, the Committee may exercise referral of systematic enforced disappearances to the General Assembly (GA, 2010).

The Working Group on Enforced or Involuntary Disappearances receives and examines reports of enforced disappearances submitted by relatives of disappeared persons or human rights organizations acting on their behalf. The purpose is to assist families in seeking information about the fate and whereabouts of their missing family members. The Working Group can operate through urgent procedures by transmitting to the concerned State alleged cases of enforced disappearance that have occurred within the past three months or started earlier but have a connection to a case within the three-month period. The reports are transmitted for immediate attention and action by the State.

## **Chapter 4. Analysis of the atrocity prevention in the context of the armed conflict in Ukraine**

### *Minsk Agreements-mediation efforts*

Mediation and political dialogue are strongly advocated as the primary strategies of the international community when addressing mass atrocities such as genocide, ethnic cleansing, war crimes, and crimes against humanity. According to Bellamy (2015), non-coercive measures by the international community should be prioritized. The UN Charter, specifically in chapters VI and VIII, provides guidelines for diplomatic and non-coercive interventions, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, and other peaceful methods. Mediation has received considerable attention as a diplomatic tool for managing conflicts. To understand how this tool has been applied in the context of Ukraine, this analysis will start by examining its use, as suggested by the United Nations Secretary-General (2012) and Wight & Cowper-Smith (2022).

The conflict in the Donbas region of south-eastern Ukraine was expected to end with the signing of the Minsk agreements in 2014 and 2015. These agreements were negotiated by the Trilateral Contact Group, which included representatives from Ukraine, Russia, the OSCE, and representatives of the self-proclaimed republics in eastern Ukraine.

The Security Council passed Resolution 2202 (2015) endorsed and promoted the discourse of resolving the conflict. The resolution was focused on the ceasefire agreement that had been reached the previous week. Resolution 2202 was adopted on February 12, 2015, in Minsk, Belarus called upon all parties involved to fully implement the “Package of Measures for the Implementation of the Minsk Agreements” (Security Council, 2015). The Security Council firmly believed that the resolution of the situation in the eastern regions of Ukraine could only be achieved through a peaceful settlement. The “package of measures” of the Minsk agreement included among others, measures to protect civilian population, such as “immediate ceasefire in certain areas of the Donetsk and Luhansk regions of Ukraine and its monitoring by the representatives of the OSCE, withdrawal of all heavy weapons, access of the humanitarian assistance, exchange of hostages” (Security Council, 2015).

One significant source of disagreement and controversy in the peace process in eastern Ukraine was the provision regarding local elections in the occupied territories, as stipulated by the Minsk Protocol. The Protocol required the signatories to organize local elections in Donetsk and Luhansk regions. However, on November 2, 2014, less than two months after the signing

of the Minsk Protocol, presidential and parliamentary elections were held in the self-proclaimed LNR and DNR republics. While the Minsk agreements were aimed at establishing a ceasefire, de-escalate the conflict, and facilitating a peaceful resolution through political dialogue, the determination of the interim status of the self-declared republics and the organization of local elections in self-proclaimed republics ignored the protection of human rights of the ethnic population of the region (Lukichev, 2022; Gordanić, 2022).

In just a few days after the ceasefire agreement the Security Council members issued an open statement voicing concern regarding ongoing hostilities and civilian casualties in Debaltseve, Ukraine (Security Council, 2015). In 2018, negotiations were deemed ineffective due to numerous violations of the ceasefire, including the use of heavy weapons resulting in civilian fatalities in eastern Ukraine (Security Council, 2018).

In the end, the requirement for all parties to agree to mediation and Russia's insistence on using its national interests to support and deploy military units in Ukraine from one side and upholding Ukrainian sovereignty from another side have hindered the adoption of non-coercive mediation and political dialogue between the international community and the both governments. From a realist standpoint, I argue that the international community's capacity to mediate in the Russo-Ukraine armed conflict can be viewed as uncertain or potentially flawed.

### *UN monitoring mechanisms operating in Ukraine*

#### The UN Human Rights Monitoring Mission

With the onset of the armed conflict in Ukraine, monitoring and investigation mechanisms have been put in place: the UN Human Rights Monitoring Mission and the Independent Commission of Inquiry respectively. This section will provide an overview of their roles in relation to prevention and the methods they employ to analyse the information they monitor.

The UN Human Rights Monitoring Mission was established in Ukraine (HRMMU) in 2014 to document civilian casualties and human rights violations. One of the thematic pillars of the HRMMU work is defined as “early warning, prevention and protection of human rights in situations of armed conflict and insecurity,” other strengthening of the rule of law, ensuring compliance with human rights law and international humanitarian law and improving implementation of UN mechanisms recommendations. The HRMMU is also a primary contributor to the reports on the human rights situation in the Autonomous Republic of Crimea

and the city of Sevastopol, Ukraine, as mandated by the United Nations Secretary-General. Starting from from 2014 the HRMMU published updates on civilian casualties in connection with the armed conflict and reports on the human rights situation in Ukraine.

#### The Independent International Commission of Inquiry

The Independent International Commission of Inquiry on Ukraine was established by the Human Rights Council after the escalation of atrocity crimes in Ukraine on March 4, 2022. The commission's functions include investigating alleged violations and abuses of human rights, violations of international humanitarian law, and related crimes in the context of the armed conflict.

The deteriorating human rights situation in Ukraine stemming from the Russian aggression requests the independent international commission of Inquiry on Ukraine to conduct an inquiry consistent with its mandate and international standards, and in coordination with other national and international mechanisms, to address the events in the areas of the Kyiv, Chernihiv, Kharkiv, and Sumy regions in late February and in March 2022 (HRC, 2022).

The mandate of the Commission of Inquiry was extended by the Human Rights Council on April 4, 2023, for an additional period of one year through resolution 52/32. The Council made the following requests to the Commission: provide an oral update to the Human Rights Council during its fifty-fourth session, which would be followed by an interactive dialogue in September 2023; Submit a report to the General Assembly during its seventy-eighth session, followed by an interactive dialogue in October 2023; submit a comprehensive report to the Human Rights Council during its fifty-fifth session, followed by an interactive dialogue in March 2024 (HRC, 2022).

From March 20th to 21st, the Human Rights Council (HRC) conducted an interactive dialogue with the Commission of Inquiry (CoI) on Ukraine. During this session, the CoI presented its most recent report, dated March 15<sup>th</sup>, 2023, which underscored the ongoing suffering experienced by the civilian population as a result of the conflict. The CoI's report detailed a wide array of IHL and IHRL violations by Russian authorities, which may constitute war crimes. These violations encompassed acts such as killings, torture, inhumane treatment, unlawful detention, rape, and the unlawful transfer and deportation of children.

The CoI also drew attention to a series of attacks by Russian armed forces on Ukraine's energy-related infrastructure since October 2022, as well as the utilization of torture by Russian authorities, which may meet the criteria for crimes against humanity. Moreover, the CoI

highlighted a pervasive pattern of summary executions in areas occupied by Russian forces, as well as unlawful detention and instances of sexual and gender-based violence.

#### *Assessment of the monitored information*

HRMMU reports covering the period from 2014 to 2022 and the report of the CoI (2022) will be analysed to discern potential indicators of future atrocity crimes. This analysis is conducted in alignment with the UN Framework of Analysis for Atrocity Crimes, aiming to identify signs and risk factors that may suggest the likelihood of such crimes occurring in the future.

#### *Risk factors assessment using the UN Framework of analysis for atrocity crimes*

Understanding the determinants and risk factors associated with atrocities is related to the perception of atrocity crimes as a process evolving over time. Comprehending factors that trigger an atrocity crime could open the door to the development of new preventive measures. If these triggers can be effectively neutralized, it may be possible to avert the occurrence of an atrocity crime (Straus, 2015). Risk factors are conditions that elevate the likelihood of negative outcomes or make individuals or situations more prone to such outcomes. In the context of the framework, these risk factors consist of behaviors, circumstances, or elements that either establish an environment conducive to the commission of atrocity crimes or signal the potential, likelihood of their occurrence (UN, 2014).

#### *Common risk factors*

Among the 14 risk factors outlined in the Framework (figure 2), the first eight are common to all types of atrocity crimes. The common risk factors highlight shared features that tend to be present in settings where atrocity crimes occur.

#### *Risk factor 1: Situations of armed conflict or other forms of instability*

Atrocity crimes frequently occur in the context of armed conflicts and other situations of instability. Numerous studies have emphasized that instances of genocide often take place in the midst of violent conflicts (Bellamy 2015; Welsh; 2015, Straus, 2012), where civilian population become is targeted victim (Downes, 1969). Armed conflicts are marked by a prevalence of violence, insecurity, and the tolerance of actions that would typically be deemed unacceptable. Moreover, states are often at their most potent in terms of their capacity to inflict harm during times of conflict. Given that armed conflict represents a violent approach to

addressing issues, it's evident that the risk of atrocity crimes significantly escalates in such situations (UN, 2014 p. 10).

From 2014 the situation in the conflict zone in eastern Ukraine continued to be unstable, marked by periodic increases in hostilities (OHCHR, 2022). On February 24, 2022, Russian Armed Forces crossed the border with Ukraine in various locations, including from Belarus, and launched attacks by land, air, and sea. In the days leading up to these attacks, President Putin recognized the Donetsk and Luhansk regions in eastern Ukraine as independent republics. Subsequently, the Russian Federation's Federation Council approved the military operation in Ukraine (UNGA, 2022 p. 20).

In northeastern Ukraine, cities like Kharkiv and Sumy rapidly became the battlegrounds for intense military actions within urban areas. These operations involved artillery strikes on residential and important structures, causing widespread destruction. By April 2022, Russian Armed Forces had retreated from Sumy Oblast. In May 2022, a Ukrainian counteroffensive forced Russian forces to withdraw from Kharkiv. However, Kharkiv continued to endure artillery bombardments in subsequent stages of the operation. In the southern region of Ukraine, Russian Armed Forces initiated attacks on Kherson, Mykolaiv, and Zaporizhzhia Oblasts, occupying several cities and settlements. As of February 26, 2022, Russian forces began an offensive on Mariupol. The city faced continuous shelling, leading to extensive damage. Intense battles over several weeks hindered evacuation efforts for civilians and limited residents' access to essential supplies. Consequently, tens of thousands of civilians had to flee the city. On May 20, 2022, the Russian Federation announced it had taken complete control of the city. Meanwhile, as of April 19, 2022, the "second phase" of the conflict primarily affected Donetsk and Luhansk Oblasts and the southern front (UNGA, 2022 p. 19).

*Risk factor 2: Record of serious violations of international human rights and humanitarian law.*

Past or present serious violations and abuses of human rights and international humanitarian law, including acts amounting to crimes against humanity, war crimes, and their incitement, are among the indicators of risk of future atrocity crimes.

From the beginning of the armed conflict from 14 April 2014 to 31 January 2022, OHCHR recorded a total of 3,107 conflict-related civilian deaths (1,853 men, 1,072 women, 102 boys, 50 girls, and 30 adults whose sex is unknown). Taking into account the 298 people on board Malaysian Airlines flight MH17 which was downed on 17 July 2014, the total civilian



death toll of the conflict has reached at least 3,405. The number of injured civilians is estimated to exceed 7,000 (OHCHR, 2022).

The link to atrocity crimes, specifically war crimes, and crimes against humanity, is illustrated in the 31<sup>st</sup> report by the OHCHR on the human rights situation in Ukraine (from August 1, 2020 to January 31, 2021) within the scope of “accountability for grave human rights violations perpetrated in the context of armed conflict” (OHCHR, 2021, p 17) and in the 33<sup>d</sup> report by the OHCHR on the human rights situation in Ukraine (from August 1, 2021, to January 31, 2022) in the context of “extrajudicial executions by that ‘courts’ of self-proclaimed ‘republics’ for conflict-related crimes in proceedings that do not meet international fair trial standards and may thus amount to war crimes; prosecution of war crimes” and accountability for war crimes (OHCHR, 22, p. 11).

### *Specific risk factors*

#### *Risk factor 11 Signs of a widespread or systematic attack against any civilian population*

Since April 2014, Russian-backed forces in eastern Ukraine have been engaging in the arbitrary detention of civilians and subjecting them to various human rights abuses, including torture, degrading treatment, and forced labour. Additionally, civilians have been unlawfully detained and used as hostages by these forces. The armed fighters supporting the self-proclaimed Donetsk People’s Republic (DPR) and Luhansk People’s Republic (LPR) have targeted individuals they perceive as critics. This includes journalists, pro-Ukrainian political activists, religious activists, and sometimes their family members (Human Rights Watch, 2014). Targeting of energy-related infrastructure and the reported use of torture by Russian authorities may potentially meet the criteria for being categorized as crimes against humanity (HRC, 2023).

#### *Risk factor 12 Signs of a plan or policy to attack any civilian population*

On February 24, 2022, Vladimir Putin, the President of the Russian Federation, announced the initiation of a "special military operation" with the stated goal of "pursuing the demilitarization and de-Nazification" of Ukraine (HRC,2023).

#### *Risk factor 14: Serious threats to those protected under international humanitarian law.*

OHCHR documented the impact of hostilities on the civilian population: shelling fire and UAV strikes caused civilian death and injures, numerous security incidents in the conflict

zone that had an impact on civilian facilities and objects (OHCHR, 2020,2021). In March and April 2021, both self-declared 'republics' issued 'decrees' mandating the compulsory conscription of 400 men (200 in each self-declared 'republic') into armed groups, raising significant concerns, as it places young male civilians at involuntary risk of death, depriving them of the protections provided to civilians under international humanitarian law (OHCHR, 2020 p. 9).

The CoI has compiled evidence of the unselective deployment of explosive weapons within densely populated regions that were under assault by Russian armed forces. Additionally, the Commission has determined that Russian armed forces targeted civilians who were trying to escape from the conflict (UNGA, 2022, p. 20). The employment of explosive weapons with broad-area impact in densely populated regions resulted in 1,495 casualties (both fatalities and injuries) within the four provinces during the examined period, accounting for 70 percent of the civilian casualties in those regions. It is important to note that the actual figures are likely to be even greater (UNGA, 2022, p. 21).

Consistent pattern of summary executions was documented in regions that were temporarily under the control of Russian armed forces during February and March 2022. These actions constitute violations of the right to life and are regarded as war crimes. A significant number of summary executions took place in Bucha, located in Kyiv Province (UNGA, 2022 p. 13).

The Commission also gathered substantial evidence of numerous instances of torture and ill-treatment carried out by Russian armed forces. These actions are in clear violation of the prohibition against torture and other forms of cruel, inhuman, or degrading treatment or punishment, and they are classified as war crimes. Perpetrators specifically targeted local authorities and members of the local administration, Ukrainian armed forces veterans, as well as volunteers providing support to the Ukrainian armed forces. Additionally, they also directed their aggression towards individuals involved in the evacuation of civilians (HRC, 2023).

#### *Special Adviser on the Prevention of Genocide*

Special Adviser on the Prevention of Genocide Alice Wairimu Nderitu issued two warning statements regarding atrocity crimes in Ukraine dated March 18, 2022, and April 6, 2022. In the statement from March 18, 2022, the Special Adviser echoed the decision on provisional measures of the International Court of Justice (ICJ) in the case concerning Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime

of Genocide (Ukraine v. Russian Federation). In the statement, the special advisor mentioned her dedication to assisting reconciliation endeavours in Ukraine and emphasized the importance of prioritizing these efforts. She expressed her hope that the ongoing dialogues aimed at resolving the conflict would be successful (Special Adviser on the Prevention of Genocide, 2022).

However, the forthcoming liberation of Bucha, Ukraine, showed evidence of summary executions, sexual violence, torture, and cases of unlawful violence and threats against civilians between February 27 and March 14, 2022. Additionally, soldiers were implicated in looting civilian property, including essential items such as food, clothing, and firewood. Following reports of severe human rights violations in occupied areas, including the Bucha incident in the Kyiv region, the General Assembly adopted a resolution 7 A/RES/ES-11/3 urging the suspension of the Russian Federation from the Human Rights Council (GA, 2022)

On April 6, 2022, the Special Adviser on the Prevention of Genocide, Alice Wairimu Nderitu, issued her second statement regarding atrocity crimes in Ukraine, expressing her concern and strong condemnation regarding the disturbing event in Bucha, where there were indications that hundreds of victims were deliberately targeted, suggesting the possibility of war crimes being committed (Special Adviser on the Prevention of Genocide, 2022).

## **Chapter 5 Discussion**

The section elaborates on results of interviews with UN human rights mechanisms regarding procedures for prevention, risk assessment and cooperation. It also reflects on prevention of the atrocity crimes during the armed conflict.

### *Coherence of the UN treaty bodies and OSAPG/R2 in the prevention of atrocity crimes*

#### *UN treaty bodies - risk assessment, procedures for prevention and cooperation*

The results of interviews with the experts from CAT, CERD and individual complaints procedure (2023) shows that The UN human rights mechanisms have the capacity to identify the pattern of human rights violations via state reporting procedure, individual complaints, communications, early warning and urgent actions mechanisms.

#### *Risk assessment*

Individual complaint procedure mechanisms conduct a risk assessment for the principle of non-refoulement (CAT expert, 2023). While CERD is using unique assessment methodology for the risk factors (CERD expert, 2023). Indicators for initiating an urgent procedure and their

constant application. The indicators established in the report of the Committee from 1993 identify serious violations of the ICERD (1965) as the scope of the following criteria:

- (a) Presence of a significant and persistent pattern of racial discrimination, as evidenced in social and economic indicators;
- (b) Presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups, or organizations, notably by elected or other State officials;
- (c) Adoption of new discriminatory legislation;
- (d) Segregation policies or de facto exclusion of members of a group from political, economic, social, and cultural life;
- (e) Lack of an adequate legislative framework defining and criminalizing all forms of racial discrimination or lack of effective mechanisms, including lack of recourse procedures;
- (f) Policies or practice of impunity...» (CERD, 1993).

All respondents confirmed that the mechanisms do not conduct analysis based on risk factors developed by the UN Framework of analysis for atrocity crimes. The legal framework of their operation is international human rights standards, GA and HRC resolutions. The experts also consider submission of other UN treaty bodies and NPMs to form their recommendations. While the committee members can still initiate the procedure, the information regarding violations typically comes from petitioners and NGOs (CERD Expert, 2023 CAT expert, 2023).

#### *Procedures for prevention*

Interviewees from CERD, CAT and individual complaints mechanism recognised important of confidential dialogue with the state in prevention of human rights violations. This include providing the state with the recommendation and obtaining information regarding the victim. Experts of the Subcommittee on Prevention of Torture, following the country visits, prepare a confidential report. Findings and observations based on the visit's assessments and discussions with the State party are included in the report and delivered to the State in order to fulfil the recommendations. According to the interview with the expert working in the mechanism, a confidential way of working is done to establish more open communication with the Member States. Providing them with our feedback is the way to motivate the State to act on our recommendations (SPT expert, 2023).

The initial stage involves engaging in confidential dialogue with the government without immediately publicizing the situation, as this approach has the potential to bring about

positive change. A country rapporteur is assigned to facilitate this process. It is important to assess whether immediate action is necessary or if further in-depth analysis is required, as not every violation requires urgent intervention. While there is a sense of urgency, it is acknowledged that any action taken requires a certain amount of time. This timeframe can range from a few weeks to several months (Committee Expert, 2023).

### *Cooperation*

For early warning purposes, CERD has the capacity to send letters and make decisions, but it often relies on cooperation and information-sharing with the states involved. This collaboration is crucial in gathering accurate and up-to-date information, understanding the dynamics of a given situation, and taking appropriate measures to prevent and respond to potential crises, including those with the risk of genocide (CERD, 2023).

At the same time, one of the challenges identified by the interviewees is the lack of state response on the communication. Some states are not complying with the committee's decisions. In some instances, states are not responding to the committee's inquiries or requests for information (CAT expert, 2023).

### *OSAPG/R2P – prevention capacities*

The OSAPG/R2P has the capacity to be a focal point for analysis and early warning. Its mandate identifies that the mechanism obtains information from the UN system. The mechanism acquires specialized expertise on atrocity crimes prevention and has access to the UN mechanism directly involved in the responsibility to protect -the Security Council and the General Assembly. The Special Adviser on the Prevention of Genocide is often considered an appropriate actor to draw the attention of the Security Council to imminent crises, despite the limitations of its mandate. While the mandate of the Special Adviser on the Prevention of Genocide is focused explicitly on addressing genocide, it does not encompass all forms of mass atrocities. This means that the mandate's scope is limited to acts of group-selective violence with the potential for group destruction. As a result, the Special Adviser on the Responsibility to Protect is not positioned to fill this gap effectively.

The R2P mandate primarily focuses on advocating for the operationalization of the political commitment to R2P rather than on early warning efforts for prevention. Besides, there is a limited capacity of the OSAPG/R2P to conduct documentation of risks on the ground in systematic nature. At the same time, in comparison with the general reporting procedure of the

UN treaty bodies, the mandate does not have distinct concrete rules and schedule for information submission from other stakeholders associated with the United Nations system, such as regional human rights mechanisms, states, national prevention mechanisms, civil society organizations, and individuals. Thus, using the risk factors to analyse the data received from the UN mechanisms and civil society organizations, the Office can develop potential as a focal point within the UN system for assessing the risk of atrocity crimes and enhance the early warning for immediate and mid-term operational prevention.

The case study on the prevention of mass atrocities in Ukraine showed that early public warning of the mechanism was characterized by reactive approach, raising alert after mass atrocities were committed.

*Early warning -moral principle or legal obligation?*

Keohane's perspective asserts that the international community consists of four integral components: principles, norms, rules, and decision-making procedures. According to Keohane, these components don't adhere to a hierarchical legal order but are considered equally influential in shaping the expectations and values within an international community. It is evident that all these components provide guidelines for behavior, prescribing certain actions while discouraging others (Keohane, 1984).

From this theoretical standpoint, the Responsibility to Protect (R2P) establishes a specific norm of behavior that states should adhere to in order to be part of the international community. In Keohane's view, norms are just as significant as rules. Thus, even though the R2P is a norm rather than a legal obligation, it empowers the international community to articulate how the conduct of the Russia significantly deviates from accepted standards (Keohane, 1984).

The early warning involves gathering and analysing information about situations that have the potential to escalate into conflict or already exhibit signs of conflict. The purpose is to provide timely and accurate information to influential actors at the national, regional, and international levels, that can take appropriate actions to prevent or mitigate the conflict and promote sustainable peace (WANEP 2000, p. 11). Accordingly, stages of early warning include gathering information (estimating the relative risks of emerging threats), its analysis (analysing the nature of these threats and describing plausible scenarios), and warning dissemination (communicating warning analyses to decision-makers and other stakeholders) (Dorn, 2004; Woocher, 2008).

The outcome of risk assessments based on the systematic analysis of remote and intermediate conditions may be an achievement of early response (Smeulers and Grünfeld, 2011). Effective early warning of mass atrocity crimes requires linkage of risk factors when analysing human rights violations and integration of an atrocity prevention lens within existing institutional frameworks that focus on preventing armed conflicts. The concept of an “atrocity prevention lens” refers to a comprehensive approach to policy development and decision-making that prioritizes the prevention of mass atrocities. This entails analysing the unique circumstances and drivers of potential mass atrocities in a given context and tailoring preventive strategies accordingly (Bellamy, 2015).

Analysis of risk factors should be tailored for both: potential victims and potential perpetrators. Therefore, in the case of mass atrocities committed by RF military units in Ukraine, it is important to analyse the development of risk factors that formulate potential perpetrators’ behaviour and capability to commit atrocity crimes within the Russian Federation. International human rights mechanisms have the capacity to fulfil this role by utilizing their reporting mechanisms, conducting early warning, and taking urgent actions to address violations of human rights standards.

The issue of who should receive warnings and who is responsible for acting upon them is critical yet often under-reflected. It is important to determine the recipients of early warnings based on the specific context and nature of the threat or crisis. The underlying assumptions of early warning system for atrocity crimes create the expectation that international mechanisms, such as the UN Security Council and the UN Office of genocide prevention, and the responsibility to protect states with sufficient levels of geopolitical influence and resources will take over all responsibility as protectors once adequate information is processed and appropriate action is initiated. Although this algorithm has significant importance for effective and timely prevention, it constrains the participation of the main beneficiaries of such prevention-potential victims. There is a growing need to communicate warnings and information directly to the communities and individuals who are at risk of being attacked or affected by the crisis. Empowering local populations with timely and accurate information about potential threats can enable them to take protective measures, seek safety, or advocate for their own rights and security. Bars (2006) noted that we ‘typically ‘wire’ that warning toward ourselves so we can act. But we have given much less thought to also warning those who are about to be attacked. The public early warning should be conducted in a balance

between the need for confidentiality and the importance of a transparent and accountable approach. This involves careful consideration of the potential risks and benefits of disclosure.

### *Prevention of atrocity crimes during the armed conflict*

Our understanding of preventing atrocities in the context of ongoing armed conflicts is relatively limited. Preventing armed combatants who are actively involved in hostilities from resorting to mass violence targeting civilians is an area that is both conceptually and practically underdeveloped. Armed conflicts can create fresh incentives and opportunities for the deliberate targeting of civilians. Once a conflict has commenced, populations associated with the combatants often find themselves exposed, with minimal or no means to defend themselves. In such cases, effective measures to prevent armed conflict would also serve to prevent the commission of mass atrocities. However, once a conflict is underway, new risks and vulnerabilities emerge, blurring the line between prevention and response (Bellamy, 2011).

Atrocity prevention does not deny the importance of conflict prevention as the risk factor creating an enabling environment where many atrocities occur. The governments might resort to atrocities during an armed conflict if they consider the stakes high enough and fail to win at a reasonable cost through conventional means (Downes, 2017). However, atrocity prevention seeks to expand the focus beyond the political and security realm to encompass the prevention of human rights violations. Implementing strategies to prevent atrocity crimes may introduce tensions with the principle of impartiality commonly upheld by the United Nations and international non-governmental organizations (INGOs) in conflict prevention and resolution. The responsibility to prevent and the focus on preventing atrocity crimes may create pressure on maintaining impartiality in the context of mass atrocities and armed conflict (Bellamy, 2018). The culture of neutrality, as employed in conflict resolution strategies and mediation, emphasizes treating both parties in a conflict as equals to achieve peace. However, this approach excludes the risk of atrocity crimes (Bellmay, 2016).

## **Chapter 6 Conclusions and recommendations**

The World Summit's Outcome Document (2005) on the R2P established the responsibility of the international community to prevent atrocity crimes and limited its scope to four specific crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity.



Considering that atrocity crimes are grave human rights violations, i.e. torture, the UN human rights mechanisms have developed capacities of prevention by addressing human rights violations through early warning, urgent action, risk analysis and monitoring.

The Office of the United Nations on the Prevention of Genocide possesses the capacity to conduct risk analysis and early warnings of atrocity crimes. As part of its mandate, the OSAPG is responsible for monitoring and analysing situations to identify signs and indicators of potential genocidal acts. While it does not involve direct monitoring of primary data in the field, the mechanism focuses on gathering information from the UN system and consolidating it for analysis.

UN treaty bodies stem general comments and/or recommendations on interpreting treaty provisions, including the obligations of States Parties. Six Committees in the UN treaty bodies system are mandated to conduct inquiry procedures in case of gross or systematic human rights violations are alleged, including the Committee against Torture, CPRD (Article 6 of the Optional Protocol), CED, the Subcommittee on Prevention of Torture (SPT) has a specific mandate focused on preventive measures to address and prevent torture and other forms of ill-treatment. The Committee on the Elimination of Racial Discrimination (CERD) has established early-warning measures and urgent procedures to effectively respond to racial discrimination situations. The Committee on Enforced Disappearances (CED) may utilize urgent action procedures to prevent specific human rights violations related to enforced disappearances. These mechanisms are designed to take steps to address and prevent human rights violations based on the nature and scope of their mandates. The effective coordination of operational atrocity prevention presents a significant challenge in bridging the efforts of the UN mechanisms directly linked to RtoP and other UN human rights mechanisms to build referral pathways for effective prevention.

The early warning systems employed by the United Nations primarily operate in a passive mode of information collection, serving as the initial stage of the process. Thus, one of the main tasks of the United Nations Office on Genocide Prevention and the Responsibility to Protect is to collect and analyse relevant information on political, human rights, humanitarian, social, and economic developments in countries worldwide. This information gathering aims to identify early warning signs of the risk of atrocity crimes, including genocide, war crimes, ethnic cleansing, and crimes against humanity. However, analysing incoming information should go beyond mere data collection to establish an effective feedback loop within the information system. This analysis should lead to the identification of additional information requirements. Information referral within the United Nations, regional organizations, as well

as information flow with member states and non-governmental organizations (NGOs), remains the crucial aspect for improvement. Development of a robust early warning system can significantly contribute to systematic monitoring and proactive response to potential crisis situations (Mayersen, 2011).

The primary obstacle to consistently translating analysis indicating the risk of atrocity crimes into credible warnings stems from the gap between collecting data that could serve as early indicators of future atrocities and its assessment through risk factors for atrocity prevention. The universal and yet the most comprehensive set of risk factors for all four atrocity crimes is the UN framework of analysis for atrocity crimes. It supports and advocates an important conclusion that was covered by numerous empirical studies on genocide and other atrocity crimes: 1. Atrocities are organized crime; 2. Their preparation requires time, policy, and resources; 3. They are processes, the development of which requires other violations.

A limitation in the prevention of atrocities is the predominant emphasis on armed conflict prevention, which tends to narrow the focus to one specific risk factor. While armed conflict is indeed a significant, it is essential to recognize that widespread cases of torture and enforced disappearances, discrimination, hate-motivated crimes and severe restriction of civic space are considered as risk factors for mass atrocities. The case study on prevention of atrocities in Ukraine showed that for the early warning to be conducted in a timely and effective manner, utilizing risk factors for atrocity crimes for continuously analysing and evaluating a substantial amount of information is a necessary condition.

Thus, the research proposed following recommendations:

For the Office on Genocide Prevention and the Responsibility to Protect

- Develop the mechanism for the systematic risk assessment for atrocity crimes;
- Strengthen the capacity to provide early warning of genocide and mass atrocities, in line with the commitment made by Member States in 2005;
- Develop cooperation with the UN human rights monitoring mechanisms through thematic meetings;
- Enhance referral pathways with the UN human mechanisms to obtain human rights violations data on a regular basis;

- Raise awareness about the UN Framework of analysis for atrocity crimes by conducting training with UN mechanisms, regional human rights mechanisms, NPMs, state parties and civil society organisations;
- Create the guidelines for the application of the UN framework of analysis for atrocity crimes in the situation of an international armed conflict.

For the UN monitoring mechanisms:

- Develop a methodology to assess risks and needs as a foundation for strengthening the structural prevention of mass atrocities, strengthening partnerships with regional arrangements;
- Facilitate participation of the Office on Genocide Prevention and the Responsibility to Protect in the report;
- Establish a focal point for the systematic cooperation with the Office on Genocide Prevention and the Responsibility to Protect in the monitoring and inquiry procedures;
- Apply atrocity risks analysis in the documentation of human rights violations and reporting procedures.

For the governments:

- Create the strategy of the analysis for the risk factors for atrocity crimes;
- Appoint national focal points for coordinating prevention efforts in national decision making processes.

For the civil society organisations:

- Utilise Framework of analysis for atrocity crimes for the documentation of the human rights violations.
- Include engagement with the Office on Genocide Prevention and the Responsibility to Protect in the advocacy activities for the prevention of atrocities.

For the research in atrocity prevention:

- Facilitate dialogue and knowledge sharing among experts, practitioners, and researchers working on atrocity prevention;
- Develop a theoretical framework on the risk factor for atrocity crimes analysis in the situation of the international armed conflict.

## Bibliography

- Akhavan, P. (2006). 'Report on the work of the Office of the Special Adviser of the United Nations secretary-general on the prevention of genocide', *Human Rights Quarterly*, 28(4), pp. 1043–1070. doi:10.1353/hrq.2006.0040.
- Barrs S. (2006). *Conflict early warning: warning who*. Journal of Humanitarian Assistance. Available at: <https://genderandsecurity.org/projects-resources/research/conflict-early-warning-warning-who>
- Bayefsky, A. (2000). 'The UN human rights treaty system in the 21st century'. *Kluwer Law International eBooks*. Available at: <http://www.gbv.de/dms/sub-hamburg/314018840.pdf>.
- Bellamy, A. and Lupel, A. (2015). *Why We Fail: Obstacles to the Effective Prevention of Mass Atrocities*. Available at: <https://www.ipinst.org/wp-content/uploads/2015/06/IPI-E-pub-Why-We-Fail.pdf>.
- Bellamy, A.J. and Dunne, T. (2016). *The Oxford Handbook of the Responsibility to Protect*. Oxford University Press.
- Bellamy, A.J. and Luck, E.C. (2018). *The Responsibility to Protect: From Promise to Practice*. Available at: <https://espace.library.uq.edu.au/view/UQ:2c07ebe>
- Bull, H. (1969). The Twenty Years' Crisis Thirty Years On. *International Journal*, 24(4), 625–638. <https://doi.org/10.2307/40200282>
- Callejon, C., Kemileva, K. and Kirchmeier, F. (2019). *Treaty bodies' individual communication procedures*. Geneva Academy of International Humanitarian Law and Human Rights (Geneva Academy).
- Dorn, A.W. (2004). *Early and late warning by the UN Secretary-General of threats to the peace: Article 99 revisited*. *Conflict prevention from rhetoric to reality*, 1, p.26.
- Downes, A.B. (2017). *Targeting civilians in war*. doi:10.7591/9780801458538.

General Assembly. (2006). *Resolution 60/251. Human Rights Council* (15 March 2006). A/RES/60/251 Available at:

[https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/RES/60/251](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/RES/60/251)

Giorgou, E. (2015). *Enforced Disappearance: At the Crossroads of State and Individual Criminal Responsibility in International Law*.

Gordanić, J. (2022). *The Ukraine Crisis 2022—An Alarm for the Reform of the UN Security Council?* *The Review of International Affairs*, 73(1186), pp.125-146.

Harff, B. (2003). *No lessons learned from the Holocaust? Assessing risks of genocide and political mass murder since 1955*. *American political science review*, 97(1), pp.57-73.

Hehir, A. (2010). *An Analysis of Perspectives on the Office of the Special Adviser on the Prevention of Genocide*. *Genocide Studies and Prevention*, 5(3), pp.258-276.

Hollis, M.E., Felson, M. and Welsh, B.C. (2013). *The capable guardian in routine activities theory: A theoretical and conceptual reappraisal*. *Crime Prevention and Community Safety*, 15, pp.65-79.

Human Rights Council. (2022). *Resolution: The deteriorating human rights situation in Ukraine stemming from the Russian aggression* (12 May 2022) A/RES/60/251

Human Rights Watch. (2022). *Early Signs of War Crimes and Human Rights Abuses Committed by the Russian Military During the Full-Scale Invasion of Ukraine*. Available at: <https://www.hrw.org/news/2022/03/16/early-signs-war-crimes-and-human-rights-abuses-committed-russian-military-during>

International Court of Justice. (2022). *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. Available at: <https://www.icj-cij.org/case/182>

International Commission on Intervention and State Sovereignty (2001). *The responsibility to protect. Global Center for the Responsibility to Protect*. Available at: <https://www.globalr2p.org/resources/the-responsibility-to-protect-report-of-the-international-commission-on-intervention-and-state-sovereignty-2001/>.

International Convention for the Protection of All Persons from Enforced Disappearance. OHCHR. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>

Jacob, C. (2022). *Mainstreaming Atrocity Prevention Foreign Policy and Promotion of Human Rights for Atrocity Prevention*. Available at: [https://www.elac.ox.ac.uk/wp-content/uploads/2022/11/ELAC-Policy-Brief\\_Mainstreaming-Atrocity-Prevention.pdf](https://www.elac.ox.ac.uk/wp-content/uploads/2022/11/ELAC-Policy-Brief_Mainstreaming-Atrocity-Prevention.pdf)

Johnston, T. (2011). *Being Soviet: identity, rumour, and everyday life under Stalin 1939-1953*. Oxford University Press.

Jones, A. (2017). *Genocide : a comprehensive introduction*. 3rd edn. London: Routledge, Taylor & Francis Group.

Keohane, R. O. (2012). Twenty Years of Institutional Liberalism. *International Relations*, 26(2), 125– 138. <https://doi.org/10.1177/0047117812438451>

Kuperberg, J. and Hagan, J., 2022. Genealogy and Etymology of Atrocity Crimes. In *The Oxford Handbook of Atrocity Crimes*.

Lautze S. and Hammock J (1996). *Coping with Crisis, Coping with Aid: Capacity Building, Coping Mechanisms and Dependency, Linking Relief and Development, for the UN Inter-Agency Standing*. The UN Inter-Agency Standing

Lukichev.V. (2022) *Armed conflict in Ukraine: Chronological timeline of the implementation of the Minsk agreements*. [https://www.dcaf.ch/sites/default/files/publications/documents/ArmedConflictUkraine\\_TimelineMinskAgreements\\_EN\\_Mar2022.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/ArmedConflictUkraine_TimelineMinskAgreements_EN_Mar2022.pdf)

Linnea D. Manashaw. (2005). *Genocide and Ethnic Cleansing: Why the Distinction - A Discussion in the Context of Atrocities Occurring in Sudan*, 35 CAL. W. INT'L L.J. 303

Luck, E.C. (2006). *UN Security Council: Practice and Promise*. [online] *Google Books*. Routledge. Available at: [https://books.google.ch/books?id=K8B\\_AgAAQBAJ&printsec=frontcover&source=gbs\\_book\\_other\\_versions\\_r&redir\\_esc=y#v=onepage&q&f=false](https://books.google.ch/books?id=K8B_AgAAQBAJ&printsec=frontcover&source=gbs_book_other_versions_r&redir_esc=y#v=onepage&q&f=false)

Mayersen, D. (2011) “Current and Potential Capacity for the Prevention of Genocide and Mass Atrocities within the United Nations System,” *Global responsibility to protect*, 3(2), pp. 197–222.

OCHA (2023). *Ukrainian Conflict Analysis Brief - The impact of one year of conflict on Women and Children in Ukraine (19 May 2023) – Ukraine*. Available at: <https://reliefweb.int/report/ukraine/ukrainian-conflict-analysis-brief-impact-one-year-conflict-women-and-children-ukraine-19-may-2023>

Office of the United Nations High Commissioner for Human Rights. (2020). *Report Situation of human rights in Ukraine (16 February – 31 July 2020)*. A/HRC/45/CRP

Office of the United Nations High Commissioner for Human Rights. (2020). *Human Rights Situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine* Available at: <https://www.ohchr.org/en/statements/2020/03/human-rights-situation-autonomous-republic-crimea-and-city-sevastopol-ukraine>

OHCHR (2022). *UN Human Rights in Ukraine*. Available at: <https://www.ohchr.org/en/countries/ukraine/our-presence#:~:text=Deployed%20in%20March%202014%2C%20the>.

OHCHR. (2023). *Report on the human rights situation in Ukraine (1 August 2022 – 31 January 2023)*

OHCHR. (2022) *Two UN rights committees deplore refusal to cooperate and lack of information*. Available at: <https://www.ohchr.org/en/statements/2022/11/nicaragua-two-un-rights-committees-deplore-refusal-cooperate-and-lack>

Patiño, M.C.G. (2021). *The Work of the Committee on Enforced Disappearances - The Geneva Academy of International Humanitarian Law and Human Rights*. [online] [www.geneva-academy.ch](http://www.geneva-academy.ch). Available at: <https://www.geneva-academy.ch/research/publications/detail/607-the-work-of-ohchr-the-committee-on-enforced-disappearances>

Rights for Peace (2021). A Guide to Hate Violations in International Law. Available at:[https://www.rightsforpeace.org/files/ugd/33dd6b\\_45ff86f31b3340608fb97f0371793d27.pdf](https://www.rightsforpeace.org/files/ugd/33dd6b_45ff86f31b3340608fb97f0371793d27.pdf)

Reike, R. (2014). The 'Responsibility to Prevent: An International Crimes Approach to the Prevention of Mass Atrocities', *Ethics & International Affairs*, vol. 28, no. 4, pp. 451-476.

Schabas, W.A. (2006). Preventing genocide and mass killing: the challenge for the United Nations. Minority Rights Group International.

Schilling, J. (2006) On the pragmatics of qualitative assessment: Designing the process for content analysis. *European Journal of Psychological Assessment* 22(1), 28-37.

Sharma, Serena K., and Jennifer M. Welsh (2015), *The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention*. Oxford Academic, Available at: <https://doi.org/10.1093/acprof:oso/9780198717782.001.0001>

Security Council. (2022) *Draft resolution 2623 on convening an emergency special session of the General Assembly on Ukraine*. S/RES/2623(2022). Available at: <https://digitallibrary.un.org/record/3958808?ln=en>

Smeulers, A. and Grünfeld, F. (2011) *International Crimes and Other Gross Human Rights Violations: A Multi- and Interdisciplinary Textbook*. Boston, UNITED STATES: BRILL. Available at: <http://ebookcentral.proquest.com/lib/roehampton-ebooks/detail.action?docID=737774>

Special Adviser on the Prevention of Genocide. (2022) *Statement On developments in Ukraine and the need to reinforce prevention efforts in the Western Balkan region in light of that situation*. Available at: <https://www.un.org/en/genocideprevention/2022.shtml>

Special Adviser on the Prevention of Genocide. (2022). *Statement On developments in Ukraine and the need to reinforce prevention efforts in the Western Balkan region in light of that situation*. Available at: <https://www.un.org/en/genocideprevention/2022.shtml>



Stanton, G. (2009) 'The Rwandan Genocide: Why Early Warning Failed', *Journal of African Conflicts and Peace Studies*, 1(2), pp. 6–25. Available at: <https://doi.org/10.5038/2325-484X.1.2.1>.

Straus, S. (2016) 'Fundamentals of genocide and mass atrocity prevention.' *United States Holocaust Memorial Museum*. Available at: <https://www.ushmm.org/m/pdfs/Fundamentals-of-Genocide-and-Mass-Atrocity-Prevention.pdf>.

Straus, S. (2015). *Triggers of mass atrocities*. Mass Atrocity Prevention. Politics and Governance. <https://doi.org/10.17645/pag.v3i3.375>

Strauss, E. (2015). 'Institutional Capacities of the United Nations to Prevent and Halt Atrocity Crimes', in Serena K. Sharma, and Jennifer M. Welsh (eds), *The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention* (Oxford, 2015; online edn, Oxford Academic, 22 Oct.

2015), <https://doi.org/10.1093/acprof:oso/9780198717782.003.0003>

Strauss, E. (2016). UN Human Rights Council and High Commissioner for Human Rights. Edited by A.J. Bellamy and T. Dunne. Oxford University Press. Available at: Available at: <https://doi.org/10.1093/oxfordhb/9780198753841.013.17>.

Tchobo, D. (2022). *Potential international crimes in Ukraine: should atrocities in Bucha be classified as genocide, war crimes, or crimes against humanity*. *Pravo i bezpeka*, 85(2), pp. 13–20. Available at: <https://doi.org/10.32631/pb.2022.2.01>

UN Commission on Human Rights. (1992). *Declaration on the Protection of All Persons from Enforced Disappearance*, (28 February 1992). E/CN.4/RES/1992/29. Available at: <https://www.refworld.org/docid/3b00f0b270.html>

UN General Assembly. (1946). *The Crime of Genocide*, (11 December 1946), A/RES/96. Available at: <https://www.refworld.org/docid/3b00f09753.html>

UN General Assembly. (1948). *Convention on the Prevention and Punishment of the Crime of Genocide*, (9 December 1948), United Nations, Treaty Series, vol. 78, p. 277. Available at: <https://www.refworld.org/docid/3ae6b3ac0.html>

UN General Assembly (1965). *International Convention on the Elimination of All Forms of Racial Discrimination*, \*21 December 1965), United Nations, Treaty Series, vol. 660, p. 195, available at: <https://www.refworld.org/docid/3ae6b3940.html>

UN General Assembly. (1984). *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, (10 December 1984), United Nations, Treaty Series, vol. 1465, p. 85. Available at: <https://www.refworld.org/docid/3ae6b3a94.html>

UN General Assembly. (1998). *Rome Statute of the International Criminal Court* (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6. Available at: <https://www.refworld.org/docid/3ae6b3a84.html>

UN General Assembly. (2005). World Summit Outcome : resolution / adopted by the General Assembly, 24 October 2005, A/RES/60/1, available at: <https://www.refworld.org/docid/44168a910.html>

UN General Assembly. (2009). *Implementing the responsibility to protect: report of the Secretary-General*, (12 January 2009), A/63/677. Available at: <https://www.refworld.org/docid/4989924d2.html>

United Nations. (2014). *Framework of Analysis for Atrocity Crimes - A tool for prevention*. Available at: <https://www.refworld.org/docid/548afd5f4.html>

UN Office of the High Commissioner for Human Rights (2017). *Report on the human rights situation in Ukraine 16 February to 15 May 2017*, (15 May 2017). Available at: <https://www.refworld.org/docid/5940f16f4.html>

UN Office of the High Commissioner for Human Rights. (2017). *Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)*, (25 September 2017). Available at: <https://www.refworld.org/docid/59ca605b4.html>

United Nations Office on Genocide Prevention and the Responsibility to Protect. (2019). *Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes*

Waltz, K. N. (2010). *Theory of international politics*. Waveland Press.

Welsh, J. (2015). The responsibility to prevent: Assessing the gap between rhetoric and reality. *Cooperation and Conflict*, 51(2), pp.216–232. doi:  
<https://doi.org/10.1177/0010836715613364>

Woocher, L. (2006). *Developing a strategy, methods and tools for genocide early warning*. Columbia University.

Zenko, M. and Friedman, R.R. (2011). UN Early Warning for Preventing Conflict. *International Peacekeeping*, 18(1), pp.21–37.  
doi:<https://doi.org/10.1080/13533312.2011.527504>.

## Appendix 1: Interview guide for the UN human rights mechanisms

1. What is the role of the mechanism in the prevention of human rights violations?
2. What is the key role of the mechanism within the UN system?
3. Who are/can be beneficiaries and target groups involved in the work of the mechanism?
4. How urgent are action procedures implemented by the mechanism in its activity? How is it integrated into the systematic activities of the mechanism?
5. Do you conduct an assessment of any risk factors for the commitment of torture? If yes, what are the most common risk factors?
6. Does the mechanism, in its human rights work, address the UN Framework of Analysis for atrocity crimes?
7. How does the mechanism cooperate with other UN entities within the framework of reporting procedure? What can be approved?
8. Have you faced any challenges while implementing the mandate?
9. Have you encountered any specific challenges in working with victims of grave human rights violations in the situation of armed conflict and occupation?
10. What would be further actions of the mechanism when a commission of atrocity crimes occurred? Does the mechanism use a referral to other UN entities?

## Appendix 2: HRMMU reports

[Report on the human rights situation in Ukraine \(16 February-31 July 2020\)](#)

[Report on the human rights situation in Ukraine \(1 August 2020-31 January 2021\)](#)

[Report on the human rights situation in Ukraine \(1 February – 31 July 2021\)](#)

[Report on the human rights situation in Ukraine \(1 August 2021-31 January 2022\)](#)