

1-2015

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Recommended Citation

Galchinsky, Michael, "Prevention Cascade: The United States and the Diffusion of R2P" (2015). *English Faculty Publications*. Paper 23.
http://scholarworks.gsu.edu/english_facpub/23

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Prevention Cascade: The United States and the Diffusion of R2P

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Introduction

In 2004, Sudan won a third term on the Human Rights Commission at the very moment its government was carrying out a genocide in Darfur. The juxtaposition exposed the abysmal job the global governance system has done of living up to its responsibilities under the Genocide Convention (1949), which requires states both to prevent genocide and punish perpetrators. Despite continuing failures, however, over the past two decades, the duty to punish has begun to be fulfilled. The establishment of the International Criminal Tribunals for the former Yugoslavia and Rwanda, the International Criminal Court, and other post-conflict and transitional justice processes have given institutional power to a new norm of international criminal accountability, which has spread across the globe, rapidly albeit unevenly, in what Kathryn Sikkink has called a ‘justice cascade’ (Sikkink, 2011).

Until recently, one could not point to a comparable ‘prevention cascade.’ Virtually nothing was done on prevention until the past two decades, due to flaws in the Genocide Convention’s definition of genocide, the treaty’s lack of a monitoring mechanism, inadequate political will, and the controversial legal status of humanitarian interventions. Moreover, in terms developed by Toni Erskine, prevention is a form of prospective responsibility, and measuring the degree to which the state has fulfilled such obligations is difficult (Erskine, 2004, pp. 33, 37). The International Law Commission has commented that ‘Obligations of prevention are usually construed as best efforts obligations, requiring States to take all reasonable or necessary measures to prevent a given event from occurring, but without warranting that the event will not occur’ (Crawford, ed., 2002, p. 140). Requiring a certain standard of effort (‘reasonable and necessary measures’) rather than certain outcomes, prevention is what Melissa Labonte calls in her chapter ‘an imperfect duty.’ Finally, as Mark Gibney points out, states, not individuals, bear preventive responsibility, which means that responsibility is dispersed across a bureaucracy and may be hard to pinpoint.

Nonetheless, preventive capacity has progressed in the first decade of the twenty-first century, and especially since the 2005 World Summit when the international community endorsed the Responsibility to Protect (R2P). New prevention efforts have begun at the UN, in regional and sub-regional organizations, and in many states. The United States, under President Barack Obama, declared atrocity prevention a ‘core national security interest’ in August, 2010, and formed its own Atrocities Prevention Board on April 23, 2012. Regional organizations have begun to develop preventive capacities (Office of the Special Adviser, ‘Engaging with Partners’; Ban, *Implementing* 2009). UN Secretary-General Ban Ki-Moon called for 2012 to be ‘The Year of Prevention’ (Office of the Special Adviser, *Anniversary*, 6 December 2012). It would seem that prevention has reached its tipping point.

The recent efforts to establish and disseminate preventive policies provide a critical opportunity to study the process of norm diffusion. This chapter offers a legal framework for understanding the norm of atrocity prevention, a structuralist framework for analyzing diffusion processes, and an empirical comparison of the preventive efforts of the international community and the United States. Concerned with the particular relations that give local expression to universal aspirations, the chapter is situated at the juncture ‘between facts and norms’ (Habermas, 1998).

The chapter finds that, although the US and international efforts are analogous, they are founded on different assumptions about the content and process of prevention. The UN efforts, grounded in the collective ethos of R2P, envision prevention as a multilateral act, rooted in Security Council decisions and Secretariat-level coordination. By contrast, the US has so far largely established its own preventive capacities through a process that has ignored or skirted the UN’s R2P apparatus. The exceptionalist approach undertaken by the US has generated international skepticism and some domestic pushback, and if continued may compromise the US government’s capacity to fulfill its prevention aims. That would be a missed opportunity, because the world needs US leadership to ensure that people are protected from the states that fail to prevent mass atrocities.

Legal Framework: Prevention as Obligation

Until recently, progress on prevention has been impeded by the weak legal framework in which it was ensconced. Flaws in the Genocide Convention’s definition of the crime have made

it notoriously easy for states to avoid taking prospective responsibility (Mennecke, 2009). Also, unlike later treaties, the Convention did not form a treaty body to monitor states' compliance: as a result, although acts that could contribute to genocide were monitored by the Covenants and other treaties, genocide as such was not formally monitored by any UN agency. The only attempt to incorporate genocide in the six major human rights treaties is in Art. 6 (3) of the International Covenant on Civil and Political Rights, which mentions genocide primarily as a limit on the death penalty. The ICCPR's reticence with respect to genocide has minimized the ability of the Human Rights Committee to monitor genocidal activity, and its periodic reporting system is not geared toward the ongoing monitoring that early warning requires. Without monitoring, no early warning capacity could be developed. Without early warning, no early diplomacy was possible. Without early warning and diplomacy, the world has had little recourse but costly late interventions after mass killings have already escalated.

Since 2000, the international community has rewritten prevention into a stronger legal framework, bypassing the definitional traps, reconceiving interventions, and establishing monitoring mechanisms. In addition to genocide, prevention now focuses on war crimes, crimes against humanity, and ethnic cleansing. Together these are referred to as 'mass atrocities' as a matter of policy at the UN (Mennecke, 2009). New prevention efforts have sought to end the controversy over the legality of humanitarian interventions, justifying them via the doctrine of R2P. The R2P requirement that States *prevent* atrocities (to their own or others' civilians), *react* when atrocities are committed, and *rebuild* after atrocities have ended takes prevention out of its isolated and ignored condition in the Genocide Convention and resituates it in what the Secretary-General has called a 'continuum of steps' (Ban, *Five-Point Action Plan*, 2008). That is, prevention is understood to be part of a broader system designed to prevent human rights violations in general, on the theory that, while the causes of genocide and mass atrocities are disparate, states that handle domestic disputes well and protect human rights in general 'are unlikely to follow such a destructive path.' (Ban, 2009, paras. 15-16). Much of the Secretary-General's emphasis has been on non-coercive measures under chapters VI and VIII of the UN Charter. Prevention now belongs to the broad effort to create stable states.

Some commentators assert that R2P is an ethical and political norm rather than a legal one (Hehir, 2012, p. 85; Patrick, 2012). On the contrary, prevention is rooted in the legal concept of *erga omnes* obligations—obligations owed to the international community as a whole.

The International Court of Justice initiated this line of thinking in 1970, in its opinion in the landmark Barcelona Traction case (ICJ, 1970, paras. 33-34). It listed examples of *erga omnes* obligations as ‘the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination.’ An *erga omnes* obligation, like a peremptory human rights norm (*jus cogens*), is one that is recognized as universal and undeniable (ICJ, 1970, paras. 33-34). The court said that any state has the right to complain of a breach of an *erga omnes* obligation, even if that state has not itself been injured. At this point, complaint to the ICJ was the sole remedy envisioned. The court has since invoked *erga omnes* obligations in opinions on breaches of the Genocide Convention and the Convention on the Elimination of Racial Discrimination (ICJ, *Application*, 1996, paras. 31-32; Song and Kong, 2011; Mennecke).

The language of R2P in the World Summit Outcome was the General Assembly’s attempt to operationalize the doctrine of *erga omnes* obligations. The Outcome document gives the cover of law to efforts to prevent and intervene in internationally wrongful acts; indeed, the lawfulness of humanitarian interventions under R2P is what distinguishes them from similar interventions prior to 2005. In keeping with the International Law Commission’s ‘Articles on Responsibility of States for Internationally Wrongful Acts’ (2001), the World Summit Outcome ensured that when there is a breach of an *erga omnes* obligation, a non-injured State can go beyond the ICJ’s complaint mechanism to call for collective countermeasures against the violating State with the object of preventing further civilian suffering (ILC, *Draft Articles on Responsibility*, 2001).

That is not to say that R2P has the force of treaty law. At present, its legal status is anomalous—more than a declaration but less than positive law. It is less than positive law because the Summit Outcome document is not a codified treaty with measures of implementation, monitoring, and enforcement. Yet it is not a discretionary entitlement for SC members (or a right to intervene if they choose). The term responsibility specifies a duty, not a right. R2P recognizes that upon a state’s manifest failure, international action of some kind is not only lawful but obliged.

Structuralist Framework: Diffusion Vectors

The spread of a prevention cascade is an issue of norm diffusion. How and why has the norm of prevention—mentioned in the Genocide Convention but then routinely ignored—come to the forefront at this time? How has it spread? In what forms has it been practiced? Where the US is concerned, to what extent are prevention efforts homegrown or results of the larger diffusion of the international norm of R2P? Can the US efforts help shape the international prevention response?

Diffusion has been studied using a variety of colorful metaphors such as clusters, waves, cascades, contagions, dominoes, tipping points, thresholds, magnetic attractions, spirals, and boomerang effects—and the metaphor of diffusion itself (Risse, Ropp, and Sikkink, 1999; Elkins and Simmons, 2005; Cao, Greenhill, and Prakash, 2006). Such terms capture the dynamic, relational quality between the sending and receiving entities, and describe the mechanism for spreading a norm from one jurisdiction to another. Much recent attention has addressed the transfer of norms across different levels of governance (global, regional, and domestic). Solingen has shown that multi-level diffusion analyses must account for diffusion's stimulus, medium, obstacles, agents, and outcomes (Solingen, 2012).

In addition to these factors, many analyses attend to the direction of the diffusion. For example, Plümper and Neumeyer have studied diffusion's horizontal vector: the spread of norms from state to state. They find that the spread of policies on the horizontal vector is often due to spatial or cultural dependence, that is, the geographical neighborhood effects resulting from a common linguistic or colonial history or proximate country 'peer pressure' between sending and receiving states (Plümper and Neumeyer, 2010). In addition to spatial dependence, Neumeyer and his colleagues Cho and Dreher have suggested that horizontal diffusion can often be predicted by finding similar voting patterns by a cluster of states at the General Assembly. In such cases, the process of diffusion is probably learning or emulation (Cho, Dreher, and Neumeyer, 2012). In other cases, Elkins and Simmons suggest, there is a process of adaptation by which the norm is altered to take account of national differences (Elkins and Simmons, 2005).

Others have studied the vertical direction of diffusion, either from the top down or the bottom up. Greenhill describes the 'socialization effects' that IGOs can have on the national participants in international institutions, demonstrating that membership in IGOs significantly improves states' human rights behavior with respect to personal integrity rights (Greenhill, 2010; also cf. Brysk, 1993). He posits that officials from states with less respect for human rights learn

respect through participation in the IGO and internalizing its monitoring, education, and adjudication practices. In other words, such officials are ‘socialized’ by the IGO.

While this type of socialization captures a top-down process, some scholars describe a ‘bottom-up’ vector. For example, Sikkink has described a process by which civil society ‘norm entrepreneurs’ (such as activists, NGOs, academics, or business leaders) exerted an impact on States and IGOs with respect to the spread of international criminal justice (Sikkink, 2011, pp. 24, 124; Finnemore and Sikkink, 1998, p. 898; Sugiyama, 2012; Greenhill, 2010; Cao, Greenhill, and Prakash, 2006).

In special cases, some states can themselves socialize the international community. One would expect that at least the world’s most powerful States would exert an influence on the IGOs themselves. For example, there is evidence that the United States’ tiered approach to monitoring and combatting human trafficking in its annual Trafficking in Persons Report has diffused both to other states and to the UN itself (*Trafficking*, 2012; Tiefenbrun, 2007). In such a case, it is hard to know whether to describe the diffusion vector as up or down. The United States is in a special position vis a vis the international system because it is a member of the P5 with veto power in the Security Council, serves as the home base of the United Nations, and largely funds the UN’s activities. It is thus poised to reject international initiatives it perceives as against its interests, and is also in the curious (hegemonic) position of a state that can diffuse a norm *down* to the international community.

One well developed and influential diffusion theory that proposes a combination of vectors is the model developed by Risse, Sikkink, and Ropp in The Power of Human Rights (1999). These authors trace a ‘boomerang effect’ in which domestic advocacy networks look outside the state for aid from international advocacy networks, the latter then raise awareness and convince the international community of states to pressure the norm-violating state, which opens political space for the domestic advocates to make their voices heard. The boomerang effect has only limited explanatory power in the case at hand. The theory emphasizes that change comes from non-state actors, but the primary entity pushing prevention in the US has been the state itself. Moreover, the cases that this model addresses are those in which a norm-violating state changes its behavior as part of a liberalization process, but the United States sees itself as a founding member of the international community of liberal states and a net norm exporter (Risse, Sikkink, and Ropp, 1999, pp. 3-4). The American self-image as non-violating and liberal is only

partially accurate, and we will see that a limited boomerang effect did occur after the US government initiated its prevention efforts.

As in other areas of international relations, atrocity prevention scholars have developed both normative and realist approaches (Kuperman, 2009; Hirsch and Totten, 2011; Strauss, 2009). For realists like Kuperman, mass atrocities are too complex, with too many different causes and consequences to enable the predictability of any normative model. The political dimension depends on fickle alliances among states. SC members might not target an ally committing genocide with the same countermeasures as those used on an enemy state. The degree to which a norm can be diffused, in this view, depends less on IGO socialization effects or other kinds of subtle pressure than on instrumentally exerted power. This chapter attempts to occupy the middle ground between realist and normative accounts—the ground of pragmatic idealism—following Jacques Sémelin, editor of the Encyclopedia of Mass Violence. While criticizing the ‘wishful thinking’ of many genocide prevention efforts, Sémelin equally criticizes those who argue that ‘because we can never be sure of the outcome, it is futile to intervene,’ and declares his assumptions that ‘genocide is preventable’ and that scholarship on mass violence can help identify patterns that might lead to constructive policy prescriptions (Sémelin, 2009).

By paying attention to diffusion’s vector, we can see that norm influence is not a simple question of transferring a fixed policy from one environment to another. The norm is operationalized in local ways, often resulting in uneven expression across jurisdictions (Neumeyer and Perkins, 2005; Gertler, 2001). Heterogeneity is typical because, in Solingen’s terms, national or regional political ‘firewalls’ often become ‘sedimented’ and ‘defy determinism, automaticity, or teleology’ in diffusion (Solingen, 2012; also Finnemore and Sikkink, 1998, p. 893). Power dynamics between the sending and receiving entities, along with the internal political relations operating inside both entities, will influence whether and how the norm is diffused. State capacity to implement norms varies widely. The dynamic that sender and receiver have with third parties, such as allies, neighbors, or civil society actors, may also shape the norm’s expression (Cao, Greenhill, and Prakash, 2006). Thus, in diffusion studies, the norm in question should not be treated as static and independent, but as variable and dependent. The institutional expression results from the interaction between the ideal-typical policy and the facts on the ground. Put concisely: *The operational form of a diffused norm is the product of contingent relations.*

The UN model of prevention differs from the state-based model in the US, making the norm uneven in its expression (Sikkink, 2011, p. 247). Can the two institutions partner with each other in such a case? Are the UN efforts having an ‘IGO socialization effect’ on state officials, in particular on US officials on its Atrocities Prevention Board? What efforts has the US made to socialize other states and IGOs to its model of prevention, and how successful have its efforts been to date? Finally, to what extent do the UN and US efforts share an understanding of what constitutes prevention, and what firewalls might impede the IGO and the state from finding a consensus approach?

Prevention at the UN

We have seen that the UN approach to prevention since 2000 has four unique conceptual and institutional features. First, the crimes to be prevented have been expanded from ‘genocide’ to ‘mass atrocities’ so as to move beyond the definitional confines of the Genocide Convention. Second, prevention has become integrated into the larger R2P process, which sees the *duty to prevent* as the first in a ‘continuum of steps.’ Third, the R2P orientation enables genocide to be the subject of sustained monitoring and early detection by UN bodies, something not previously possible because the Genocide Convention did not establish its own monitoring body and the other treaty bodies did not see genocide as within their purview. Fourth, R2P replaces the older, legally questionable model of humanitarian intervention: now, countermeasures are considered lawful and necessary as long as they originate when a sovereign fails to protect its own citizens, breaching its obligation to the international community as a whole, and are undertaken as part of a multilateral effort rooted in the Security Council to prevent and stop atrocities.

This approach, in development since the late 1990s, began to crystallize at the Jan. 26, 2004, Stockholm International Forum on Preventing Genocide, where the Secretary-General called for an Action Plan to Prevent Genocide (Akhavan, 2006; Ban, 2008). To carry out the plan, he appointed Juan E. Mendez as the first Special Adviser on the Prevention of Genocide, in July, 2004. The Special Adviser’s job was to collect existing information on massive rights violations of ethnic and racial origin that might lead to genocide; act as a mechanism of early warning to the Secretary-General and the Security Council; make recommendations on action to prevent or halt genocides in progress; and liaise with other members of the UN system. He was to be a ‘focal point’ in the UN system for gathering, filtering, analyzing, and fast-tracking

information related to genocide prevention (Akhavan, 2006). Supporters of the position have praised the Special Adviser's ability to give mass atrocities the visibility formerly only accorded to war crimes (Ban, 2008; Ban, 2009).

The Special Adviser's office grew slowly: two years into his appointment, Mendez, who was hired part-time, had only two part-time staff and an administrative assistant. Given limited resources, he focused on identifying threatening situations and making recommendations, ranging from strengthening peacekeeping, preventing ethnic incitement by interceding with officials, and publicly expressing concern (Ban, 2008; Ban, 2009). The office faced significant bureaucratic obstacles to its effectiveness from the beginning, and there was no system at all for collecting information from states and NGOs. Developing an early warning system necessitated consultations and verification of facts, far more work than the resources of the office could support (Akhavan, 2006).

Over time, some of these problems were overcome while others continue to weaken the Special Adviser. The Special Adviser has succeeded in developing methodology, identifying crisis situations, and finding compatible areas for work with other R2P entities, and is now a full-time position (UN High Commissioner for Human Rights, 2009). By 2007, the Special Adviser had begun to go on country visits; send notes to the Secretary-General informing him of high risk situations; consult with member states as well as regional IGOs, NGOs, and academics; develop a 'framework of analysis' to aid in selecting the proper response in a given case; and compile a 'package' of international law beyond the Genocide Convention to guide states (See OSAPG, 'Analysis Framework,' n.d.; Jacob Blaustein Institute, 2011). These efforts began to bear fruit when election violence began to escalate in Kenya in December, 2007: the Special Adviser's actions were widely credited with helping to tamp down the violence before it escalated, and he has since worked in similar ways on a range of issues.

The Office of the Special Adviser on the Prevention of Genocide (OSAPG) has had its share of critics. Even many prevention supporters have objected to the ways the norm has been institutionalized—a significant obstacle if the UN hopes to diffuse its model down to states (Hehir, 2010). Critics have faulted the Special Adviser for being symbolic, redundant, too beholden to the Secretary-General, and either not loud enough as a whistleblower, or too loud to engage in behind-the-scenes diplomacy. The bifurcation between public advocate and backstage manager became controversial when Francis Deng was appointed the second Special Adviser in

August, 2007. Rights NGOs thought Deng should be a voice of conscience first, a diplomat second; Deng thought the order should be reversed (Hehir, 2010). Aid groups thought the Special Adviser's mandate to raise public awareness had a reverse effect, alienating relevant government officials at critical moments and preventing the aid groups from getting in, as Kurt Mills discusses in his chapter (Akhavan, 2006).

Critics, including the Secretary-General himself, criticized the prevention measures for focusing too much on developing an early warning system, suggesting that the real problem was how to share existing information (Grünfeld and Vermeulen, 2009; Ban, 2009; Ban, 2010; Hirsch, 2009). Critics claimed that the Secretary-General exercised a filtering function over the Special Adviser's information, which compromised the Special Adviser's independence and authority with the Security Council. This perception was reinforced each time the P5 blocked the Special Adviser's request to address the Security Council directly rather than sending his report through the Secretary-General. The Special Adviser faces a reactive, not preventive, culture, and was often therefore seen as meddling or alarmist (Hehir, 2010). Finally, OSAPG does not address what some see as the central issue in genocide prevention: the absence of political will (Hehir, 2010). All of these obstacles have stood in the way of successful diffusion of prevention via OSAPG.

Despite the obstacles, the office has grown more effective. The Secretariat institutionally expresses the close relationship between prevention and R2P in that, until both retired in 2012, Edward C. Luck, the Special Adviser on the Responsibility to Protect since 2008, and Francis Deng shared office space and worked together on many issues (Ban, 2009). Before their retirement, Deng and Luck worked together to diffuse the prevention norm to regional and sub-regional IGOs and states, recognizing that while states often do not want to be singled out in this arena, regional bodies can often work effectively, have local expertise, are more deeply invested in and effected by the outcome of any preventive measures, and can provide political support for intervention, if necessary (Ban, 2011). As will become clear below, many other individual states and regional IGOs have begun to cooperate with the Special Adviser's mandate (OSAPG, 'Engaging,' n.d.). The succeeding Special Advisers, Adama Dieng (appointed as the SA for Genocide Prevention on July 17, 2012) and Jennifer Welsh (appointed as the SA for the Responsibility to Protect on July 12, 2013), share these commitments.

Prevention in the US

The growing list of the Special Advisers' partners so far does not include the United States. The UN model of collective action based on Security Council decisions and coordinated by OSPAG seems to run up against American exceptionalism, the belief that the US serves as a beacon to other states and thus cannot be expected to place itself under the same monitoring regimes. Under this view, the US participates in the international human rights system in creating and modeling the norms for which the system strives. Such an attitude precludes the emulation of much of the UN's prevention approach by the US.

The US has a long history of opting to operate outside of international institutions, in particular on human rights issues. The US refusal to join the International Criminal Court is only a recent example of a trend that began in the 1950s (Henkin, 1995; Korey, 2001, p. 44; Galchinsky, 2008, pp. 93-94). This history constitutes a significant ideological firewall impeding diffusion from the global to the state level. So it will not be surprising that the prevention norm in the US developed, for the most part, independently of the analogous norm at the UN. Like the UN effort, the American genocide prevention initiative grew out of a sense of failure in Rwanda and Bosnia. Madeleine Albright and William Cohen, President Clinton's Secretaries of State and Defense during those crises, worked during President George W. Bush's second term to convene a Genocide Prevention Task Force, under the auspices of the US Holocaust Memorial Museum's Committee on Conscience, to come up with a prevention proposal. The Task Force issued its report, *Preventing Genocide: a Blueprint for US Policymakers*, in 2008, at the start of President Obama's term (Albright and Cohen, 2008).

It was good timing. Candidate Obama had promised to pay more attention to genocide prevention and, for this purpose, had made Samantha Power, a well-known genocide scholar, one of his senior advisors. The Task Force report analyzed America's readiness to undertake genocide prevention and recommended the creation of an interagency prevention mechanism, with members drawn from pertinent areas throughout the government. It called for the establishment of a National Intelligence Estimate on worldwide risks of genocide and mass atrocities—essentially an early warning mechanism. It recommended strengthening partnerships with the UN and the African Union on military deployment options and information-sharing, and promoted engagement with at-risk states by preventively working with their leaders, strengthening their institutions, and promoting their civil society.

The final section of the *Blueprint* is dedicated to ‘International Action: Norms and Institutions.’ The report affirms that with R2P, the norm of prevention has been taking hold globally (98). It goes on to characterize R2P as a ‘revolution in conscience’ among regional organizations and UN officials, mentioning the Special Advisers and the High Commissioner for Human Rights. Nevertheless, it identifies challenges to international action to prevent genocide: lack of political will, difficulty of effective response, competing national interests, and the veto power of the Permanent Five. While recognizing R2P’s call for ‘effective action’ by the international community to prevent and halt atrocities, it nonetheless stops short of recognizing that under R2P effective and lawful action is coordinated by the UN. In fact, a number of scholarly critics suggested that Albright-Cohen’s recommendation to form a network of like-minded governments, IGOs, and NGOs may have been aimed at bypassing the UN (Üngör, 2011, Theriault, 2009). If so, the call for international action was another example of US exceptionalism at work.

While genocide scholars noted the report’s mention of R2P, they criticized it as US-centric. It identifies the US, they asserted, as a moral preventive force without acknowledging US complicity in past atrocities or addressing the US decision not to join the ICC. How can the United States claim it is serious about genocide prevention, they asked, much less be a leader of the effort, if it refuses to join a court dedicated to punishing genocide? (Üngör, 2011, Theriault, 2009). The report fails, they said, to wrap its policy framework tightly enough within international law and R2P, and does a poor job of integrating valuable information that has already emerged from international efforts (Hirsch, 2009). In sum, they accused the *Blueprint* of adhering to the American habit of go-it-alone bravura.

Has the Obama administration’s outlook been more global than the *Blueprint*’s? So far the evidence is mixed. Although the APB only came formally into being in April, 2012, a preventive response to atrocity crimes had been in the works in many US agencies since the start of the administration’s first term. In April, 2008, the Department of Homeland Security’s Immigration and Customs Enforcement division had established a Human Rights Violators and War Crimes Unit to target individuals associated with atrocity crimes who have entered the country fraudulently (Forman, 2009). Despite the US resistance to joining the ICC, President Obama referred the situation in Libya to the court. He has supported regional efforts to apprehend Joseph Kony, worked to facilitate the transition to independence of South Sudan, and

helped create the truth commissions in Cote d'Ivoire, Kyrgyzstan, Libya, and Syria, among other things (White House, 'Fact Sheet,' 2012). On the day before the administration formed the APB, the President issued an Executive Order establishing new, targeted sanctions for governments and corporations that engage in so-called 'GHRAVITY' offenses—Grave Human Rights Abuses Via Information Technology (Obama, 'Blocking the Property,' 22 Apr 2012).

These programs underscore a remark President Obama made in the speech, 'Honoring the Pledge of "Never Again",' in which he announced the APB's establishment: atrocities prevention, he said, 'is not an afterthought. This is not a sideline in our foreign policy' (Obama, 'Honoring the Pledge', 23 Apr 2012). Rather, as he had put it in Presidential Study Directive 10, in August, 2011:

Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States (Obama, 2011).

With high-level representatives from eleven government departments and agencies, the APB is tasked with pooling information on mass atrocities generated from throughout the government, turning the information into actionable recommendations, and developing prevention training materials specialized to each department's or agency's needs. In this, it sounds very much like a national version of the OSAPG. The APB is helping each of its constituents develop its prevention capacity: State is developing preventive diplomatic 'surges' during crisis situations. USAID now offers awards for technological innovation in early warning systems, and also development aid. Treasury is developing tools to block the flow of money to abusive regimes. Defense is developing doctrine, planning, training, and exercises for Mass Atrocity Response Operations. In the area of intelligence, the APB is monitoring the National Intelligence Council's preparation of the first-ever National Intelligence Estimate on the global risk of mass atrocities and genocide (White House, 'Fact Sheet,' 2012). It is fair to say that Obama is the first President to place atrocities prevention on the US government's front burner.

However, as the *Blueprint* presaged, the APB's goals were somewhat thinner with regard to America's international partners. To be sure, an extensive White House fact sheet, published the day the APB was founded, asserted that 'Our diplomats will encourage more robust multilateral efforts to prevent and respond to atrocities.' It described plans to aid a UN Peacekeeper training program for preventing sexual and gender-based violence, which was one of the Special Advisers' initiatives. However, its global plans were generally short on detail, and

did not designate which of its partners it would work with or how. It did not mention either the UN's Special Advisers or the R2P initiative when it described its aim to 'strengthen UN system capacity.' Similarly, no details were offered about how the APB 'will also work with our partners to build the capacity of regionally-based organizations to prevent and respond to atrocities.' Perhaps the most telling lacuna was in the section on 'Denying Impunity Abroad,' which went to great lengths not to mention the ICC. The US would support 'mechanisms...that seek to hold accountable perpetrators of atrocities when doing so advances US interests and values...' (White House, 'Fact Sheet,' 2012). The caveat ('when doing so...') recalled the language that both the Bush and Obama administrations used in rejecting calls to join the ICC—that the court does not advance US interests because it theoretically puts US personnel at risk of prosecution.

The absence of a stronger commitment to the UN prevention system was not due to US officials' lack of knowledge about international efforts. In the preparation for the APB, senior US officials attended a number of symposia on international prevention efforts. At an October, 2010 conference sponsored by the Stanley Foundation on 'Atrocity Prevention and US National Security: Implementing the Responsibility to Protect,' they interacted with Special Advisers Deng and Luck, and the discussion centered on how to 'enhance US government communication and coordination with the UN System, and increase support for UN institutional developments such as the anticipated "joint office" on genocide prevention and R2P' (Thaler, 2010; Woocher and Stares, 2010). One of the participants was Lawrence Woocher, who also served on the Genocide Prevention Task Force that had drafted the *Blueprint*. The APB's exceptionalist path to date is an informed policy choice.

The fear that the APB's work would be too unilateral could be heard underneath the diplomatic language the Special Advisers adopted in their joint statement the day after the APB was formed (OSAPG, 'Launch,' 2012). While welcoming the US initiative, the Advisers called on UN Member States to 'share their best practices and lessons learned, so that the collective effort can be more than the sum of its parts.' The balance of the statement focused, not on the American effort, but on 'the growing series of partnerships established by Member States under a Responsibility to Protect framework' (OSAPG, 'Launch,' 2012). While praising the APB because 'innovative and sustained measures at the national level are essential for the full operationalization of the Responsibility to Protect,' the Advisers emphasized the global, regional,

and above all *collective* nature of the prevention cascade, and their own role as UN liaisons and coordinators of the broader R2P effort. This exchange is evidence of a struggle over ownership of the norm of atrocity prevention and the heterogeneous forms by which it might be expressed.

It was not long after the APB's establishment that some members of the public were beginning to wonder when the APB would act, especially once the Syrian civil war heated up during the summer of 2012 (Spetalnick, 2012; Patrick, 2012; Thaler, 2012). The international community's unwillingness to prevent the Syrian government from killing thousands of its own civilians raised the question of whether R2P had lost ground or was even practicable (Thaler, 2012). The rivalries within the P5 represented a firewall against the application of R2P in the Syrian case and threatened the SC's consistent adoption of preventive measures. With the SC paralyzed, the world looked to the US for leadership.

Reacting to international inaction on Syria, then-Secretary of State Hilary Clinton spoke to a symposium on genocide prevention held at the US Holocaust Memorial Museum in cooperation with CNN and the Council on Foreign Relations, on July 24, 2012 (Clinton, 2012). Clinton reiterated the steps the administration was taking on 'prevention and partnership.' She reiterated the APB's 'whole of government response' on prevention. With respect to expanding partnerships, she mentioned the intention to work with the AU and ECOWAS. She also mentioned working to strengthen the 'UN's core peace and security tools,' but once again she made no reference to R2P or the Special Advisers. Finally, she acknowledged that 'a small group of nations' obstruction can derail our efforts...in the Security Council.' Clinton's address was well received, but it did not stop opinion bloggers like John Bradshaw of Freedom House from wondering whether it was possible to 'convert rhetoric to reality on atrocity prevention' (Bradshaw, 2012).

Such questions continued to the point that, on the anniversary of the APB's establishment, the White House felt the need to publish a second fact sheet detailing the administration's 'comprehensive efforts' to prevent mass atrocities during the board's first year (White House, 'Fact Sheet,' 2013). This may have been an attempt to pre-empt a report by Madeleine K. Albright and Richard S. Williamson, who had in the interim formed a Working Group on the Responsibility to Protect, comprised of members of the United States Institute of Peace, the Holocaust Museum, and the Brookings Institution. Their report, released in May, 2013, gauged US and international efforts on a range of R2P case studies, from the full use of

R2P (Libya) to failure to use R2P effectively (Syria) (Albright and Williamson, 2013). The Working Group commented that the APB ‘might well serve as an appropriate model for others’ (23), but the report’s recommendations indicate that the US was not doing enough to support international efforts. Recognizing that ‘No country acting alone has the resources, information, or authority to fulfill more than a modest portion of what R2P requires’ (23), it agreed with the Special Advisers that the UN should be the central organization in preventive efforts and argued that ‘the more capable the United Nations is, the less often US troops and taxpayer dollars will be summoned to cope with emergencies’ (24). Accordingly, the report urged the US to strengthen the preventive capacity of the UN by increasing funding for OSAPG, as well as by adopting a ‘more positive engagement’ with the ICC by funding investigations and prosecutions arising from SC referrals to the court. Here the ‘boomerang effect’—by which domestic advocates adopt the language of international actors to persuade their own government—did come into play.

The APB proclaims the US government’s intention to socialize other states and the UN system itself to its own expression of the prevention norm. Yet it has met resistance when attempting to export American-style prevention because it has not, at the same time, accepted both the limits that R2P places on US action in the absence of SC approval, and the authority of the ICC. Perhaps now that Samantha Power has become US ambassador to the UN, the US will embrace multilateralism as essential to the success of the prevention cascade. By doing so, American leaders will legitimate the emerging legal norm that a state’s breach of an *erga omnes* obligation is an internationally wrongful act to which the world is obliged to respond. Until such time as there is an R2P treaty or the customary behavior of states becomes more consistent, SC members will be able to dodge their secondary responsibility. But Americans’ commitment to prevention as a collective legal obligation will demonstrate to the world that having the capacity to dodge is different from having the right to dodge. When a state fails to prevent atrocities to its citizens, it not only devastates them but threatens the fundamental principles on which the world order rests. Both for the citizens’ sake and the defense of that order, the world must react.

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