United Nations

Framework of Analysis for ATROCITY CRIMES

A tool for prevention

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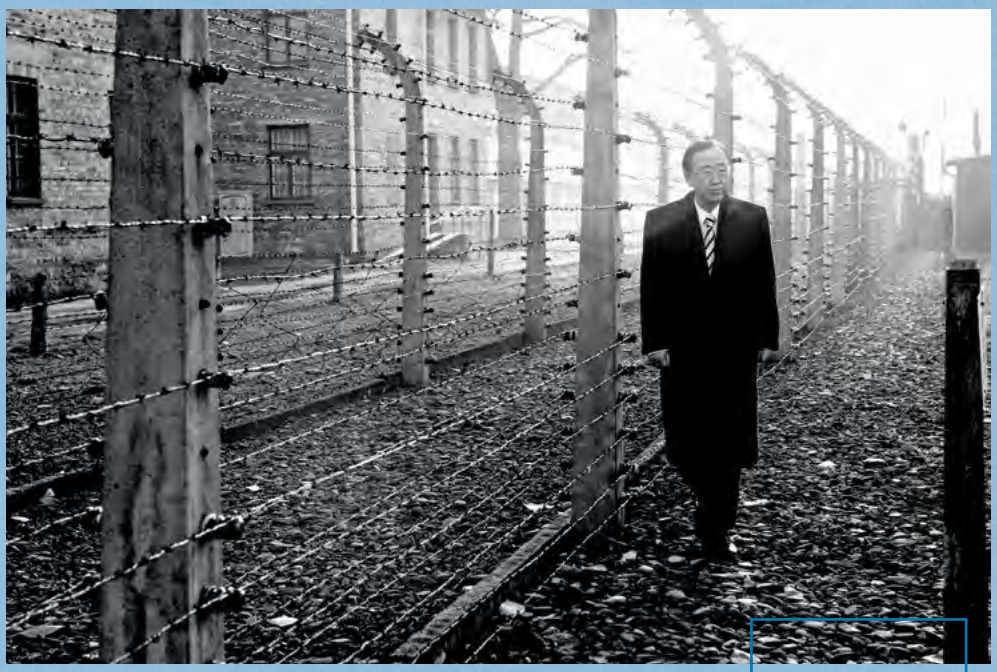

Secretary-General Ban visits Auschwitz-Birkenau, Poland
UN Photo/Evan Schneider

Cover photos (counter-clockwise from top):

Santa Cruz massacre 17th anniversary march, Dili, *UN Photo/Martine Perret*

A woman testifies in the trial of former Guatemalan military dictator, *Photo © Elena Hermosa/Trocaire,* *licensed under Creative Commons Attribution 2.0 Generic license*

A woman mourns at the Srebrenica-Potocari memorial and cemetery, *AP Photo/Marko Drobnjakovic*

Darfur village abandoned after heavy clashes, *UN Photo/Albert González Farran*

Rwandan refugees returning from Goma, *UN Photo/John Isaac*

Young children at the "Killing Fields" memorial in the outskirts of Phnom Penh, *UN Photo/John Isaac*

Foreword

by the Secretary-General of the United Nations

All of us have a responsibility to ask ourselves what we can do to protect populations from the most serious international crimes: genocide, crimes against humanity and war crimes. These crimes continue to be perpetrated in many places across the world. Although calls for accountability are now the norm when such crimes are committed, impunity is all too common. We can and must do more, much earlier, to save lives and prevent societies from collapsing and descending into horrific violence.

The first thing we can do is to be more alert and pay attention to the warning signs. 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.

My Special Advisers on the Prevention of Genocide and on the Responsibility to Protect have developed this Framework of Analysis for the Prevention of Atrocity Crimes as a guide for assessing the risk of genocide, crimes against humanity and war crimes. With the help of the Framework, we can better sound the alarm, promote action, improve monitoring or early warning by different actors, and help Member States to identify gaps in their atrocity prevention capacities and strategies.

I am pleased to present this Framework at a time when the United Nations is undergoing a system-wide revision of the way we respond to situations where serious violations of international human rights and humanitarian law are happening or could happen. Through the "Human Rights Up Front" initiative, we are committed to upholding the promise of "never again" and drawing lessons from past failures. In practice, it means putting human rights, the protection of populations and the prevention of atrocity crimes at the centre of our work.

As affirmed at the 2005 World Summit, States have the primary responsibility for protecting their own populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The international community has committed to support each State in this endeavour and, should States manifestly fail in meeting their responsibilities, to take collective action in a timely and decisive manner in line with the United Nations Charter.

I therefore urge the widest possible use of this Framework to support prevention strategies at the national, regional and international levels. Prevention means acting early; to do that, we need to know what to look for. Together with a commitment to accountability, we owe this to the millions of victims of the horrific international crimes of the past — and those whose lives we may be able to save in the future.

BAN Ki-moon
United Nations Secretary-General
July 2014

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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.

I. INTRODUCING THE FRAMEWORK OF ANALYSIS

What do we mean by atrocity crimes?

The term "atrocity crimes" refers to three legally defined international crimes: **genocide**, **crimes against humanity** and **war crimes**. The definitions of the crimes can be found in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1949 Geneva Conventions[1] and their 1977 Additional Protocols,[2] and the 1998 Rome Statute of the International Criminal Court, among other treaties.[3]

In the 2005 World Summit Outcome Document (paragraphs 138 and 139), United Nations Member States made a commitment to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, a principle referred to as the "Responsibility to Protect". In this context, the term "atrocity crimes" has been extended to include **ethnic cleansing** which, while not defined as an independent crime under international law, includes acts that are serious violations of international human rights and humanitarian law that may themselves amount to one of the recognized atrocity crimes, in particular crimes against humanity.[4]

1 The Geneva Conventions comprise the 1949 Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; the 1949 Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the 1949 Geneva Convention (III) relative to the Treatment of Prisoners of War; and the 1949 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War.

2 The Additional Protocols comprise the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

3 For definitions of each of the crimes, consult Annex I.

4 For possible definitions of ethnic cleansing, consult Annex I.

Who are the victims of atrocity crimes?

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, in particular the persons that should be most protected by States, both in times of peace and in times of war. However, the victims targeted by acts of genocide, crimes against humanity and war crimes differ.

Genocide, according to international law, is a crime committed against members of a national, ethnical, racial or religious group. Even though the victims of the crimes are individuals, they are targeted because of their membership, real or perceived, in one of these groups. When speaking about potential victims of genocide, the Framework will refer to them as "**protected groups**".

Crimes against humanity encompass acts that are part of a widespread or systematic attack directed against any civilian population. Even if non-civilians might also become victims of the attack, for an act to be considered a crime against humanity, the ultimate target of the attack must be the civilian population. When speaking about potential victims of crimes against humanity, the Framework will refer to them as a "**civilian population**".

War crimes can be committed against a diversity of victims, either combatants or non-combatants. In international armed conflicts, victims include those specifically protected by the four 1949 Geneva Conventions, i.e., (1) the wounded and sick in armed forces in the field; (2) the wounded, sick and shipwrecked members of armed forces at sea; (3) prisoners of war; and (4) civilian persons. It also includes those protected under

the 1977 Additional Protocol I. In the case of non-international armed conflicts, common Article 3 of the four 1949 Geneva Conventions affords protection to "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause". It also includes those protected under the 1977 Additional Protocol II. Protection under international humanitarian law in both types of conflicts covers medical and religious personnel, humanitarian workers and civil defence staff. When speaking about potential victims of war crimes, the Framework will refer to them as "**those protected under international humanitarian law**".

Due to the diversity of types of victims of the three crimes, when speaking broadly about potential victims of atrocity crimes as protected by international law, the Framework will refer to them as "**protected groups, populations or individuals**".

Why is it important to prevent atrocity crimes?

One of the principal roles of the United Nations Special Advisers on the Prevention of Genocide and on the Responsibility to Protect is to mobilize action for the prevention of atrocity crimes. The first and most compelling reason for this focus is the imperative to **preserve human life**. Atrocity crimes are, for the most part, large-scale events that, if prevented, will avoid significant loss of human life, as well as physical, psychosocial and psychological damages and trauma. However, there are also other significant reasons to focus on prevention.

Atrocity crimes tend to occur in countries with some level of instability or crisis. Consequently, measures taken to prevent these crimes are likely to contribute to **national peace and stability**. Prevention also serves the larger agenda of **regional and international peace and stability**. Atrocity crimes and their consequences can spill over into neighbouring countries by, for example, creating or reinforcing tensions between groups that are defined along religious or ethnic lines rather than by national borders. The United Nations Security Council has stated in several of its resolutions that serious and gross breaches of international human rights and humanitarian law constitute threats to international peace and security. The preamble to the Rome Statute of the International Criminal Court also states that international crimes "threaten the peace, security and well-being of the world".

A further key reason for focusing on the prevention of atrocity crimes lies in the fact that prevention is **much less costly** than intervening to halt these crimes, or dealing with their aftermath. Wars, humanitarian crises, the rebuilding of nations and the building of sustainable peace after conflict require high and sustained levels of international support, often over many years. The political cost and challenges of early engagement by the international community are also less than when crises are imminent or ongoing, by which time options for preventive action are much more limited and there is a greater likelihood of political stalemate and failure.

Finally, by taking measures to prevent atrocity crimes and fulfilling their primary responsibility to protect, **States reinforce their sovereignty** and reduce the need for more intrusive forms of response from other States or international actors. As the United Nations Secretary-General has emphasized, the principle of the Responsibility to Protect is designed to be an ally of sovereignty, rather than to undermine it. Efforts by States to prevent atrocity crimes from being committed within their own borders are another way of fulfilling their sovereign responsibilities.

Is there a legal responsibility to prevent atrocity crimes?

Apart from the moral and ethical responsibility that we all have to protect populations at risk of atrocity crimes, both individually and collectively, there are also **well-established legal obligations** to do so. Such obligations can be found in the Convention on the Prevention and Punishment of the Crime of Genocide, in international human rights and humanitarian law and in customary international law. International courts and tribunals have also cited these obligations and clarified their specific content.

The responsibilities that fall on States through ratified treaties or customary law entail an obligation not only to punish atrocity crimes but also to prevent them. In some cases, such as for the crime of genocide, the obligation to prevent contained in the **Convention on the Prevention and Punishment of the Crime of Genocide** (Article I) has become a norm of customary international law, which means that it is mandatory for all States, regardless of whether they have ratified the Convention. The obligation to "respect and ensure respect for international humanitarian law", as contained in common Article 1 of the **Geneva Conventions**, is also considered to be a norm of customary international law. This provision can be interpreted as including an obligation to prevent violations of international humanitarian law, including war crimes.

International human rights law also places obligations on State Parties to take steps to prevent the acts it seeks to prohibit. For example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment specifies in Article 2 that State Parties "shall take effective legislative, administrative, judicial or other measures to prevent acts of torture". When part of a widespread or systematic attack against a civilian population, torture can constitute a crime against humanity.

On 27 February 2007 the **International Court of Justice** issued an important judgment in the *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosnia and Herzegovina v. Serbia and Montenegro). The Court stated that the obligation "to prevent" within the scope of the Convention on the Prevention and Punishment of the Crime of Genocide imposed an obligation that was not territorially limited. According to the Court, every State with a "capacity to influence effectively the action of persons likely to commit, or already committing genocide," even if outside its own borders, is under the obligation "to employ all means reasonably available to them, so as to prevent genocide so far as possible".

The **principle of the Responsibility to Protect**, which reaffirms the primary responsibility of the State to protect its population from atrocity crimes, is founded on all these legal obligations and interpretations. Paragraph 138 of the 2005 World Summit Outcome Documents specifies that States have a responsibility to prevent the commission of genocide, war crimes, ethnic cleansing and crimes against humanity, as well as incitement to these acts. Paragraph 139 goes on to underline the responsibility of the international community to prevent atrocity crimes by helping States to build capacity to protect their populations and assisting States under stress "before crisis and conflicts break out". When States "manifestly fail" in their responsibility to protect populations from atrocity crimes, the international community has also declared that it is prepared to take collective action, in a "timely and decisive manner", to protect populations from these crimes, using all available tools, and bearing in mind the principles of the United Nations Charter and international law.

As the United Nations Secretary-General has emphasized, the principle of the Responsibility to Protect is designed to be an ally of sovereignty, rather than to undermine it.

How can atrocity crimes be prevented?

Preventing genocide, war crimes, ethnic cleansing and crimes against humanity is primarily the responsibility of individual States. Prevention is an ongoing process that requires sustained efforts to **build the resilience of societies to atrocity crimes** by ensuring that the rule of law is respected and that all human rights are protected, without discrimination; by establishing legitimate and accountable national institutions; by eliminating corruption; by managing diversity constructively; and by supporting a strong and diverse civil society and a pluralistic media. Failure by the State to provide such protection and guarantees to its population can create an environment conducive to atrocity crimes. In such cases, prevention involves efforts to halt a likely course of events.

Atrocity crimes are not usually single or random events. Instead, they tend to develop in a dynamic process that offers entry points for action to prevent

their occurrence. To be able to engage in the level of violence associated with atrocity crimes, perpetrators need time to develop the capacity to do so, mobilize the resources, and take concrete steps that will help them to achieve their objectives. This does not mean that an overt plan to commit atrocity crimes will always exist from the onset of the process. In some past cases of genocide, for example, the intent to destroy a group was formulated at a later stage of the violence.

However, as atrocity crimes are processes, it is possible to identify warning signs or indicators that they might occur. This is particularly true in the case of genocide and crimes against humanity. If we **understand the root causes and precursors** of these crimes, and can **identify risk factors** that can lead to or enable their commission, it follows that we can also **identify measures that can be taken by States and the international community** to prevent these crimes.

The earlier the risk factors are identified, the greater the opportunities for early prevention. As times goes on, preventive action becomes more difficult and more costly. If, for example, the motivation behind increased violence against a particular group is recognized at an early stage, it will be possible for the State or the international community to develop strategies aimed at addressing and defusing this motivation. However, if atrocity crimes are already occurring, the options available to respond will be very limited and, in some cases, may require the use of coercive measures including, if all peaceful means fail, the use of force.

What are the roles of the Special Advisers on the Prevention of Genocide and on the Responsibility to Protect?

The United Nations Secretary-General's Special Advisers on the Prevention of Genocide and on the Responsibility to Protect, who have distinct but complementary mandates, work together to **advance national and international efforts to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, as well as their incitement**.

The Special Adviser on the Prevention of Genocide acts as an early warning mechanism by alerting the United Nations Secretary-General and, through him, the Security Council to situations where there is a risk of genocide and presenting recommendations. The Special Adviser also advocates and mobilizes the United Nations system, Member States, regional arrangements and civil society for appropriate preventive action. Working under the overall guidance of the Special Adviser on the Prevention of Genocide, the Special Adviser on the Responsibility to Protect leads the conceptual, political, institutional and operational development of the Responsibility to Protect principle and its implementation by the United Nations, Member States, regional arrangements and civil society.

The Special Advisers are supported by a joint office, the Office on Genocide Prevention and the Responsibility to Protect (the Office). The Office collects information and conducts assessments of situations worldwide that could potentially lead to atrocity crimes or their incitement. The Office also works to build the capacity of United Nations, Member States, regional and sub-regional organizations and civil society through training and technical assistance to strengthen prevention, early warning and response capacity; to promote a greater understanding of the causes and dynamics of atrocity crimes and of the measures that could be taken to prevent them; and to raise awareness among States and other actors about their responsibility to protect.

It is worth noting that there are **other United Nations departments and institutions with mandates that are relevant to the prevention of atrocity crimes**. These include the Department of Political Affairs (DPA), through its work on conflict prevention and peaceful resolution; the Department of Peacekeeping Operations (DPKO), through its work on the protection of civilians; the Office of the United Nations High Commissioner for Human Rights (OHCHR), which takes the lead on the promotion and protection of human rights; the Office of the United Nations High Commissioner for Refugees (UNHCR), through its work on the protection of uprooted or stateless people; the United Nations Development Programme (UNDP), through its work to promote the rule of law

and support democratic governance and crisis prevention initiatives; and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), through its coordination work among humanitarian actors with the aim of reducing the impact of conflict. The United Nations human rights monitoring mechanisms, such as the human rights treaty bodies and the Human Rights Council's special procedures, can also play an important early warning role.

What is the Framework of Analysis?

In 2009, the then Office of the Special Adviser on the Prevention of Genocide developed a framework of analysis to support the assessment of the risk of the crime of genocide from an early warning perspective. However, with the subsequent expansion of the Office's responsibilities to also support the work of the Special Adviser on the Responsibility to Protect, there was a need to develop a framework that could be used to analyse not only the risk of genocide but also the risk of crimes against humanity, war crimes and ethnic cleansing. In addition, new dynamics and a better understanding of the processes of atrocity crimes prompted the need for a revision of the elements included in the initial framework.

The present Framework replaces the previous document and provides an **integrated analysis and risk assessment tool for atrocity crimes**. The revision also reflects recent developments and new research into the processes that lead to those crimes. It was subject to consultations within and outside the United Nations system. The result is a Framework that serves as a working tool for the assessment of the risk of atrocity crimes in all parts of the world and in identifying those countries most at risk.

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

Given the absence of a conceptual definition common to all war crimes, such as that which exists for genocide and crimes against humanity, the Framework focuses only on war crimes that have an impact on the protection of human life, this being the primary objective of preventive action. In addition, given the focus of the Responsibility to Protect principle on the protection of populations from the most serious violations of international human rights and humanitarian law, the Framework covers war crimes that assume a more systematic or widespread pattern of conduct. Finally, given that ethnic cleansing does not have a distinct legal definition as an international crime, but includes acts that can constitute other atrocity crimes or elements of them, it has been integrated into the analysis of the risk factors for those crimes.

The UN Secretary-General's Special Advisers on the Prevention of Genocide and on the Responsibility to Protect work together to advance national and international efforts to protect populations from atrocity crimes.

This Framework is a public document. The Office encourages and welcomes its use by international, regional and national actors as a tool either for early warning mechanisms, or for other mechanisms used for monitoring, assessment and forecasting. In addition, the Office recommends that Member States use the Framework to help identify both areas of success as well as gaps in atrocity prevention capacities and strategies at the national level.

What are risk factors and indicators?

Risk factors are conditions that increase the risk of or susceptibility to negative outcomes. Those identified in this framework include 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. Risk factors are not all the same. Some are structural in nature, such as the weakness of State structures, while others pertain to more dynamic circumstances or events, such as triggering factors. Triggers and other dynamic elements transform general risk into

an increased likelihood that atrocities crimes will be committed.

The **indicators** included in this framework are different manifestations of each risk factor, and therefore assist in determining the degree to which an individual risk factor is present. The particular indicators identified in the Framework have been drawn from past and current cases, but are not intended to be exhaustive.

How to use the Framework of Analysis

The Framework contains two main analytical tools for assessing the risk of atrocity crimes: (a) a list of **14 risk factors** for atrocity crimes; and (b) **indicators** for each of the risk factors. Among the 14 risk factors outlined, the first eight are common to all crimes, reflecting the fact that atrocity crimes tend to occur in similar settings and share several elements or features. In addition to these common factors, the framework identifies six additional risk factors, two specific to each of the international crimes — namely genocide, crimes against humanity and war crimes.

The **common risk factors** help us identify the probability of atrocity crimes overall, without necessarily identifying the type of crime. In fact, in the initial stages of monitoring, it is not always possible to identify which specific crime is most at risk. This becomes clearer as the process leading to atrocity crimes progresses. For example, weak State structures put populations or groups at risk of any of these crimes. In addition, different kinds of atrocity crimes can occur concurrently in a same situation, or one crime might be a precursor to another form of atrocity crime.

The **specific risk factors**, on the other hand, result from the fact that each crime has elements and precursors that are not common to all three crimes. For example, one of the elements specific to the crime of genocide is the intent to destroy, in whole or in part, a national, ethnical, racial or religious group. Where signs or evidence of such intent are found, this points to a higher risk of genocide. In this way, the specific risk factors identified in the framework reflect the legal definitions of the crimes, even though they are not strictly limited by them, nor intend to be criminal evidence of them.

To assess the risk of atrocity crimes in a given situation with the Framework of Analysis, a monitor or analyst should **use the risk factors and indicators to guide the collection and assessment of information**. For example, taking Risk Factor 1 (Situations of Armed Conflict or Other Forms of Instability), they should collect reliable information from a variety of sources that would inform an assessment of whether any of the respective indicators is present or has changed: whether there is an international or non-international armed conflict (Indicator 1.1); whether there is evidence of a humanitarian crisis or emergency (Indicator 1.2); whether there is political instability caused by different factors (Indicators 1.3 to 1.6); economic instability (Indicator 1.7 to 1.9) or social instability (Indicators 1.10 and 1.11). The analysis of the totality of the information gathered will guide an assessment of whether a particular State faces the kind of stress that could generate an environment conducive to atrocity crimes and hence, the presence of Risk Factor 1.

A few points should be kept in mind while using this Framework. First, **not all risk factors need to be present for there to be an assessment that there is a significant risk of atrocity crimes occurring**. For example, there are situations where information gathered has confirmed the presence of most of the risk factors, but atrocity crimes have not yet taken place. This could be due to the absence of a triggering event or the presence of a strong mitigating factor. It may also not be possible to obtain sufficiently accurate and reliable information to confirm the presence of a particular risk factor. Nevertheless, this should not deter monitors and analysts from warning of the likelihood that an atrocity crime could be committed. Triggering factors are not always predictable and a strong mitigating factor might weaken or disappear. It is also important to bear in mind that common

risk factors tend to be manifest sooner than specific risk factors. Information that confirms the presence of specific risk factors is sometimes more difficult to obtain at an early stage.

Second, **the more risk factors (and the greater number of relevant indicators) that are present, the greater the risk that an atrocity crime may be committed**. Also, the greater the number of indicators of a particular risk factor that are present, the greater the importance and role of that factor in a particular situation.

Third, **the risk factors and the indicators are not ranked, as their relative importance will differ according to the particular context**. Even though armed conflict has been identified as the strongest or most important contributing risk factor, armed conflict is not a precondition of all atrocity crimes — genocide and crimes against humanity can also occur in times of peace. Certainly, some risk factors will have a greater weight than others, or will be manifest more often than others. However, all contribute to increasing the risk of atrocity crimes.

Finally, monitors and analysts will need to be flexible when considering and weighing all the elements in this Framework and **situate them within a broader political, contextual, historical and cultural analysis**. In addition, given the development of new trends and patterns of violence and of conduct related to conflict, assessments should be open to new elements that might surface.

How accurate are risk assessments of atrocity crimes?

The Framework of Analysis provides a set of elements to help monitors or analysts to make **qualitative and systematic assessments of the risk of atrocity crimes** in specific situations. However, the presence of risk factors of atrocity crimes in a particular situation does not directly or inevitably lead to the occurrence of those crimes — risk is not equated with inevitability. In fact, some of the risk factors identified in the Framework will be present in many situations or societies around the world where atrocity crimes have not taken place. Why is that? The absence of atrocity crimes in these societies can be linked to the strength of local sources of resilience, outside assistance that mitigates risk, the lack of motivation of the leadership to commit or permit atrocity crimes, or simply the absence of a triggering factor or event. On the other hand, unpredictable occurrences can disrupt a likely course of events.

To be effective, assessments require the systematic collection of accurate and reliable information based on the risk factors and indicators that the framework identifies.

However, although it is impossible to draw a direct causal relation between the presence of particular risk factors and the occurrence of atrocity crimes, these crimes are **rarely committed in the absence of all or most of the risk factors** that the Framework identifies.

II. FRAMEWORK OF ANALYSIS FOR ATROCITY 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	Intergroup 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

COMMON

RISK FACTOR 1

Situations of armed conflict or other forms of instability

Situations that place a State under stress and generate an environment conducive to atrocity crimes.

Indicators	
1.1	International or non-international armed conflict.
1.2	Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighboring countries, threats of external interventions or acts of terrorism.
1.3	Humanitarian crisis or emergency, including those caused by natural disasters or epidemics.
1.4	Political instability caused by abrupt or irregular regime change or transfer of power.
1.5	Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements.
1.6	Political tension caused by autocratic regimes or severe political repression.
1.7	Economic instability caused by scarcity of resources or disputes over their use or exploitation.
1.8	Economic instability caused by severe crisis in the national economy.
1.9	Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities.
1.10	Social instability caused by resistance to or mass protests against State authority or policies.
1.11	Social instability caused by exclusion or tensions based on identity issues, their perception or extremist forms.

Comment:

Atrocity crimes usually take place against a background of either an international or non-international armed conflict. Armed conflicts are periods characterized by a high incidence of violence, insecurity and the permissibility of acts that would otherwise not be acceptable. In addition, the capacity of States to inflict harm is usually at its peak during periods of conflict. If armed conflict is a violent way of dealing with problems, it is clear that the risk of atrocity crimes acutely increases during these periods. However, other situations that are not typical armed conflicts can also put a State under such a level of stress that it becomes more prone to serious human rights violations and, eventually, to atrocity crimes. In fact, genocide and crimes against humanity can also occur during times of peace. This is most likely when there are serious levels of political instability, threats to the security of the country or even volatility in economic or social affairs. Although situations of instability, or even of armed conflict, will not necessarily lead to the occurrence of atrocity crimes, they highly increase the likelihood of those crimes.

Record of serious violations of international human rights and humanitarian law

Past or current serious violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct, and including those amounting to atrocity crimes, that have not been prevented, punished or adequately addressed and, as a result, create a risk of further violations.

Indicators	
2.1	Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals.
2.2	Past acts of genocide, crimes against humanity, war crimes or their incitement.
2.3	Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement.
2.4	Inaction, reluctance or refusal to use all possible means to stop planned, predictable or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement.
2.5	Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions.
2.6	Justification, biased accounts or denial of serious violations of international human rights and humanitarian law or atrocity crimes.
2.7	Politicization or absence of reconciliation or transitional justice processes following conflict.
2.8	Widespread mistrust in State institutions or among different groups as a result of impunity.

Comment:

Societies that have a history of violence and serious violations of international human rights and humanitarian law or atrocity crimes, or where these are currently taking place, can be more prone to further atrocity crimes. As history has demonstrated, atrocity crimes in general and genocide in particular are preceded by less widespread or systematic serious violations of international human rights and humanitarian law. These are typically violations of civil and political rights, but they may include also severe restrictions to economic, social and cultural rights, often linked to patterns of discrimination or exclusion of protected groups, populations or individuals. This risk factor is also relevant where the legacies of past atrocity crimes have not been adequately addressed through individual criminal accountability, reparation, truth-seeking and reconciliation processes, as well as comprehensive reform measures in the security and judicial sectors. A society in this situation is more likely to resort again to violence as a form of addressing problems.

COMMON

RISK FACTOR 3

Weakness of State structures

Circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes.

Indicators	
3.1	National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties.
3.2	National institutions, particularly judicial, law enforcement and human rights institutions that lack sufficient resources, adequate representation or training.
3.3	Lack of an independent and impartial judiciary.
3.4	Lack of effective civilian control of security forces.
3.5	High levels of corruption or poor governance.
3.6	Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims.
3.7	Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors.
3.8	Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards.
3.9	Lack of resources for reform or institution-building, including through regional or international support.
3.10	Insufficient resources to implement overall measures aimed at protecting populations.

Comment:

The risk of atrocity crimes can be increased by a State's lack of capacity to prevent these crimes. A State protects its population through the establishment of frameworks and institutions that are guided by the rule of law and good governance principles. However, when such structures are inadequate or simply do not exist, the ability of the State to prevent atrocity crimes is significantly diminished. As a consequence, populations are left vulnerable to those who may take advantage of the limitations or the dysfunction of State machinery, or to those that may opt for violence to respond to real or perceived threats. This is even more the case in a situation of armed conflict, when it is paramount that those resorting to the use of force are fully aware of and respect the rules that aim to protect populations from such force, and have the necessary means to do so. The weakness of State structures will not necessarily be a cause of atrocity crimes, but it undoubtedly decreases the level of protection and, when analysed in conjunction with other risk factors, increases the probability of atrocity crimes.

Motives or incentives

Reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals, including by actors outside of State borders.

Indicators	
4.1	Political motives, particularly those aimed at the attainment or consolidation of power.
4.2	Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources.
4.3	Strategic or military interests, including those based on protection or seizure of territory and resources.
4.4	Other interests, including those aimed at rendering an area homogeneous in its identity.
4.5	Real or perceived threats posed by protected groups, populations or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.
4.6	Real or perceived membership of or support for armed opposition groups, by protected groups, populations or individuals.
4.7	Ideologies based on the supremacy of a certain identity or on extremist versions of identity.
4.8	Politicization of past grievances, tensions or impunity.
4.9	Social trauma caused by past incidents of violence not adequately addressed and that produced feelings of loss, displacement, injustice and a possible desire for revenge.

Comment:

The motives or incentives that lead perpetrators to commit atrocity crimes are not elements of the legal definition of those crimes and are therefore not relevant to determine individual criminal responsibility. However, from an early warning perspective, it is extremely important to be able to identify motivations, aims or drivers that could influence certain individuals or groups to resort to massive violence as a way to achieve goals, feed an ideology or respond to real or perceived threats. On one hand, to do so allows for a higher degree of prediction of the likelihood of those crimes. On the other, it opens the opportunity to develop prevention strategies aimed at neutralizing or curbing those motives or incentives. No one specific motive or incentive will automatically lead to atrocity crimes, but certain motives or incentives are more likely to, especially those that are based on exclusionary ideology, which is revealed in the construction of identities in terms of "us" and "them" to accentuate differences. The historical, political, economic or even cultural environment in which such ideologies develop can also be relevant.

COMMON

RISK FACTOR 5

Capacity to commit atrocity crimes

Conditions that indicate the ability of relevant actors to commit atrocity crimes.

Indicators	
5.1	Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement.
5.2	Capacity to transport and deploy personnel and to transport and distribute arms and ammunition.
5.3	Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them.
5.4	Strong culture of obedience to authority and group conformity.
5.5	Presence of or links with other armed forces or with non-State armed groups.
5.6	Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help sustain perpetrators.
5.7	Financial, political or other support of influential or wealthy national actors.
5.8	Armed, financial, logistic, training or other support of external actors, including States, international or regional organizations, private companies, or others.

Comment:

Atrocity crimes are not easy to commit. In particular, genocide and crimes against humanity, but also several war crimes, are characterized by large-scale violence that requires a level of planning and that, in most cases, is sustained over a period of time. To be able to engage in such conduct, actors aiming at committing atrocity crimes must have at their disposal the necessary, substantial resources and support, either internal or external. That capacity can be intentionally developed or it can also be incidental. Accordingly, the fact that States or groups have the capacity to perpetrate atrocity crimes does not imply that they will commit them — for that, it is also necessary that they have the intention to make use of that capacity against a protected group, population or individual. Therefore, this risk factor must be assessed in conjunction with other factors. In contrast, those who do not have the capacity to commit atrocity crimes, i.e., where one or more of the indicators mentioned above are not present, will most likely not be able to put any plan into action, or will face serious challenges in its attempt to implement it.

Absence of mitigating factors

Absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations or individuals.

Indicators	
6.1	Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves.
6.2	Lack of a strong, organized and representative national civil society and of a free, diverse and independent national media.
6.3	Lack of interest and focus of international civil society actors or of access to international media.
6.4	Lack of or limited presence of the United Nations, INGOs or other international or regional actors in the country and with access to populations.
6.5	Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations.
6.6	Lack of exposure, openness or establishment of political or economic relations with other States or organizations.
6.7	Limited cooperation of the State with international and regional human rights mechanisms.
6.8	Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community.
6.9	Lack of interest, reluctance or failure of United Nations Member States or international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility.
6.10	Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation or aid restrictions.
6.11	Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

Comment:

Atrocity crimes result from a convergence of elements, as demonstrated in this framework. Among those elements, some point more directly to the likelihood of atrocity crimes, while others might have a more indirect effect and seem secondary, or even too broad to merit consideration. However, even if indirect, these elements can contribute to preventing an escalation of violence or even to ending it and can therefore reduce the probability of atrocity crimes. Some of these elements can exist prior to the development of tensions, crises or conflict, while others can arise as a situation escalates. Such elements, either internal or external, are important to consider for early warning purposes.

COMMON

RISK FACTOR 7

Enabling circumstances or preparatory action

Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.

Indicators	
7.1	Imposition of emergency laws or extraordinary security measures that erode fundamental rights.
7.2	Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups.
7.3	Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations or individuals.
7.4	Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm.
7.5	Creation of, or increased support to, militia or paramilitary groups.
7.6	Imposition of strict control on the use of communication channels, or banning access to them.
7.7	Expulsion or refusal to allow the presence of NGOs, international organizations, media or other relevant actors, or imposition of severe restrictions on their services and movements.
7.8	Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them.
7.9	Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror.
7.10	Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation, or forced displacement or transfer of protected groups, populations or individuals to camps, rural areas, ghettos or other assigned locations.
7.11	Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or of property related to cultural and religious identity.
7.12	Marking of people or their property based on affiliation to a group.
7.13	Increased politicization of identity, past events or motives to engage in violence.
7.14	Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals.

Comment:

Atrocity crimes, and in particular genocide and crimes against humanity, are processes that take time to plan, coordinate and implement. They cannot be explained as isolated or spontaneous events that perpetrators decided to commit without some level of preparation. Also, as mentioned in a previous risk factor, perpetrators need to possess sufficient resources to be able to commit massive or widespread acts of violence. Such resources are not always readily available and can take time to assemble. Consequently, throughout the development of these processes, it should be possible to identify events, actions or changes that point to the likelihood that certain actors are taking steps towards a scenario of mass violence and possibly atrocity crimes. Alternatively, such events, actions or changes can also serve to create an environment that favors or even encourages the commission of such crimes. Recognizing such indicators and establishing a causal link to the probability of atrocity crimes is not always easy, but it is of great relevance. As with all risk factors, analysis of this risk factor should take into consideration a context in which other risk factors might also be present.

Triggering factors

Events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset.

Indicators	
8.1	Sudden deployment of security forces or commencement of armed hostilities.
8.2	Spillover of armed conflicts or serious tensions in neighbouring countries.
8.3	Measures taken by the international community perceived as threatening to a States' sovereignty.
8.4	Abrupt or irregular regime changes, transfers of power, or changes in political power of groups.
8.5	Attacks against the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposing groups. Other serious acts of violence, such as terrorist attacks.
8.6	Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders.
8.7	Acts of incitement or hate propaganda targeting particular groups or individuals.
8.8	Census, elections, pivotal activities related to those processes, or measures that destabilize them.
8.9	Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters or epidemics.
8.10	Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations.
8.11	Commemoration events of past crimes or of traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities.
8.12	Acts related to accountability processes, particularly when perceived as unfair.

Comment:

The dynamics of atrocity crimes are not the same in all cases. In fact, they can vary considerably. The commission of atrocity crimes may progress at a faster pace if the perpetrators have a clear plan and the immediate capacity to implement it. In other situations, the commission of atrocity crimes might unfold at a late stage of a situation of serious crisis or tension that may have been lasting for a long period of time. It can also happen that unpredictable events or circumstances aggravate conditions or spark a sudden deterioration in a situation, prompting the perpetration of atrocity crimes. An adequate early warning assessment should be mindful of all such events or circumstances and consider their potential impact, even if they appear to be unrelated to more direct or structural risk factors.

GENOCIDE

RISK FACTOR 9

Intergroup tensions or patterns of discrimination against protected groups[5]

Past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes.

Indicators	
9.1	Past or present serious discriminatory, segregational, restrictive or exclusionary practices, policies or legislation against protected groups.
9.2	Denial of the existence of protected groups or of recognition of elements of their identity.
9.3	History of atrocity crimes committed with impunity against protected groups.
9.4	Past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities, participation in decision making processes, security, expressions of group identity or to perceptions about the targeted group.
9.5	Past or present serious tensions or conflicts involving other types of groups (political, social, cultural, geographical, etc.) that could develop along national, ethnical, racial or religious lines.
9.6	Lack of national mechanisms or initiatives to deal with identity-based tensions or conflict.

[5] For a definition of "protected group" within the context of this Framework, please consult Section I — *Who are the victims of atrocity crimes?*.

Comment:

Genocide is an extreme form of identity-based crime. Whether real or socially constructed, identity can be subject to manipulation by elites, including as a deliberate tactic for personal or political gain, and may be used to deepen societal divisions. Identity-based conflict, which may give rise to the crime as defined by the Convention on the Prevention and the Punishment of the Crime of Genocide, can be rooted in differences between national, ethnical, racial or religious groups, whether real or perceived. It can also be rooted in other differences, such as those of a political or even geographical nature, that eventually develop along national, ethnical, racial or religious lines. However, the risk factor is not the existence of diversity within the population of a country, nor is it those differences per se that cause conflict between groups. Instead, it is discrimination based on such differences, and persistent patterns of it, that establish divisions within society which serve as both a material cause and a perceived justification of group violence. Without group-level discrimination, even deeply seated grievances are unlikely to transform into the patterns of abuse that give rise to genocide.

Signs of an intent to destroy in whole or in part a protected group

Facts or circumstances that suggest an intent, by action or omission, to destroy all or part of a protected group based on its national, ethnical, racial or religious identity, or the perception of this identity.

Indicators	
10.1	Official documents, political manifests, media records, or any other documentation through which a direct intent, or incitement, to target a protected group is revealed, or can be inferred in a way that the implicit message could reasonably lead to acts of destruction against that group.
10.2	Targeted physical elimination, rapid or gradual, of members of a protected group, including only selected parts of it, which could bring about the destruction of the group.
10.3	Widespread or systematic discriminatory or targeted practices or violence against the lives, freedom or physical and moral integrity of a protected group, even if not yet reaching the level of elimination.
10.4	Development of policies or measures that seriously affect the reproductive rights of women, or that contemplate the separation or forcible transfer of children belonging to protected groups.
10.5	Resort to methods or practices of violence that are particularly harmful against or that dehumanize a protected group, that reveal an intention to cause humiliation, fear or terror to fragment the group, or that reveal an intention to change its identity.
10.6	Resort to means of violence that are particularly harmful or prohibited under international law, including prohibited weapons, against a protected group.
10.7	Expressions of public euphoria at having control over a protected group and its existence.
10.8	Attacks against or destruction of homes, farms, businesses or other livelihoods of a protected group and/or of their cultural or religious symbols and property.

Comment:

The intent to destroy in whole or in part a national, ethnical, racial or religious group is both one of the most fundamental and one of the most difficult elements of the crime of genocide to prove. It is also a challenging element to predict from an early warning perspective. Frequently, the intent only comes to light after a crime has taken place, typically during accountability processes, or sometimes when it might be too late to take preventive action due to the advanced level of the violence. However, there are some early indicators that can serve as a warning sign. Those indicators are unlikely to be explicit, but they can also be inferred from conduct that would reasonably lead to the belief, even if not the certainty, that the intent of or a plan for annihilation could exist. Indicators can include overt methods of destruction, or otherwise covert or indirect methods that in practice lead to the same ultimate result. In addition, case law has associated intent with the existence of a State or organizational plan or policy, even if the definition of genocide in international law does not include that element. As genocide is not a spontaneous act, it is unlikely that it will be committed in the absence of such a plan or policy.

RISK FACTOR 11

Signs of a widespread or systematic attack against any civilian population[6]

Signs of violent conduct including, but not limited to, attacks involving the use of force, against any civilian population and that suggest massive, large-scale and frequent violence (widespread), or violence with patterns of periodicity, similitude and organization (systematic).

Indicators	
11.1	Signs of patterns of violence against civilian populations, or against members of an identifiable group, their property, livelihoods and cultural or religious symbols.
11.2	Increase in the number of civilian populations or the geographical area targeted, or in the number, types, scale or gravity of violent acts committed against civilian populations.
11.3	Increase in the level of organization or coordination of violent acts and weapons used against a civilian population.
11.4	Use of the media or other means to provoke or incite to violent acts.
11.5	Signs of a plan or policy to conduct attacks against civilian populations.
11.6	Establishment of new political or military structures that could be used to commit violent acts.
11.7	Access to or increasing use of significant public or private resources for military or belligerent action, including the acquisition of large quantities of weaponry or other instruments that can cause death or serious harm.
11.8	Signs of development or increased use of means or methods of violence that are incapable of distinguishing between civilian and military targets or that are capable of mass destruction, persecution or weakening of communities.

[6] For a definition of "civilian population" within the context of this Framework, please consult Section I — *Who are the victims of atrocity crimes?*.

Comment:

Crimes against humanity involve either large-scale violence (quantitative element) or a methodical type of violence (qualitative element). This excludes random, accidental or isolated acts of violence that, in addition, could be difficult to predict. Instead, the type of violence that characterizes crimes against humanity will most probably require a level of preparation that can be revealed through different indicators. Such indicators can, for example, relate to the means and methods used to engage in violence, or to patterns of violent conduct during the early stages of a conflict that can help predict an aggravation of those patterns and, consequently, the potential for crimes against humanity. Other indicators can point to patterns of conduct — even outside of a conflict situation — that manifest earlier, such as the building up of capacity for large-scale or systematic violence, or the use of alternative means to target civilian populations or particular groups within them. Identifying early stages of pattern manifestation is crucial to be able to devise strategies to stop them.

Signs of a plan or policy to attack any civilian population

Facts or evidence suggestive of a State or organizational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence directed against any civilian population.

Indicators	
12.1	Official documents, political manifestos, media records, or any other documentation through which the existence of a State or organizational plan or policy to target civilian populations or protected groups is directly revealed, or could be inferred.
12.2	Adoption of discriminatory security procedures against different groups of the civilian population.
12.3	Adoption of measures that result in the alteration of the ethnic, religious, racial or political composition of the overall population, including in defined geographical areas.
12.4	Establishment of parallel institutions or autonomous political or military structures, or organization of a network of potential perpetrators belonging to a specific ethnic, religious, national, racial or political group.
12.5	Preparation and use of significant public or private resources, whether military or other kinds.
12.6	Access to and use of weaponry or other instruments not easily obtained inside the country.
12.7	Preparation or mobilization of armed forces en masse against civilian populations.
12.8	Facilitating or inciting violence against the civilian population or protected groups, or tolerance or deliberate failure to take action, with the aim of encouraging violent acts.
12.9	Widespread or systematic violence against civilian populations or protected groups, including only parts of them, as well as on their livelihoods, property or cultural manifestations.
12.10	Involvement of State institutions or high-level political or military authorities in violent acts.

Comment:

In addition to the requirement that attacks against the civilian population be widespread or systematic, crimes against humanity are committed in furtherance of a State or organizational policy to commit an attack. Even though this is not included in the definition of the crime under Article 7(1) of the Rome Statute, Article 7(2)(a) of the same document introduces this element. The plan or policy does not need to be explicitly stipulated or formally adopted and can, therefore, be inferred from the totality of the circumstances. Early signs of those circumstances, such as the indicators mentioned above, reveal planning, promotion or encouragement of violent acts, even if not explicitly presented as such. Conduct that manifests as widespread or systematic, as described in the previous risk factor, can be an indication of a plan or policy. On the other hand, a plan or policy can point to the systematic nature of an attack. The distinction between both might not always be clear.

WAR CRIMES

RISK FACTOR 13

Serious threats to those protected under international humanitarian law[7]

Conflict-related conduct that seriously threatens the life and physical integrity of those protected under international humanitarian law.

Indicators

13.1	Fragmentation of parties to the conflict or disintegration or absence of chains of command within them.
13.2	Mistrust between opposing parties based on past or present breaches of commitments or agreements.
13.3	Increased radicalization or extremism of opposing parties within a conflict.
13.4	Promotion of ethnicity or religion as a determinant of national allegiance or allegiance to a party of the conflict.
13.5	Conduct that dehumanizes the enemy or particular groups within the population, or that exhibits disrespect for their religious, ethnic or, in general, cultural traditions, morals and values, objects or institutions.
13.6	Adoption of measures that severely curtail the rights of those protected under international humanitarian law, including those aligned or perceived as aligned with opposing parties but not taking active part in hostilities.
13.7	Evidence of plans or discourse which reveals a threat of or incitement to violence against those protected under international humanitarian law, including as a means to spread terror, intimidate, demoralize, show military strength, provoke displacement, or as preliminary to further violence.
13.8	Evidence of conduct interfering with or impeding delivery or access to supplies, facilities, equipment, objects or medical or humanitarian support indispensable to the survival of those protected under international humanitarian law.
13.9	Evidence of preparation of personnel and logistics enabling the transportation, movement or confinement of large numbers of people, or the conducting of medical experiments.
13.10	Evidence of conduct related to the planning, development, production, storage, acquisition, availability or threat of use of weapons, projectiles, materials or substances which are by their nature indiscriminate or cause superfluous injury or unnecessary suffering to people, or that can cause widespread, long-term and severe damage to the natural environment.
13.11	Refusal to allow inspections by competent and independent bodies into allegations of conduct included in point 13.10, or action to stop such conduct.
13.12	Refusal to acknowledge detentions or places of detention or to allow visits by delegates of the International Committee of the Red Cross.

Risk Factor 13 indicators, continued	
13.13	Issuance of rules of engagement or legislation that allow the disproportionate or indiscriminate use of force, or failure to take action to avoid launching such attacks or to conduct military operations in heavily populated areas or to non-military targets.
13.14	Increase in the number of any of the attacks or operations mentioned in point 13.13.
13.15	Use of methods of warfare that reveal treachery, including taking advantage of the symbols or emblems of humanitarian or peacekeeping personnel, or not wearing uniforms or distinctive combat gear to portray combatants as civilians.
13.16	Threats or appropriation, seizure, pillaging or intentional destruction or damage of civilian objects or property that belong, represent or are part of the cultural, social or religious identity of those protected under international humanitarian law, unless used for military purposes.
13.17	Threats or orders of warfare without concessions or where there would be no survivors.
13.18	Conduct that threatens the rule of law or any other measures that limit protection of the rights to life and physical integrity afforded by applicable international humanitarian law, including denial of its applicability.

[7] For a definition of "those protected under international humanitarian law" within the context of this Framework, please consult Section I — Who are the victims of atrocity crimes?. Humanitarian or peacekeeping operations, though also protected under international humanitarian law, will be dealt separately in this Framework under risk factor 14.

Comment:

In contrast to the crimes of genocide and crimes against humanity, war crimes must always take place in the context of an armed conflict. Consequently, indicators specific to war crimes surface at a late stage, when options for prevention are more limited. For earlier preventive action, common risk factors should be considered first. However, even if a conflict is already under way, there are still measures that can be taken to diminish the effects of hostilities and, therefore, to prevent war crimes. The list of war crimes is long and each has a specific definition. They can also vary according to different norms of international law. The indicators identified above attempt to include indicators relevant to as many war crimes as possible that are related to the protection of human life. However, they are far from exhaustive. Some of the indicators identified can also on their own be war crimes, such as attacks against civilian property, which can point to an increase in the threat to human life.

WAR CRIMES

RISK FACTOR 14

Serious threats to humanitarian or peacekeeping operations

Conflict-related conduct that threatens the protection provided by international humanitarian law to humanitarian assistance or peacekeeping personnel not taking direct part in hostilities.

Indicators	
14.1	Perceptions of partiality or political interference by humanitarian or peacekeeping operations, their members, the broader international community, international, regional or national organizations, individual countries, or others sponsoring or participating in the operations.
14.2	Increase in identity-based conflicts and perceptions about humanitarian or peacekeeping operations as associated with the opponent or as an obstacle to plans of elimination, marginalization or displacement.
14.3	Increased intensity of the conflict and scarcity of livelihoods or other resources.
14.4	Fragmentation of parties to the conflict or disintegration of chains of command within them.
14.5	Interference, limitation or prohibition of access or movement of humanitarian or peacekeeping operations or their personnel.
14.6	Tampering with or removal of signs identifying protected objects or locations where humanitarian or peacekeeping operations are stationed or providing support.
14.7	Incidents of improper use of a flag of truce, of the flag or of the military insignia and uniform of the United Nations and the distinctive emblems of the Geneva Conventions.
14.8	Attacks against locations in close proximity to humanitarian or peacekeeping operations and personnel, or on the routes taken by them during their activities.
14.9	Discourse or evidence of plans that suggest a threat, or the incitement or tolerance of acts of violence against humanitarian or peacekeeping operations and personnel.
14.10	Disrespect, threats or increase in attacks to objects, property or persons using the distinctive emblems of the Geneva Conventions or of other humanitarian or peacekeeping operations.

Comment:

International humanitarian law affords specific protection to those working for humanitarian assistance or peacekeeping missions in a setting of armed conflict, as long as they do not take direct part in hostilities, except for self-defense. These operations are particularly exposed to the violence that accompanies periods of conflict due to the key role they play in the protection of human lives and the alleviation of human suffering during those periods. A set of specific indicators can help in assessing the likelihood of attacks against this group that could constitute war crimes. As the focus of the Framework is the protection of human life, attacks against property of humanitarian or peacekeeping operations have been included only as indicators of an increased risk to the lives of their staff.

ANNEX I

Legal Definitions of Atrocity Crimes

Genocide

Genocide is defined in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and has become a norm of customary international law. The same definition can be found in other documents of international law: Article 6 of the Rome Statute of the International Criminal Court; Article 4(2) of the Statute of the International Criminal Tribunal for the former Yugoslavia, and Article 2(2) of the Statute of the International Criminal Tribunal for Rwanda.

Convention on the Prevention and Punishment of the Crime of Genocide

Article 2

In the present Convention, genocide means any of the 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.

Crimes against Humanity

Crimes against humanity have not been codified in a treaty, similar to genocide and war crimes. However, the definition has developed under customary law and through the jurisdiction of international courts. Article 7(1) of the Rome Statute of the International Criminal Court; Article 5 of the Statute of the International Criminal Tribunal for the former Yugoslavia and Article 3 of the Statute of the International Criminal Tribunal for Rwanda, include definitions of crimes against humanity, even though they do not totally coincide.

Rome Statute of the International Criminal Court

Article 7

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

   (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 collectivity 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.

2. For the purpose of paragraph 1:

   (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

War Crimes

War crimes are those violations of international humanitarian law that incur perpetrators in individual criminal responsibility under international law. There is no one single document that codifies all war crimes. Lists can be found in both international humanitarian law and international criminal law treaties, as well as in international customary law. The 1949 Geneva Conventions and 1977 Additional Protocol I contain lists. Article 8 of the Rome Statute of the International Criminal Court; Article 2 and 3 of the Statute of the International Criminal Tribunal for the former Yugoslavia and Article 4 of the Statute of the International Criminal Tribunal for Rwanda, also include lists of war crimes. They do not always coincide.

Rome Statute of the International Criminal Court

Article 8

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, "war crimes" means:

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(i) Wilful killing;

(ii) Torture or inhuman treatment, including biological experiments;

(iii) Wilfully causing great suffering, or serious injury to body or health;

(iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

(v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;

(vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

(vii) Unlawful deportation or transfer or unlawful confinement;

(viii) Taking of hostages.

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;

(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

(v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

(vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;

(vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

(viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;

(xii) Declaring that no quarter will be given;

(xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;

(xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

(xvi) Pillaging a town or place, even when taken by assault;

(xvii) Employing poison or poisoned weapons;

(xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;

(xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;

(xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

(xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

(xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

(xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

(c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

(i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(iii) Taking of hostages;

(iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(v) Pillaging a town or place, even when taken by assault;

(vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;

(vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;

(viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(ix) Killing or wounding treacherously a combatant adversary;

(x) Declaring that no quarter will be given;

(xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

(f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

Ethnic Cleansing

Ethnic cleansing has not been recognized as an independent crime under international law. In the context of the war in former Yugoslavia, a United Nations Commission of Experts defined it as:

Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992),
U.N. SCOR, U.N. Doc. S/25274 (26 January 1993), at 16

"… rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area,"

Final Report of the Commission of Experts Established Pursuant to United Nations Security Council Resolution 780 (1992),
U.N. SCOR, U.N. Doc. S/1994/674 (27 May 1994), Annex, at 3, 33

"… 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."

The same Commission of Experts stated that the coercive practices used to remove the civilian population can include: murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assaults, severe physical injury to civilians, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, use of civilians as human shields, destruction of property, robbery of personal property, attacks on hospitals, medical personnel, and locations with the Red Cross/Red Crescent emblem, among others.

The Commission of Experts added that these practices can "… constitute crimes against humanity and can be assimilated to specific war crimes. Furthermore, such acts could also fall within the meaning of the Genocide Convention."

Prevention means acting early... Together with a commitment to accountability, we owe this to the millions of victims of the horrific international crimes of the past — and those whose lives we may be able to save in the future.

— Secretary-General Ban Ki-moon

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