



CHAPTER 6

INTERNATIONAL ACTION: Strengthening Norms and Institutions

It takes great moral strength to give up temporary political interests and inconveniences in order to build something bigger and better which will serve mankind as a whole.

—Raphael Lemkin

The record of the international community in responding to threats of genocide and mass atrocities falls far short of what the Genocide Prevention Task Force believes is adequate. Improving on this record must begin with a frank acknowledgment that for too long, too many nations and international institutions have found it too easy to avert their gaze from mounting signs of the most grievous peril to human life until too late. Even when the intervention of the international community has been forthcoming, it has usually been made more difficult for having been delayed. The lives lost in the interim, of course, can never be restored. The tragic backdrop against which this report appears is one of international indifference or inability to act effectively to prevent genocide and mass atrocities.

At the same time, the task force recognizes that a strong normative framework and capable international institutions are critical components of a U.S. strategy to prevent and halt genocide and mass atrocities. While the

focus of this report has been on the role of the U.S. government, partnerships with a range of international actors are not just desirable, they are a necessary requirement for successful efforts to counter genocide and mass atrocities in the future.

Core Objectives

The United States must be a leader of the international community in responding to the threat of genocide and mass atrocities. An honest accounting shows that the United States has much to its credit in these matters—from mobilization for total war to defeat the genocidal Nazi regime, to lesser military campaigns aimed at halting mass atrocities in Bosnia and Kosovo, to the enforcement of a no-fly zone in Iraq to protect that country's Kurdish population from Saddam Hussein's regime. In addition to military measures, the United States has been active diplomatically, for example in Kenya in early 2008, to prevent situations posing the danger of mass atrocities from escalating. And the American people have historically provided generous humanitarian assistance to victims of mass atrocities, dating back to the philanthropic contributions mobilized to aid the Armenian people early last century.

In some instances, the United States has acted alone, but the United States tends to be at its strongest when acting in a leadership role in partnership with other nations, international institutions, and NGOs. Although U.S. capabilities and leadership have often been decisive with regard to the success of a particular endeavor, the contributions others have made, in material assets and in strengthening the legitimacy of the action internationally, cannot be overstated. We believe such partnerships will be central to future successes.

While the United States has much to its credit, candor demands acknowledgment that it has not always lived up to the aspirations codified in the Genocide Convention, the Universal Declaration of Human Rights, and the UN Charter—or the principles of our own Declaration of Independence, which insists that all people are endowed first of all with an inalienable right to live. Too often, the United States has failed to act in a timely fashion and has engaged in counterproductive finger-pointing and denial. In the case of Rwanda in 1994, the United States found itself in the distress-

ing but morally necessary position of apologizing for failure to take timely action to halt the massacres of hundreds of thousands of people. More recently, the U.S. president and Congress declared the situation in Darfur to be genocide, but little concrete action followed.

Major Challenges

Blame for inaction hardly belongs solely to the United States; other governments have been willing to turn a blind eye to mass atrocities. Sometimes this indifference is a direct result of their own complicity, or a judgment that their own national interests override any concerns about mounting atrocities. Sometimes, governments seek refuge in the principle of a state's sovereign right of noninterference in its internal affairs at the expense of victims of mass atrocities.

The United Nations, too, has fallen prey to inaction and obfuscation. Just as the U.S. government must acknowledge that the United Nations responds to the political will or absence thereof among member states, so too must the United Nations fully embrace its unique institutional role in galvanizing and coordinating action when the international community finds itself wrestling with the gravest of crises. The UN Charter embodies universal principles, and the key challenge facing the member states of the United Nations is to use the unique legitimacy of the organization to uphold them, especially when great numbers of lives hang in the balance.

Even among states that are respectful of the rights of their own people, the political will to take action to prevent mass atrocities elsewhere is often missing. And governments contemplating action are often stymied by the sheer difficulty of organizing an effective response, alone or with others.

While many past episodes suggest that the international community responds to the threat of genocide and mass atrocities most effectively when the United States is actively engaged, many governments are wary of U.S. involvement and regard assertive U.S. policies as ultimately self-interested, even or perhaps especially when framed in terms of humanitarian purposes. Some of this sentiment is simply a by-product of the U.S. position as the world's leading military power. Some of it is traceable to suspicion of U.S. ambitions to transform other societies through such long-standing policies

as democracy promotion. Some of it is a response to the policies of a particular U.S. administration. Certainly, opposition to the Iraq war casts a long shadow. The United States cannot ignore this wariness. Rather, the U.S. government must deal with it straightforwardly: first, by stating clearly the principles and parameters of U.S. policy regarding genocide and mass atrocities, and second, by explaining on a case-by-case basis why action in response to such threats is important, what the stakes are, and why inaction is unacceptable.

Readiness to Meet the Challenge

In some cases, the United Nations has been the most effective vehicle for U.S. engagement. It is generally the preferred forum for many long-standing U.S. allies whose participation substantially contributes to effective action. It is also the forum that most states, democratic or nondemocratic, allies or antagonists of the United States, hold as the unique grantor of legitimacy in the international system. In seeking to lead an international effort to prevent mass atrocities or genocide, the United States will find opportunities and challenges at the United Nations.

The most important opportunity is the legal force and unparalleled legitimacy in the eyes of world governments of a UN Security Council resolution—if it is possible to obtain one. The greatest challenge is doing exactly that, often against the opposition or skepticism of other members of the Security Council, in particular the permanent members who have veto power. Too often, the price of agreement of all five permanent members has been the watering down of a response to an emerging threat to the point at which the resolution is ineffectual in averting the threat. Nevertheless, in responding to gathering threats of genocide or mass atrocities, the United States must work hard to succeed in the Security Council. Forging an effective response in cases involving the risk of mass atrocities is diplomacy at its hardest, and at its most urgent. The specific dynamics of each individual case will determine how long the United States should pursue a Security Council resolution before deeming it unachievable. However, even if an effective Security Council resolution remains elusive, the United States will earn international respect and credit for having tried. That respect may, in turn, prove vital in considering other avenues to address the emerging threat.

Partners

It is unacceptable to ignore a threat of mass atrocities or genocide. If the Security Council is unable to act, there may be other appropriate options.

Chapter VIII of the UN Charter specifically envisions regional arrangements in support of peace and security, provided they are consistent with the principles and purposes of the United Nations and enforcement actions are authorized by the Security Council. In recent practice, regional organizations have often notified the Security Council of actions taken under their auspices after the fact, rather than seeking authorization in advance. Many African states have demonstrated a willingness to take action through the African Union (AU) and subregional organizations, though such willingness has often been hampered by inadequate capacity. As discussed in Recommendation 5-3 and below, the U.S. government can work to fill these capacity gaps. Other regional organizations may have a role to play in their own neighborhoods.

NATO is a multilateral organization increasingly willing to act outside the territory of its membership. In response to a 2005 request from the AU, for example, NATO approved an assistance package for the AU mission in Darfur. In some instances, it may be appropriate to look to NATO to play a larger role in the prevention of genocide and mass atrocities. In 1999, the United States led an effective NATO effort to avert mass atrocities in Kosovo.

In the end, however, even if all institutions and organizations prove unable to take effective action, the United States should still be prepared to take steps to prevent or halt genocide. In such an instance, the only choice for the United States may be to try to assemble a coalition of like-minded nations to act. The international network proposed in Recommendation 6-1 could provide the basis for consultation and formation of coalitions prepared to act in specific cases. While the United States may face criticism for taking strong action in these cases, we must never rule out doing what is necessary to stop genocide or mass atrocities.

Tools and Capacities

Notwithstanding a record of past action that is mixed at best, members of the international community have begun to take steps, both normative and practical, that hold promise for saving lives.

Responsibility to protect. The potentially most important normative advance in relation to the threat of mass atrocities since the 1948 adoption of the Genocide Convention is the endorsement in the 2005 World Summit Outcome Document of the “responsibility to protect,” the principle that states have a sovereign responsibility to take effective action to protect populations resident on their territory from genocide, war crimes, crimes against humanity, and ethnic cleansing, and that the international community as a whole must assist states in fulfilling this responsibility when appropriate and must take effective action to prevent or halt a slide toward mass atrocities and genocide when a state manifestly fails to fulfill its sovereign responsibility. An important related concept within the AU is the principle of members’ “nonindifference” to atrocities and other egregious violations of provisions of the AU Constitutive Act. The AU Constitutive Act, in fact, granted African heads of state a collective “right to intervene” in cases of genocide a few years before the “responsibility to protect” concept was adopted at the United Nations.

The responsibility to protect is best understood as an important tool for moral suasion. Properly construed and carefully implemented on a case-by-case basis, the principles of responsibility to protect and nonindifference provide a strong basis for mustering political will and resources to prevent genocide and mass atrocities. The responsibility to protect is not, however, self-executing. Neither agreement to the language of the Outcome Document, nor its invocation in a particular case, creates a legal obligation to act nor sets in motion automatic action. Similarly, while parties to the Genocide Convention recognize genocide as a crime under international law, which they undertake to prevent and to punish, this has not been an effective trigger for international action. Both the Genocide Convention and the Outcome Document include a greater focus on prevention than is often noted, and taken together, these commitments form an important part of the international framework for preventing and halting genocide and mass atrocities.

Some governments that joined the consensus on the Outcome Document subsequently have voiced skepticism about the responsibility to protect. Many states are wary of the diminution of the principle of non-interference by outsiders in a state’s internal affairs. Some see the responsibility to protect as, or fear it will become, a modern-dress version of the *droit d’intervention*, a legitimizing pretext for great-power (especially U.S.) military adventurism to remake the world.

However, it has proven possible to win over some skeptics, including states with questionable human rights records of their own. In some cases, such states have been willing—and may in the future prove willing—to join the international community in taking action to fulfill the protection function in egregious cases of mass atrocities. Moreover, such states may see a benefit for themselves in the responsibility to protect, to the extent that it makes the resources of the international community available to them to fulfill their sovereign responsibility toward their people.

Above all, however, the responsibility to protect places an emphasis on *early* action for the *prevention* of atrocity crimes, which, pursued successfully, will obviate the need for non-consensual military intervention. Making these aspects of the responsibility to protect clear is a matter for adroit diplomacy at the United Nations and elsewhere.

A revolution in conscience. Not only many national governments and NGOs, but also international institutions and regional and subregional organizations have increasingly recognized that preventing genocide and mass atrocities and the conflicts that can lead in that direction is an urgent priority and they have begun to take steps to facilitate effective and timely responses to threats. For example, the UN secretary general has acted to expand the office of the special advisor on the prevention of genocide and appointed another special advisor to work on conceptual, institutional, and political dimensions of the responsibility to protect. The UN high commissioner for human rights has been an effective independent voice and commands important field resources. The AU has enhanced its early warning capability and developed extensive plans to improve its capacity to act effectively in response to threats to peace and security, including genocide and mass atrocities. Similarly, the Economic Community of West African States (ECOWAS) has emerged as a strong subregional African organization, willing to play a role in responding to threats to peace and security, including mass atrocities. In Asia, the Association of Southeast Asian Nations (ASEAN) has adopted a new human rights charter, a first for the region, and some of its member states have been among the foremost proponents of the responsibility to protect.

The European Union appears likely to create a new institutional mechanism on the prevention of genocide and it has adopted a new Africa strategy that calls for dedication of substantial resources to improving AU ca-

capacity. NATO has provided assistance to the AU mission in Sudan. The United States and the European Union have opened diplomatic missions to the AU, and other governments, alone or acting in concert, have taken steps to boost both normative awareness of the need to prevent mass atrocities and the capacity to take action. NATO has a liaison officer in Addis Ababa, the AU headquarters. In Brussels, a NATO deputy secretary general has been designated the focal point for cooperation between NATO and other institutions. NATO and the United Nations have reached agreement on a memorandum of understanding that clarifies the nature and scope of their mutual interest.

Other international actors play an increasingly important role in efforts to prevent genocide and mass atrocities. Religious institutions and leaders provide timely warning about threats in remote areas they serve, as mentioned in earlier chapters, and can act as catalysts for preventive action in their communities. While some multinational corporations remain largely indifferent to the threat of mass atrocities, except with regard to their own personnel, more responsible companies are beginning to recognize the potential damage to their interests that an association with perpetrators of mass atrocities can bring; they also recognize that their own current and future investment plans can offer leverage over governments to promote more responsible behavior. The international financial institutions (IFIs) also have a role to play in preventing genocide and mass atrocities. Understanding that widespread violence is profoundly disruptive of economic development and places existing (or potential) investment in a country in a high-risk category, the World Bank has moved in recent years to include violent conflict and governance as factors in its design or withholding of assistance.

The scope of activity along the lines described here indicates a revolution in conscience in the international community on the need to act early to prevent genocide and mass atrocities. Collectively, it offers a glimpse of the possibility of a world in which genocide is a thing of the past. But much work remains to be done, and the United States must lead.

Impunity no more. There is an emerging international consensus that perpetrators of genocide and mass atrocities must be held accountable for their conduct. For much of recorded history, accountability was deeply

intertwined with “victor’s justice,” and was often practiced brutally and in the spirit of revenge.

The principle of nonimpunity emerged in the 20th century not only as a principle of accountability but also as a juridical process protecting defendants’ rights. In 1993, the UN Security Council established the International Criminal Tribunal for the former Yugoslavia, with a mandate to prosecute grave breaches of the 1949 Geneva Conventions, violations of the law or customs of war, genocide, and crimes against humanity. As of mid-2008, the tribunal had indicted 161 persons and concluded proceedings against more than 100. The most notable defendant was certainly former Serbian strongman Slobodan Milosevic, who died before a judgment was rendered in his case. The arrest of Bosnian Serb leader Radovan Karadzic in July 2008 for genocide, war crimes, and crimes against humanity committed in Bosnia in the 1990s represents important progress in bringing war crimes suspects to justice.

In 1994, the Security Council established the International Criminal Tribunal for Rwanda to investigate genocide, crimes against humanity, and violations of Article 3 common to the Geneva Conventions and of Additional Protocol II. As of mid-2008, the court had issued 94 indictments. In 2000, a Security Council resolution directed the UN secretary general to negotiate with the government of Sierra Leone the creation of a special court to investigate violations of international humanitarian law and Sierra Leone national law. This “hybrid tribunal” has issued twelve indictments. Another hybrid court, the Extraordinary Chambers of the Court in Cambodia, created in 2004, with the first suspects being accused in 2007, is at last holding to account surviving Khmer Rouge perpetrators of atrocities between 1975 and 1979, including the notorious Ieng Sary. The United States supported the creation of these tribunals.

Meanwhile, in 2002 the International Criminal Court (ICC) began operations under the provisions of the so-called Rome Statute of 1998, an international treaty now joined by 106 state parties. The United States signed the Rome Statute under the Clinton administration in 2000, but identified aspects of the treaty requiring further negotiation. President Clinton recommended no Senate action on the treaty until U.S. concerns had been met; thus the United States was never a state party to the treaty. Officials

objected especially to the treaty's asserted jurisdiction over nationals of states that were nonparties for acts committed on the territory of states party to the treaty. U.S. negotiators had argued unsuccessfully for treaty language that would have established the court's jurisdiction only over nationals of state parties for actions in the territory of state parties.

Citing principally this objection and the prosecutor's authority to initiate cases on his or her own motion (with the approval of two judges on the court), the U.S. government under the Bush administration effectively deactivated the U.S. signature on the Rome Statute in 2002, shortly following the threshold event of sixty national ratifications required for the court to become established and operational. The court has since accepted self-referrals from three national parties: the Democratic Republic of the Congo (2004), Uganda (2004), and the Central African Republic (2005).

Many observers questioned whether the Bush administration was opposed in principle to any sort of international criminal court or whether its objections were confined to those stated. In 2005, the UN Security Council took up a resolution referring the situation in Darfur to the ICC prosecutor. The resolution included language specifically exempting the nationals of nonparties from any claim of jurisdiction on the part of the court. And this was an instance of the court being asked to take up a situation under the specific mandate of the Security Council, not solely on its own authority or at the request of a state party. To the surprise of some, the United States abstained, thus allowing the resolution to go forward, and the ICC accepted jurisdiction.

The United States regularly has affirmed a *de facto* commitment to international justice and the referral of atrocity crimes to international tribunals when local courts are unable or unwilling to hold perpetrators accountable. In short, notwithstanding continuing U.S. government objection to certain important facets of the governing structure of the ICC, the United States has shown that when its specific objections can be satisfied with an appropriately framed Security Council resolution referring a matter to the ICC, the United States has no disagreement in principle with the ICC taking jurisdiction. Senior U.S. officials have since made statements in support of the court's work on the Darfur situation, and have more broadly affirmed the U.S. commitment to international justice.

Some have questioned whether the threat of ICC prosecution has a deterrent threat on potential perpetrators of atrocity crimes in the way that fear of prosecution under national law deters ordinary crime. Although the history of the principle of nonimpunity for mass atrocities is too short to render anything like a definitive judgment, anecdotal evidence suggests that some perpetrators are more fearful that they will be prosecuted by the ICC than that they will be held accountable locally. It is important to note that any deterrent benefit from the threat of ICC prosecution will be felt most keenly to the extent that the international community demonstrates its willingness to detain indicted fugitives and bring them before the court.

Some have also expressed concern that the threat of ICC prosecution is a powerful deterrent only so long as it is credible but unused. By this reasoning, once an indictment has been handed down, the accused no longer has reason to restrain his or her conduct. Others fear that an ICC indictment might stand in the way of a desirable peace agreement that would include a provision granting amnesty or immunity in exchange for cessation of hostilities. These debates have come to the fore in 2008 with the ICC prosecutor's presentation of evidence to a panel of judges asking for the issuance of an arrest warrant against Sudanese president Umar Hassan al-Bashir on charges of genocide, crimes against humanity, and war crimes for his role in the violence in Darfur.

Such concerns illustrate that nothing in international politics comes entirely without cost: For every benefit, there is some price to be paid. The question over the long term is whether the benefits of an international legal regime of non-impunity outweigh the costs. By their actions, responsible members of the international community, including the United States, have concluded that the potential benefits do indeed outweigh the costs, and they are unlikely again to allow disputes over the means of pursuing justice to overwhelm the principle that justice must be done.

It is a considerable achievement of the international community, of which the United States is an integral part, that the norm-creating work related to the protection of populations from the threat of genocide or mass atrocities has been largely completed, beginning with the identification of war crimes and crimes against humanity, continuing through the adoption of the Genocide Convention, and now through acceptance of the principle of

nonimpunity and the concept of the responsibility to protect. Were any of these pieces missing from the international system, the most urgent task facing those concerned to prevent genocide and mass atrocities would be to press for their adoption. With these elements in place, the focus must now shift to implementation and to operationalizing the commitments they contain.

Responding to the Challenge

As discussed in Chapter 1, engaging global partners in genocide prevention should begin with personal diplomacy by the president, for example, through a speech to the UN General Assembly and in discussions with his or her G-8 counterparts. In addition, we recommend:

Recommendation 6-1: The secretary of state should launch a major diplomatic initiative to create among like-minded governments, international organizations, and NGOs a formal network dedicated to the prevention of genocide and mass atrocities.

Despite a range of potential partners, there currently exists no coherent framework for U.S. government engagement with other governments, international and regional organizations, and NGOs to facilitate effective and early action to prevent genocide and mass atrocities.

The network, once constituted, would institutionalize information and intelligence sharing and cooperation among members. It would provide a forum for airing NGO warnings and would ensure that information about emerging threats of mass atrocities entered deliberations among senior policymakers in a timely fashion. It would also constitute an international working group for considering emerging threats and how to respond to them, and could form the basis for coordinated action up to and including the deployment of military forces by a multinational coalition of states. This would help address the need, described in Chapter 5, to back political strategies with viable and credible military options. Designed to supplement (not supplant) the work of the United Nations, international and regional organizations, NGOs, and other governments, the network's chief utilities would reside in the facilitation of the flow of information, and co-

ordination of preventive strategies and capacity-building initiatives across national borders. Further, this network could engage developed and developing states, provide stronger links to existing organizations, and help nations identify and bridge capacity gaps in current abilities and take effective action across the spectrum of counter-genocide strategies.

As a first step, the U.S. government should convene a major international conference whose purpose would be to create the network through the adoption of a statement of principles for the prevention of genocide and mass atrocities. It would lead to the designation of a focal point on this issue by all participating governments, international and regional organizations, and NGOs. These designated focal points would have the responsibility for follow-up efforts in information sharing and the coordination of prevention strategies and capacity-building initiatives.

The secretary of state should designate the assistant secretary for democracy, human rights, and labor as the focal point for international coordination and cooperation on prevention of genocide and mass atrocities. On an ongoing basis, the assistant secretary would seek to kindle a robust dialogue between the U.S. government and international NGOs and work to ensure that adequate resources flow to those NGOs generating critical information for early warning, such as the International Crisis Group.

The Bureau of Democracy, Human Rights, and Labor would also seek to mobilize non-traditional resources for the prevention of genocide and mass atrocities, including the public finance and business sectors. For example, the United States should recruit responsible multinational corporations into an initiative, drawing on the experiences of the UN Global Compact and the Global Business Coalition on HIV/AIDS, Tuberculosis, and Malaria, in which they can contribute to the prevention of genocide and mass atrocities, both directly in terms of the influence they may have in countries in which they have invested or operate, and indirectly through declaratory support for the statement of principles for the prevention of genocide and mass atrocities. Through such an initiative, the United States can multiply its prevention efforts, and corporations can demonstrate their responsibility to a growing constituency of socially conscious consumers.

The United States should also encourage the IFIs to participate in the network and to monitor information regarding emerging threats of mass atrocities in client countries. Financing should not flow in “business-as-

usual” fashion to any country moving toward genocide or mass atrocities; if it flows at all, it should only be in coordination with steps to reverse that trend. In addition, the possibility that World Bank financing may be denied or withdrawn unless policies leading to genocide are changed will supplement international diplomatic pressure on the government in question.

Recommendation 6-2: The secretary of state should undertake robust diplomatic efforts toward negotiating an agreement among the permanent members of the United Nations Security Council on non-use of the veto in cases concerning genocide or mass atrocities.

The United States has a strong interest in improving the effectiveness of the UN Security Council in responding to mass atrocities. There is no substitute in the international system for a strong statement by the council; the United States must, therefore, invest diplomatic capital in negotiations within the council on specific cases, as well as in efforts to improve the functioning of the body itself. Too frequently, one of the five permanent members of the UN Security Council has made effective collective action virtually impossible by threatening veto, implicitly or explicitly. This has led to either watered-down, ineffectual resolutions, or no resolution at all. Uniquely empowered by the UN Charter, the five permanent members have unique responsibilities to fulfill the mission of the charter.

The U.S. ambassador to the United Nations should initiate a dialogue among the five permanent members (P-5) of the Security Council on the special responsibility they have to prevent genocide and mass atrocities. A principal aim should be informal, voluntary mutual restraint in the use or threat of a veto in cases involving ongoing or imminent mass atrocities. The P-5 should agree that unless three permanent members were to agree to veto a given resolution, all five would abstain or support it. This should apply, in particular, to resolutions instituting sanctions and/or authorizing peace operations in situations when mass atrocities or genocide are imminent or underway. The P-5 should also agree that a resolution passed by two-thirds of the General Assembly finding that a crisis poses an imminent threat of mass atrocities should add further impetus to an expeditious Security Council response without threat of a veto. An agreement along these lines would make the Security Council a more effective vehicle in cases when a permanent member might otherwise prefer to block action. This

dialogue should also address the prospect of increased contributions by the P-5 to UN peacekeeping operations, as discussed in Chapter 5.

Recommendation 6-3: The State Department should support the efforts currently under way to elevate the priority of preventing genocide and mass atrocities at the United Nations.

The United States should support the efforts of the UN secretary general's special advisor on the prevention of genocide and the special advisor working on the responsibility to protect. It should carefully study proposals for mechanisms to implement the responsibility to protect issued by the secretary general and offer support as appropriate. The United States also should share information with those offices and support efforts to give more resources to their work. Finally, it should help the special advisor on the prevention of genocide establish a firm footing at the Security Council by inviting him to brief the council periodically and on specific situations of concern.

The United States must support the independence of the UN high commissioner for human rights and seek to strengthen his or her capacity and that of human rights rapporteurs and officers in the field. The United States must recognize that its own conduct may, from time to time, be subject to criticism from this office under the principle that all governments can improve their human rights performance. The United States also must recognize that the alternative to an independent high commissioner is not one more favorably disposed toward the United States and U.S. views of human rights, but a high commissioner more beholden to human rights abusers. Finally, the United States should support the high commissioner's consistent participation in policy formulation within the UN system.

The United States must recognize that, however egregious its failings so far, the UN Human Rights Council has, in principle, the potential to facilitate international efforts to prevent genocide and mass atrocities. Whether from the inside or the outside, the United States must work to reform this body. The central objective of reform efforts should be for the council to devote its full attention to the most severe human rights problems in the world.

The United States should carefully assess biennially whether the benefits of membership on the Human Rights Council outweigh the costs. Neither a

doctrinaire position that membership is always beneficial to the broader cause of human rights, including the prevention of genocide and mass atrocities, nor the contrary position that U.S. engagement at the council is always deleterious because of the body's flaws, is appropriate. Largely in accord with former secretary general Kofi Annan's proposal, the United States worked for and hoped for a Human Rights Council more effective than the failed Human Rights Commission it replaced. This hope was misplaced, but it may be possible for the United States to press a reform agenda in conjunction with seeking a seat on the council and then assess future participation on the basis of the progress of reform. At the same time, the United States must not rule out more aggressive approaches in the event the council proves immutably resistant to reform.

Recommendation 6-4: The State Department, USAID, and Department of Defense should provide capacity-building assistance to international partners who are willing to take measures to prevent genocide and mass atrocities.

The United States should begin or augment bilateral and multilateral dialogues grounded in partnership and in a commitment to preventing genocide and mass atrocities. The result should be, as appropriate, a memorandum of understanding spelling out an action plan establishing goals, deliverables, and timetables for the parties. The United States should begin this process at once, with all governments and institutions ready and willing to engage seriously on this basis. Both the AU and ECOWAS have expressed the desire to engage with the United States and others to build their capacity to prevent conflicts that may lead to genocide and mass atrocities. As ASEAN is gaining competencies on human rights and other issues related to protecting civilians, the United States should engage as fully as possible in building these capacities.

Capacity building should include support across the full range of genocide prevention and response. As discussed in earlier chapters, this should include further development of regional early warning systems, such as the African continental early warning system; enhancing preventive diplomacy capacities, such as the UN mediation support unit; and building military capabilities, such as the ECOWAS standby force.

Previous capacity building efforts have suffered in part because of poor coordination among donors. The United States should, therefore, pay special attention to promoting greater coherence and coordination in partnerships designed to enhance international capacity to prevent genocide and mass atrocities. The United States should commit to a commensurate increase in its resource commitment to partners.

Recommendation 6-5: The secretary of state should reaffirm U.S. commitment to nonimpunity for perpetrators of genocide and mass atrocities.

Although the stated concerns of the U.S. government preclude the United States from becoming a party to the Rome Statute at present, the United States must acknowledge, embrace, and build on the emerging *modus vivendi* between the U.S. government and the ICC. The United States should send an observer delegation to the ICC assembly of state parties deliberations in 2009 and 2010, participating as fully as possible in the assembly's scheduled discussions on the definition of the crime of "aggression," among other topics of considerable importance to the United States.

Within the constraints of U.S. law, the United States should cooperate fully and share information with the court on all situations in which the United States has not opposed the court taking jurisdiction. Of course, the decision as to what to share should be made on a case-by-case basis with due regard to the sensitivity of intelligence sources and methods. The United States should downgrade the salience of its objections to the court in its bilateral relations with countries that are state parties to the Rome Statute.

