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UN-WILLINGNESS

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JCSP 41

Exercise Solo Flight

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CANADIAN FORCES COLLEGE – COLLÈGE DES FORCES CANADIENNES
JCSP 41 – PCEMI 41
2014 – 2015

EXERCISE *SOLO FLIGHT* – EXERCICE *SOLO FLIGHT*

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Word Count: 5486

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Much of the work done in genocide prevention asks the question why genocides happen. Undoubtedly the critique and recounting of genocides past to identify traits and triggers to be used to prevent genocides yet to come has value. Understanding the social, economic, and cultural aspects of a people and the physical and psychological stresses placed upon them can factor heavily into prevention mechanisms. However, by asking why genocides happen, the information drawn upon is most certainly based on the failures of past prevention or intervention efforts by the international community and the United Nations (UN). The failure of the international community to act or intervene hinges on many factors ranging from indifference to state sovereignty concerns. Yet despite the unwillingness of states to act or intervene in situations of genocide, the UN, as the focal point of the international community, still bears much of the responsibility. The burden of early-warning, prevention and intervention has been a key principle of the UN since its inception in 1946. But when the international community is forced to reconcile a failure in humanity the UN often becomes the scapegoat.

In the years since the Rwandan genocide in 1994, the UN has not only come to terms with its role as convenient scapegoat but also with the impediments to collective security that often bring failure of the international community to the fore. In the area of genocide the UN has sought to develop principles that place the onus of responsibility to protect ones citizens on the state. One might argue that in doing so the UN has merely developed a way to guilt and shame a state into action but the doctrine is much more involved. The idea to shift responsibility was borne from admonishment of a failed UN system and in late 2001 the Canadian government created the International Commission on Intervention and State Sovereignty (ICISS) that released a report called *Responsibility to Protect*, otherwise known as R2P, which encapsulated the notion of state sovereignty, state responsibility and international intervention as a last resort.

These fundamentals were to become the embodiment of internationalism in the ensuing years and were affirmed at the 2005 World Summit, supported by the UN Security Council in 2006 and in 2009 Secretary-General of the UN, Ban Ki-Moon, finalized the indoctrination process when he presented his report on *Implementing the Responsibility to Protect (A/63/677)*, to the General Assembly. In so doing, he not only signaled a new direction in crimes against humanity and genocide prevention but he also turned the page on past failures.

It is undeniable that there have been more failures than successes in genocide prevention but in 2009 the UN finally had a proven doctrine supported by the international community. Yet it came at a tremendous cost in lives as a result of a fickle international community unwilling to act in a timely, decisive manner. The goal of this paper is to demonstrate that, despite all efforts by the UN system to establish a genocide prevention and intervention apparatus, the international community's 'willingness' remains the UN's 'Achilles heel' and as such the yard sticks in this area will continue to move at a glacial pace to the detriment of humanity. By looking at the failures to intervene to stop the Rwandan genocide, the use of intervention by proxy in Kosovo, and the creation of the Office of the Special Advisor on the Prevention of Genocide, the reconceptualization of the role of the state and international community in mass atrocity prevention has proved a seminal moment in thwarting potential genocidal situations but remains tenuously tied to the international community's willingness to intervene.

In determining the willingness of states to act against genocide, one must first define genocide. Raphael Lemkin's 1948 definition as written in the United Nations Convention on the Prevention and the Punishment of the Crime of Genocide (Genocide Convention) is the most

inclusive definition albeit not perfect.¹ Much has been debated about this definition but the pundits have not provided a better definition that is supported in international law². Many scholarly definitions seek to exploit the killing facet of genocide but fail to bring reason for not including the other aspects that would achieve humanity's evisceration. Additionally, "legal and academic scholars have failed to reach a consensus as to what exactly genocide is both conceptually and practically..."³ leaving the international judicial system and international community bound by the Genocide Convention. Finally, the Genocide Convention carries with

¹ The 1948 *Convention on the Prevention and Punishment of the Crime of Genocide* (known as the "Genocide Convention") defines genocide as any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group:

- killing members of the group;
- causing serious bodily or mental harm to members of the group;
- deliberately inflicting on the group the conditions of life calculated to bring about its physical destruction in whole or part;
- imposing measures intended to prevent births within the group;
- forcibly transferring children of the group to another group.

The Convention confirms that genocide, whether committed in time of peace or war, is a crime under international law which parties to the Convention undertake "to prevent and to punish." The primary responsibility to prevent and stop genocide lies with the State in which this crime is committed. Although this definition best represents the definition of genocide it is missing key groups such as political parties and social groups. (http://www.un.org/en/preventgenocide/adviser/genocide_prevention.shtml)

² Genocide has many definitions beyond the Genocide Convention that should be considered when discussing the rationale behind the works chosen to support any given argument. For example renowned genocide scholar Helen Fein states that "genocide is a sustained purposeful action by a perpetrator to physically destroy a collectivity directly or indirectly, through interdiction of the biological and social reproduction of group members, sustained regardless of the surrender or lack of threat offered by the victim." Her interpretation is one of the broadest definitions that many scholars have sought. On a social level Israel Charny provides a more societal based definition when he states "genocide in the generic sense is the mass killing of substantial numbers of human beings, when not in the course of military action against the military forces of an avowed enemy, under conditions of the essential defenselessness and helplessness of the victims." Charny tries to provide social conditions which can be traced to help identify processes of genocide, yet he also removes military conflict as a condition for genocide. (See Israel Charny, "The Definition of Genocide," ed. Samuel Totten and Paul R. Bartrop, *The Genocide Studies Reader* (2009) p. 34) Barbara Harff developed her definition to include political groups and coined the term politicides. Her definition states: "Genocides and politicides are promotion, execution, and/or implied consent of sustained policies by governing elites or their agents – or in the case of civil war, either of the contending authorities – that are intended to destroy, in whole or part, a communal, political or politicized ethnic group. In genocides the victimized group are defined by their perpetrators primarily in terms of their communal characteristics. In politicides, in contrast, groups are defined primarily in terms of their political opposition to the regime and dominant group." The inclusivity of this definition highlights the shortfalls of the Genocide Convention. (See B. Harff, "How to use Risk Assessment and Early Warning," from *Global Responsibility to Protect 1* (2009) 506-531.) Moreover, we see that there are multiple definitions which need to be considered when using specific scholarly writings. However, all scholars have used the Genocide Convention as the basis of their expanded definition. Yet there is still very little consensus within the genocide scholar community on which definition is most suitable and thus the Genocide Convention remains in law.

³ Maureen Hiebert, "Constructing Victims: Reconceptualizing Identity and the Genocidal Process," last accessed on 30 April 2015, <http://www.cpsa-acsp.ca/papers-2004/hiebert.pdf> p. 4

it the promise that states will act to prevent, stop and punish those involved in genocide. In order to fully carry out these tenets an international judicial system supported by the rule of law and an independent and impartial jury needs to be in place to empower a state to act. In keeping with the definition, international tribunals were established in both Rwanda and the Former Yugoslavia to prosecute acts of genocide and provided the first case law precedence under the convention.

Yet despite the protections under law and the promise to intervene the small central African nation of Rwanda ignited into a horrific torrent of hatred and bloodshed in 1994. In the span of 100 days over 800,000 people (mostly Tutsi and Hutu moderates) were slaughtered and hundreds of thousands more were raped, wounded, tortured and displaced. Hundreds of thousands of refugees flooded across neighboring state borders in search of safe haven from the murderous onslaught. The savagery of the massacre was unprecedented. Only the Holocaust and the Armenian genocide could compare in terms of sheer number and rapidity of deaths. But the scale, speed and brutality of the murders set Rwanda apart as an unsettling example of humanity's inhumanity. Moreover, Rwanda remains a textbook example of genocide as envisioned by Raphael Lemkin when he coined the term, authored and led the advocacy for the creation of the Genocide Convention in 1948. The events that unfolded were so eerily consistent with the Genocide Convention that despite the factors mitigating international response such as the speed of the killing, misrepresentation by Rwanda at the UN and the Western media's mislabeling the conflict as "ancient ethnic" violence, there was enough evidence and credible reporting out of Rwanda to indicate genocidal intent.⁴

⁴ A larger debate exists on whether intention is a key aspect of genocide or not. Helen Fein, Steven Katz and others ardently support the notion of intent to describe the purposeful actions to eradicate a people while others such as Israel Charny define genocide according to outcomes. In support of the former, Maureen Hiebert argues

The reports, including field reports from US embassy, daily reports and stories from embedded journalists from the BBC and the UN Assistance Mission in Rwanda (UNAMIR) Force Commander, Canadian Major General Romeo Dallaire, issuing daily situation reports directly to UN headquarters in New York, indicated imminent disaster in the months and weeks prior to start of the mass killings and all the reports similarly spoke of the horrific scenes once the killing began. Director of International Committee of the Red Cross (ICRC) in Rwanda in 1994, Philippe Gaillard, stated in an interview in 2003 "...everybody knew, every day, live what was happening in this country. You could follow that every day on TV, on radio. Who moved? Nobody. Nobody."⁵ The now infamous 'Genocide Fax' sent by Dallaire three months in advance of the killings stands as proof of the ineptitude and indifference within the international community.⁶ In this fax Dallaire depicts a nation on the brink of collapse and worse. In an article from the *Huffington Post* published almost 20 years after the 'Genocide Fax' was sent, Simon Adams, Executive Director, Global Centre for the Responsibility to Protect (R2P), writes:

...weighing the evidence, Dallaire came to the conclusion that coordinated raids on these arms caches by UNAMIR could prevent a potential mass slaughter. His fax informed UN headquarters that while such an operation was not without serious risk, and could be a deadly trap, it was necessary to act. The final line, the only one written in his native French, read: *Peux ce que veux. Allons-y.* (Where there is a will there is a way. Let's go.)

The response from New York was shockingly dismissive. The then-Head of UN Peacekeeping Operations, Kofi Annan, ordered that no arms cache raids take place and instructed Dallaire to

"...genocide is not a spontaneous act of irrational mob or "tribal" violence. It is not a random event that is committed without reason, direction or a clear objective." (*Constructing Victims: Reconceptualizing Identity and the Genocidal Process*) For this paper genocide is an intentional act and for the purposes of preventing genocide one needs to determine the intent of the potential perpetrator as an important factor in determining proper recourse.

⁵ PBS Frontline, "Interview with Philippe Gaillard from Ghosts of Rwanda, 12 September 2003," last accessed 30 April 2015, <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/>

⁶ National Security Archive, "Genocide Fax, 11 January 1994," last accessed on 30 April 2015, <http://nsarchive.gwu.edu/NSAEBB/NSAEBB53/rw011194.pdf>

strictly adhere to his mandate... In New York there was neither the will, nor the way.⁷

Despite the clear warning and demand for resources to prevent a catastrophe, the UN and the international community ignored the fax and turned to other “pressing issues,” allowing Rwanda to implode.

As “Anne Orford notes Rwanda has become emblematic of the ‘need for early action’, yet she argues ‘surprisingly little attention has been paid to the presence and activity of international institutions and agencies...prior to the outbreak of violence.’”⁸ Since the civil war began in 1990 the UN and international community, led by regional states and the African Union had been actively involved in brokering a peace between Rwanda and the Rwandan Patriotic Front (RPF) and with the signing of the Arusha Accords in 1993 the effort appeared to be a diplomatic success. But as Nicholas Wheeler argues in *Saving Strangers: Humanitarian Intervention in International Society*:

It has become an accepted truism to claim that preventative diplomacy is always better than a belated intervention when things start to go wrong. However, the lesson of the Arusha process is that outside intervention aimed at averting a civil war can have unintended consequences that produce human wrongs on an unimaginable scale.⁹

In the case of Rwanda, the UN’s early prevention diplomacy failed to recognize or ignored warning signs in order to broker a peace. The external and internal pressures to sign the Arusha Accord coupled with the structural adjustment programmes of the World Bank and International

⁷ Simon Adams, “The UN, Rwanda and the ‘Genocide Fax’ -- 20 Years,” The Huffington Post, 23 March 2014, last accessed on 30 April 2015, http://www.huffingtonpost.com/simon-adams/rwanda-genocide-anniversary_b_4613571.html

⁸ Aidan Hehir. “The special adviser on the prevention of genocide: adding value to the UN’s mechanisms for preventing intra-state crises?” *Journal of Genocide Research* 13, no. 3 (September 2011): 277.

⁹ Nicholas Wheeler. *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2002), p. 214.

Monetary Fund and a morphing political right ignited the genocide fuse which went unchecked. The rush to deploy peacekeeping forces underscores the tenuousness of the situation, further indicating that the meditation group and the UN had misgivings towards the constancy of the Rwandan Government. “Thus, preventive diplomacy, as clearly practiced in Rwanda from 1990-94, is not universally conceived as axiomatically good.”¹⁰

In 1998 while addressing the Rwandan Parliament in Kigali, Kofi Annan, then Secretary-General of the UN, stated unequivocally that “we will not deny that, in their greatest hour of need, the world failed the people of Rwanda.”¹¹ His words reinforced a somber admission that in 1994 “the world didn’t care” about Rwanda.¹² Annan continued his reflection by stating, “...looking back now, we see the signs which then were not recognized. Now we know that what we did was not nearly enough -- not enough to save Rwanda from itself, not enough to honour the ideals for which the United Nations exists.”¹³ Although contentious at the time due to the ambiguities concerning who knew what and when, the most important aspect of Kofi Annan’s speech was the acknowledgement that there was very little understanding of *how* genocides happened and that the failure to recognize the signs of the pending disaster were borne out of ignorance and complacency. This realization meant that in order to fully develop prevention and early warning systems, the lessons of Rwanda needed to be understood and addressed. In 1999 the *Report of the Independent Inquiry into the actions of the UN during the 1994 genocide in*

¹⁰ Hehir. “The special adviser on the prevention of genocide: adding value to the UN’s mechanisms for preventing intra-state crises?” p. 278

¹¹ UN Press Release *Secretary-General, in ‘Mission of Healing’ to Rwanda, Pledges Support of United Nations for Country’s Search for Peace and Progress*. SG/SM/6552 AFR/56 6 May 1998. Last accessed on 30 April 2015. <http://www.un.org/press/en/1998/19980506.SGSM6552.html>

¹² PBS Frontline, “Interview with Brent Beardsley from Ghosts of Rwanda, November 15, 2003,” last accessed 30 April 2015, <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/>

¹³ United Nations Press Release, “Secretary-General, in ‘Mission of Healing’ to Rwanda, Pledges Support of United Nations for Country’s Search for Peace and Progress,” last accessed on 30 April 2015. <http://www.un.org/press/en/1998/19980506.SGSM6552.html>

Rwanda released its finding and recommendations. Chief among the recommendations was to develop “an action plan to prevent genocide...to make the obligation under the Genocide Convention to ‘prevent and punish’ genocide a concrete reality in the daily work of the United Nations.”¹⁴ It would take another five years before any substantial progress towards prevention was made starting with Annan’s 2004, appointment of a Special Adviser on the Prevention of Genocide.

Without question the UN has worked diligently in the last 20 years to develop a comprehensive approach to identifying potential humanitarian problems that could lead to genocide. But predicting a genocide is not simply $A + B + C = \text{Genocide}$. The socio-political and socio-economic realities vary greatly from region to region and state to state. No two situations are ever the same. However, as Maureen Hiebert suggests in her paper *Constructing Victims: Reconceptualizing Identity and the Genocidal Process*:

...genocide, as opposed to other forms of political violence, conflict, mass death or gross human rights violations, is the result of a specific “permissive” political culture (the source of the idea to commit genocide...) and a set of long-term destabilizing changes and short-term crises (the trigger for genocide...), all of which set the stage for the reconceptualization, first by radical political elites and then the majority society, of the identity, interests and perceived future actions of the victim group (the process by which genocide becomes the “policy option” of elite political actors...).¹⁵

These variables indicate that within all genocides there are specific tenets and triggers that can be isolated or countered. In the aftermath of Rwanda, the UN struggled to identify these tenets before the next genocide under the UNs watch came to light. “In Srebrenica, the failure of the

¹⁴ United Nations, “Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda S/1999/1257, 16 December 1999,” last accessed on 30 April 2015, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20S19991257.pdf>

¹⁵ Hiebert, “Constructing Victims: Reconceptualizing Identity and the Genocidal Process,” p. 3

UN-declared 'safe area' led to the slaughter of over 7000 Bosnian men and boys. Again, a subsequent report recognized the failure of the UN 'to help save the people of Srebrenica from the Serb campaign of mass murder.'"¹⁶

However, without focusing on the mass murder in Srebrenica, the UN had been in the Former Yugoslavia since 1992 trying to stop the conflict. The turmoil, investigations and peace process had absorbed almost all of the UN's energy by 1995 without much success and with the deaths of 7000 Muslims, the international community, outside the walls of the UN, paused to question if indeed "the UN, and particularly the Security Council, could serve as the 'global peacekeeper'", as was the hope with the end of the Cold War.¹⁷ For the UN, it became obvious that the system in place was broken and it would take until both independent reports for Rwanda and Srebrenica (1999) to be released before serious changes would be made. Did the international community place too much hope in the UN to sort global governance and security issues? The UN is a forum for international dialogue but if the international community failed to use the forum and expected the bureaucracy of the UN to manage the turmoil of the 90s, then the expectation was too much for a UN grossly inexperienced and under resourced.

In the meantime the UN, overwhelmed by the crises, was presented, by the international community, with an alternative to maintain collective security, especially in the Balkans.

For the first time, a regional security organization, NATO, had acted to implement a decision of the Council to use force under Chapter VII of the Charter. Cooperation between NATO and the United Nations would be essential, not only for the citizens of Sarajevo and the other safe areas in Bosnia, but also for the precedent it would set for the future of collective security. The firm and fair implementation of the NATO decision would contribute

¹⁶ Deborah Mayersen, "Current and Potential Capacity for the Prevention of Genocide and Mass Atrocities within the United Nations System," *Global Responsibility to Protect* 3 (2011): 200.

¹⁷ *Ibid* p. 199

much to the credibility of the Security Council and the United Nations.¹⁸

With the transition of UN Protection Force (UNPROFOR) to the implementation force (IFOR) reservations within the UN General Assembly were immediate and the debate intensified as many representatives felt:

...it was critical that the Council guard against losing control altogether in transferring the authority of the United Nations to regional arrangements. In such situations, the United Nations should never assume the position of a bystander in an operation that was supposed to be under the command and control of the Security Council.¹⁹

Moreover, the Brazilian representative stated:

...it was essential that the organ responsible for safeguarding international peace and security be given the necessary tools to enable it to exercise the role ascribed to it in the Charter... If those forces were to be perceived by the international community as legitimate and credible, however, the necessary accountability towards the Security Council had to be strictly observed.²⁰

In creating an arrangement for security with NATO, the UN had opened the door for 'creep'. Additionally, the language and meanings used in both organizations were so vastly different that ambiguity and the need for transparency would surely confound and marginalize any intervention efforts. The UN had utilized regional organizations before at diplomatic and humanitarian support levels with a good deal of success but collective security by an organization motivated more by interests vice humanitarianism needed unity and gravitas, both of which the UN was surely lacking in the 90s.

The security arrangement came at a point in time when the UN was at its most anemic, and conflicts were on the rise again. In particular, by 1998 after NATO had curtailed Slobodan

¹⁸ United Nations, "Repertoire of the Practice of the Security Council, S/PV.3336," last accessed on 30 April 2015, <http://www.un.org/en/sc/repertoire/principles.shtml>, p. 21.

¹⁹ *Ibid* S/PV.3578, p. 10.

²⁰ *Ibid* S/PV.3607, p. 27.

Milosevic's efforts to create a Greater Serbia out of Bosnia and the Dayton Accords had been signed, conflict was starting to rage again in the Balkans but this time within Serbia proper. Under orders from Milosevic, Serbia began to 'cleanse' the Serbian province of Kosovo of ethnic Albanians. Western states led by the United States and NATO, sullied by the recent events in Rwanda and Srebrenica and made weary by claims of mass killing and a growing humanitarian crisis in Kosovo sought to extend their reach within the UN system to set things right. "The atrocities of the 1990s had taught many American opinion-makers that they could not simultaneously demand both an end to genocide and a policy of nonintervention. Diplomacy without meaningful threat of military force had too often failed to deter abuse."²¹ One could argue that the US action in Kosovo was bolstered by regional interests to keep Turkey, Albania and Greece from getting involved but President Bill Clinton and Prime Minister Tony Blair saw a humanitarian crisis to which the UN was unresponsive.²² Despite many attempts by the Security Council to adopt a resolution condemning the Serbian on sought, the misgivings towards the unilateral use of NATO and NATO's shirking of the international system caused dissatisfaction amongst the Council hindering any agreement. As the representative from Malaysia stated "...his delegation would have wished that the crisis in Kosovo could have been dealt with directly by the Council and regretted that the absence of a consensus in the Council had necessitated that action be taken outside of the Council."²³ The dithering was extensive as

²¹ Samantha Power, *A Problem From Hell: America and the Age of Genocide* (New York: Harper Perennial, 2003), p. 446

²² In fact, the UN's hands were tied in regards to Article 2 (4) of the Charter which "prohibits the threat or use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States" and Article 2 (7) which "states that the United Nations has no authority to intervene in matters which are within the domestic jurisdiction of any State, while this principle shall not prejudice the application of enforcement measures under Chapter VII of the Charter." (See United Nations, "Repertoire of the Practice of the Security Council," last accessed on 30 April 2015, <http://www.un.org/en/sc/repertoire/principles.shtml>)

²³ *Ibid*, S/PV.3988 p. 9-10.

Article 2 (4) and 2 (7) and the credibility of the UN as an institution took centre stage. The opposing voices stressed:

...that ethnic problems within a State must not be used as an excuse for external intervention, much less used by foreign States as an excuse for the use of force. [They] reminded that respect for sovereignty and non-interference in each other's internal affairs were basic principles of the Charter.²⁴

Faced with an immediate need to intervene or wait for the Council to adopt a security resolution, NATO took up the role of 'global peacekeeper'.

As Deborah Mayersen explains in her paper *Current and Potential Capacity for Prevention of Genocide and Mass Atrocities within the United Nations System*, "...while the NATO intervention undoubtedly saved Kosovo Albanian civilians from being targeted by Serb forces, the absence of a UN Security Council resolution authorizing the military action led to adverse international reaction."²⁵ Moreover, when the bombing campaign started the hope was for a quick settlement. Instead the Serbs intensified their eradication plans. A call by US General Wesley Clark to accelerate plans for a ground invasion was immediately rebuffed by Brussels and Washington: "NATO was thus almost useless at inhibiting the ethnic cleansing in Kosovo, which was why they had intervened in the first place."²⁶ It became apparent that the 'will to intervene' lost momentum: the shadow of Somalia and Rwanda still lingered. However, with pressure mounting both domestically and internationally the NATO led campaign stepped up the attacks on Serbia but "the more determined the allies became, the more they took the war to the Serbian people" and with it came more international condemnation. On June 9, 1999 under threat of a possible land invasion; and whilst under increasing pressure domestically and

²⁴ *Ibid*, S/PV.4011 p. 8-9.

²⁵ Mayersen, "Current and Potential Capacity for the Prevention of Genocide and Mass Atrocities within the United Nations System," p. 200.

²⁶ Power, *A Problem From Hell: America and the Age of Genocide* p. 454

from Russia, Serbia surrendered. The cost for NATO was extremely high. The organization designed to protect the West had taken a major blow to its credibility and station. But the lessons learned by NATO were not lost on the UN. It was from this intervention that the UN began in earnest to establish a new system to prevent and intervene if required. Furthermore, the international condemnation helped to re-solidify the mandate of the UN as the only institution that “retains a unique universal legitimacy, and remains ‘unquestionably the principle institution for building, consolidating and using the authority of the international community.’”²⁷

In 2001 the first formative report was published by the Canadian Government sponsored International Commission on Intervention and State Sovereignty (ICISS). The report was called *The Responsibility to Protect* (R2P) and it boldly declared “we want no more Rwandas and we believe that the adoption of the proposals in our report is the best way of ensuring that.”²⁸ The report tackled the issue over State Sovereignty, stating:

...rather than pose the issue in terms of the rights of intervening states, the ICSS placed the onus on states to meet their responsibilities to their own citizens. In the event that the state failed to meet their responsibility the international community had a responsibility to protect citizens within that state.²⁹

Incredibly the report and concept of R2P was met with great optimism. The UN's track record in the 1990s had been abysmal and it needed a way to reshape the concept of prevention and intervention that respected the basis of statehood. “The resulting shift to ‘responsibilities,’ rather than ‘rights,’ reframed the discussion.”³⁰ R2P “advocated a three pillar approach, focusing on

²⁷ Mayersen, “Current and Potential Capacity for the Prevention of Genocide and Mass Atrocities within the United Nations System,” p. 200.

²⁸ International Commission on Intervention and State Sovereignty. “The Responsibility to Protect,” last accessed on 30 April 2015, <http://responsibilitytoprotect.org/ICISS%20Report.pdf>, p. xiii

²⁹ Hehir, “The special adviser on the prevention of genocide: adding value to the UN’s mechanisms for preventing intra-state crises?” p. 273.

³⁰ Mayersen, “Current and Potential Capacity for the Prevention of Genocide and Mass Atrocities within the United Nations System,” p. 201.

prevention, reaction and rebuilding”³¹ while emphasizing that prevention was “the single most important dimension of the responsibility to protect.”³² Now armed with a credible doctrine, widely supported within the international community, the UN set to work building an inclusive approach towards mass atrocity prevention.

In 2000, Helen Fein argued “to anticipate and deter genocide, we need to focus directly on protecting both individuals and groups against gross violations of life-integrity by using intelligence analysis, historical interpretation, monitoring, and warning systems.”³³ The multi-disciplinary approach to preventing genocide was a unique concept in 2000 but has since become the norm. But prevention approaches go beyond just qualitative analysis. The inclusion of quantitative analysis in conjunction with qualitative analysis has yielded very good results. The use of statistical analysis puts more emphasis on the actual data and cannot be easily subjugated by personal opinion. Case in point was the correlation between hate propaganda and potential genocide situations in Cote d’Ivoire in 2008. By collecting the data using a systematic approach they were able to focus resources to stop the rhetoric which in turn helped calm tensions and avert crisis.³⁴ The objective was “to point to potential genocidal situations, assess risks in a global context, and then focus on detailed information that would allow the policy community to develop specific responses that are tailored to the time and situation in question.”³⁵ Genocide scholar Barbara Harff argues that by applying a more comprehensive approach to early warning and prevention efforts, “...we can now forecast with greater reliability than ever before whether and where there are high and rising risks of ethnic war, revolution, genocide, a regime in crisis,

³¹ *Ibid* p. 201.

³² ICISS, “The Responsibility to Protect,” p. xi.

³³ Helen Fein, “The Three P’s of Genocide Prevention: With Application to a Genocide Foretold – Rwanda,” in *Protection Against Genocide: Impossible Mission?* ed. Neal Riemer, 41-66 (Westport: Praeger, 2000) p.46.

³⁴ Barbara Harff, “How to Use Risk Assessment and early Warning in the Prevention and De-Escalation of Genocide and other Mass Atrocities,” *Global Responsibility to Protect 1* (2009): 508.

³⁵ *Ibid* p. 508.

or mass atrocities.”³⁶ The systematic approach she describes was not an applied practice prior to Rwanda but according to Helen Fein had a similar approach been applied the raw data alone would have enlightened the international community to the impending disaster.³⁷

The need for a framework was alluded to by Kofi Annan in 2004 when he established the Office of the Special Advisor on Prevention of Genocide. Consistent within an advisory capacity the mandate of the OSAPG is fourfold:

(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 analyze and manage information relating to genocide or related crimes.³⁸

The objective was to create an organization that was dedicated to prevention; could raise awareness; be the advocacy lead for victims; and have direct access to the Secretary-General to deliver timely information. More importantly, the creation of the OSAPG aligned with many of the recommendations borne out of the 1999 independent reports on Rwanda and Srebrenica. Marred by an underwhelming beginning, due in large part to a lack of capacity building within the UN, the OSAPG has since emerged as a key conduit for the prevention apparatus within the UN system. In 2009, Secretary-General Ban Ki-moon recognized “many of their institutional recommendations, including on early warning, analysis and training, have not been fully

³⁶ *Ibid* p. 509.

³⁷ Fein, “The Three P’s of Genocide Prevention: With Application to a Genocide Foretold – Rwanda,” p. 59.

³⁸ Letter dated 12 July 2004 from the Secretary-General addressed to the President of the Security Council, S/2004/567, last accessed on 30 April 2015, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/567

implemented... The United Nations and its Member States remain underprepared to meet their most fundamental prevention and protection responsibilities.”³⁹ In highlighting these shortfalls he set in motion a series of initiatives that would form the nucleus from which the OSAPG would develop its Framework Analysis for Atrocity Crimes.

Throughout the reconceptualization process at the UN, the emphasis on prevention and early warning has never diminished. By reaching out to genocide scholars and providing an open forum through conferences and discussions the UN was able to ascertain key tenets and risks factors associated with genocide prevention. The result was a broad framework that allowed the identification of situations that could devolve into genocide. Moreover, the principle deduction the OSAPG garnered in their framework analysis development process was that in order “to prevent genocide and genocidal conflicts, it is critically important to understand their root causes. While conflict has many causes, genocidal conflict is identity-based.”⁴⁰ At first glance the framework is very simplistic, leading some to mistake its purpose. However, it is exactly this approach that makes the framework purposeful with practical applications much like the Genocide Convention itself. Additionally, by recognizing genocide is identity-based it made the important link between genocide and social sciences allowing for greater credence to combining quantitative and qualitative analysis processes. As depicted in the preamble, the framework is easy to use and field ready but it also states:

...to be effective, assessments require the systematic collection of accurate and reliable information based on the risk factors and indicators that the Framework identifies. The broad risk factors and the more specific indicators reflect definitions of the crimes in

³⁹ Office of the Special Advisor on the Prevention of Genocide, “Implementing the responsibility to protect – Report of the Secretary General A/63/677, 12 January 2009,” last accessed on 30 April 2015, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677 p. 6

⁴⁰ United Nations, “Office of the Special Advisor on the Prevention of Genocide,” last accessed on 30 April 2015, http://www.un.org/en/preventgenocide/adviser/genocide_prevention.shtml

international law, case law from the work of international courts or tribunals, and empirical analysis of past and present situations.⁴¹

The framework is burdened by assuming the four atrocity crimes (genocide, war crimes, ethnic cleansing and crimes against humanity) within the same document. Thus, the concepts within the document remain broad and general making it easy for scholars and experts to identify shortfalls but as Ki-moon say in the foreword: “atrocity crimes take place on a large scale, and are not spontaneous or isolated events; they are processes, with histories, precursors and triggering factors which, combined, enable their commission.” Therefore, the apparatus to identify potential genocides needs to highlight the commonalities that exist within genocidal conflicts. The framework analysis established these basic risk factors and indicators but is certainly not an exhaustive list of all factors that could apply. Hence, the design of the Framework of Analysis for Atrocity Crimes is to be a tool for the international community in order to help build a consensus around an event or situation. Most importantly when coupled with the Responsibility to Protect (R2P) doctrine, the UN now has a complete structure for early-warning, prevention and intervention that will enable greater security for the most vulnerable. Furthermore, the use of these resources has helped lift the veil of ignorance and complacency that plagued the international community in 1994 while furthering the UNs and international community’s pledge: “Never Again.”

The UN has evolved greatly since the early 1990s. Rwanda and Srebrenica were watershed moments for the UN that sparked a decade of foundering and dithering before finding redemption in yet another novel concept coined R2P, not unlike the concept of peacekeeping by soldiers recognized in 1949. But the days following the collapse of the Soviet Union and the end

⁴¹ Office of the Special Advisor on the Prevention of Genocide, “Framework for Analysis for Atrocity Crimes: A tool for prevention, July 2014,” last accessed 30 April 2015, http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf

of the Cold War were more troublesome and complex than the days following the Suez Crisis. Intrastate conflicts were not stymied by the superpowers anymore but left to an inexperienced, teetering on inept, UN trying to come to terms with its new role in the Post-Cold War era. The genocide in Rwanda set the stage for change within the UN but change did not come fast enough. It took almost 20 years to re-conceptualize the concept of prevention and intervention within the UN system. In that span of time millions more would face death, torture, rape and displacement with the intent to eradicate a people.

Yet all was not lost in that span of time. The UN eventually recognized the failures and under constant pressure from affected states, non-governmental organizations and scholars, set a path to develop a framework to identify the traits, triggers and trends that set genocides apart from mass killings and other atrocities. Whilst exploring the theory aspect of genocide prevention, the UN regained control of its security arrangement with regional security alliances to ensure greater UN transparency and legitimacy as the de facto authority of the international community. This resurgence of authority within the international community provided the credibility behind the UN's most significant contribution to prevention and intervention since the Genocide Convention in 1948: R2P. The responsibility to protect gave reason to believe in the UN again and coupled with a Framework Analysis for Atrocity Crimes, the UN has been able to establish a good system for early-warning, prevention and intervention.

However, there is much work yet to be done. Despite the seemingly successful implementation of R2P and the framework analysis in both Kenya in 2008 and Cote d'Ivoire in 2011 the same cannot be said for Libya in 2011. Although successful at the outset of the mission, the reports of over-stating the crimes against humanity and who the perpetrators were remain as criticisms of R2P used in haste. The UN must learn from Libya and all other conflicts

where R2P doctrine is used and recognize that any system is not infallible but instead must continuously be tested and improved upon.

There are several areas where the UN needs to go in order to continue the development of R2P and the framework analysis approach. The first area is to work on structural prevention for early warning. By looking much further out at potential states and situations that could develop into conflict over time, the international community can gain a better perspective and possibly shape contentious issues towards resolution vice conflict. This involves a lot more systematic analysis process at the statistical level and would also involve a lot of diplomacy and preventative efforts with economic recovery and societal development initiatives.

In closing, the UN has developed a system that greatly improves the prevention and intervention apparatus of the international community. What remains requires the willingness of the international community to commit to the apparatus which includes the burden of intervention if required. The problem for the UN now becomes fostering the willingness to intervene by the international community. As Nicholas Wheeler and Frazer Egerton state: “The real test of the [World Summit 2005] Declaration is whether it increases the likelihood of the Council mustering the political will to act to prevent and halt future humanitarian crises.”⁴² Unfortunately, this next hurdle for the UN may be too significant to overcome without another epiphany.

⁴² Nicholas Wheeler and Frazer Egerton, “The Responsibility to Protect: ‘Precious Commitment’ or a Promise Unfulfilled?” *Global Responsibility to Protect 1* (2009) p. 128.

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