
Atrocity Prevention Under the Obama Administration

What We Learned and the Path Ahead

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Overview and Methodology

This report is intended to provide an insider’s view on where the Obama administration’s efforts to prevent mass atrocities succeeded, where they did not, and where future policy makers who wrestle with the challenge of prevention might find useful lessons in the administration’s experience, both positive and negative.

The first part of the report summarizes the intellectual roots of the Obama administration’s atrocity-prevention policy, identifying the goals and expectations created by two key works—Samantha Power’s *“A Problem from Hell”: America in the Age of Genocide*¹ and the report of a bipartisan task force on genocide prevention led by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen.² The second part of the report describes how the administration translated those goals and expectations into policy and summarizes the administration’s record on atrocity prevention. It focuses in particular on situations in which policy changes and innovations appear to have had a positive effect, however modest, and on efforts to develop new capabilities under the policy. The third part looks at the two most prominent situations in which the policy was unsuccessful —Libya and Syria. The fourth part offers an “after action” assessment of the administration’s atrocity-prevention policy, drawing from interviews with former senior officials to identify both the strengths and contributions of the policy and its most pronounced shortcomings. The fifth part offers recommendations for future executive-branch officials, legislators and staff, and civil society partners for ways in which they could help the United States improve its performance on atrocity prevention going forward.

The report is in many respects a hotwash exercise. The bulk of it was written in the first six months following the end of the Obama administration, drawing from the author’s reflections on his recent tenure as senior director for African Affairs, Multilateral Affairs and Human Rights on the staff of the Obama administration’s National Security Council, as well as his experience as chairman of the Atrocities Prevention Board. The report also draws extensively from interviews with more than 30 former senior Obama administration officials and others with insight on the administration’s atrocity-prevention efforts.³ Finally, this report owes a significant debt to earlier reports that have also sought to evaluate the administration’s atrocity-prevention record.⁴

Given the brevity of the report relative to the scope of its topic, both the analysis and recommendations herein are relatively skeletal. The report is offered with humility and as an effort to add one group of recollections and perspectives to a growing historical record. It is hoped that as this record continues to develop, it will provide the next generation of atrocity-prevention proponents new and better options to confront the challenges of the future, having profited as fully as possible from the lessons of the past.

Redefining Success: Imagining a Blueprint for Atrocity-Prevention Policy

As observed in a 2017 report on the Obama administration’s approach to atrocity prevention, it is simultaneously true that no US president has more systematically confronted the challenges of preventing and responding to mass atrocities than Barack Obama, and that those efforts met with “mixed results.”⁵ The report might also have noted that no administration has generated higher expectations for its work in that area. To understand the disconnect separating the effort, expectations, and results of the Obama Administration’s atrocity-prevention efforts, it is useful first to look back at the intellectual roots of the administration’s atrocity-prevention policy.

The generation of leaders and thinkers whose work most directly informed the Obama Administration’s atrocity-prevention efforts emerged following the disintegration of the Soviet Union in the 1990s. Most prominent within that group was Samantha Power, who would become one of Obama’s closest advisors and serve eight years in his administration. Power’s 2002 book—“*A Problem from Hell: America in the Age of Genocide*”—was the single most influential source of ideas framing the discussion of atrocity-prevention policy during the Obama administration. The book examines the seam between what US officials knew and did not know about atrocities such as the gassing of Kurds in the 1987-1988 Anfal campaign and the killing of 8,000 Tutsis a day over the course of the 1994 Rwandan genocide. In so doing, it explores the mechanisms by which US foreign policy officials avoided fully confronting the horror of those situations, thereby making the United States a “bystander” to crimes of enormous gravity.⁶ Perhaps the book’s most jarring conclusion is that the US government’s passivity in the face of the atrocities it describes was the manifestation of deeply embedded preferences to keep those ugly crises at arm’s length. Power writes that because they did not want to accept the costs and risks of preventive action, US policy makers overemphasized the ambiguity of facts about emerging or ongoing atrocities, avoided using the term “genocide” (which they believed would create a stronger moral, legal, and political imperative to act), and consoled themselves that crises were being appropriately handled simply because they were being worked over by an endlessly churning foreign policy bureaucracy. Summing up, Power writes,

*One of the most important conclusions I have reached, therefore, is that the US record is not one of failure. **It is one of success.** Troubling though it is to acknowledge, US officials worked the system and the system worked.⁷ (Emphasis added.)*

In seeking to reorient the US foreign policy establishment toward a more appropriate definition of success, “*A Problem from Hell*” appeals to both morality and national interest. In addition to arguing that the United States has a duty to save innocent lives from violence on a massive scale when it can be done at “reasonable cost,” “*A Problem from Hell*” also makes an interest-based case that the failure to do so undermines regional stability, creates “militarized” refugees, and signals to dictators that hate and murder are “permissible tools of statecraft.”⁸

The ideas offered in *“A Problem from Hell”* had tremendous resonance. In 2008 they acquired additional weight and bipartisan support through the work of the Genocide Prevention Task Force, a senior bipartisan group led by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, and sponsored by the US Holocaust Memorial Museum, the American Academy of Diplomacy, and the US Institute of Peace. The Task Force produced a report—styled as a “blueprint” for preventing genocide—that sounds many of the same key notes as Power’s 2002 book. The report observes with regret the failure of the United States to develop a comprehensive policy for prevention, makes a moral and interest-based case for pursuing genocide prevention as a mainstream objective of US foreign policy, and emphasizes the critical need for US leadership while also noting the importance of working with partner governments. Significantly, the report does not confine itself to the prevention of genocide within the narrow legal definition of that term but defines genocide prevention to cover all “large scale and deliberate attacks on civilians.”⁹ Even with that much-expanded definition, the report argues that ending genocide is an “achievable goal.”¹⁰

Also echoing Power, the Task Force Report notes that “the United States has many tools at its disposal, a wide range of options between the extremes of doing nothing and sending in the Marines.”¹¹ It argues for stronger early warning to understand where risks are gathering, more generous early prevention funding to bolster programs that can brake a country’s slide toward genocidal violence, and (when the brakes seem to be failing) more active crisis response. Recognizing that cabinet-level officials invariably are stretched too thin to manage a crisis while it “bubbles near but just short of catastrophe for months on end,”¹² the report proposes the creation of a new Atrocities Prevention Committee to perform that task at the assistant secretary level. It also suggests that the president clearly convey to his administration—for example, in the inaugural address or an early executive order—that atrocity prevention is a “national priority” so that senior officials know that they need to pay attention when situations start to boil over.¹³

Although it strongly emphasizes making the US government better at upstream prevention, however, the Task Force Report accepts that upstream work will not always be sufficient. It suggests that in some crises the threat or use of military force may seem to be the only remaining option to achieve an end to spiraling violence, and the report highlights some of the challenges that emerge when an outside force intervenes militarily to end genocide. The Task Force Report notes that the US military does not have well-developed doctrine and planning for how to engage in “civilian protection” and, more fundamentally, warns that any intervention in civil conflict may effectively constitute picking sides in a civil war. It also observes that if the UN Security Council fails to give authorization (as it did in Kosovo), the nonconsensual use of force on another country’s territory will be widely regarded as a breach of sovereignty and prohibited by the UN Charter. That in turn can make it difficult to assemble a multilateral force to manage the crisis. Military intervention to protect another country’s civilians may also face domestic political opposition.

The Task Force Report does not offer fully satisfying recommendations to address those challenges. It recommends that the US armed forces develop better training, doctrine, and planning so that the president’s military advisors can present the strongest possible options for confronting atrocity scenarios. It entertains a possible arrangement by which the veto-wielding members of the Security Council might agree among themselves not to veto atrocity-related resolutions.¹⁴ It talks about the importance of building political constituencies for atrocity prevention. But the bottom line it offers is that decisions about the use of force are judgment calls to be made at the level of the president, based on sober

consideration of the best available information and military options. Thus, the blueprint offers very little concrete guidance for the most sensitive and consequential decisions that it contemplates US officials face in the area of atrocity prevention.

In sum, *“A Problem from Hell”* and the Task Force Report together envisage a US foreign policy that would use institutional mechanisms to manage atrocity-related crises before they boil over and encourage the government’s most senior leadership to treat atrocity prevention and response as a genuine priority—one worth taking some risks and paying (to use a phrase from Power’s book) “reasonable costs” to advance. By that yardstick, the Obama administration made progress worth carrying forward and building on. At the same time, the most prominent failures of the prevention agenda during that period—failures that arose out of risks that were both taken (Libya) and not taken (Syria)—also offer important lessons for the future.

The Obama Administration's Record on Atrocity Prevention

Bringing the Blueprint to Life—2009–2012

The Genocide Prevention Task Force Report was released on December 8, 2008, six weeks before Barack Obama's inauguration. Obama brought with him a foreign policy team that Obama administration alumnus Jeremy Weinstein describes as including many "progressively oriented multilateralists" who believed that the previous administration had abandoned US values, and sought to reclaim that space by reestablishing US leadership on foreign policy issues with a renewed moral dimension.¹⁵ It was natural, suggested Weinstein, that the group would be predisposed to making the United States more active on prevention issues. Moreover, within this broader corps was a very significant cadre of individuals who had shaped and promoted the ideas set forth in "*A Problem from Hell*" and the Task Force Report. Samantha Power was a close advisor to President Obama and in his first term assumed the role of senior director for the National Security Council's (NSC) Multilateral Affairs and Human Rights directorate—a position that if anything undersold her stature and influence in the new administration.¹⁶ Most important, though, was President Obama himself. Although pragmatism would arguably become, over time, a defining theme of his foreign policy, his preadministration writings and statements on the United States' role in the world reflected the progressive, values-inflected, and multilateralist leanings of many of his senior staff. In a 2007 *Foreign Affairs* article, the then-senator summed up his vision for US global leadership as follows:

*We can neither retreat from the world nor try to bully it into submission. We must lead the world, by deed and by example. Such leadership demands that we retrieve a fundamental insight of Roosevelt, Truman, and Kennedy...the security and well-being of each and every American depend on the security and well-being of those who live beyond our borders. The mission of the United States is to provide global leadership grounded in the understanding that the world shares a common security and a common humanity.*¹⁷

Obama's inclination to see and articulate US interests in the struggles and suffering of people living in other parts of the world set the stage for his advocacy on Darfur during his years as a senator and for the ground that he personally staked out on the prevention of atrocities during his time in the White House.¹⁸ One of the earliest such markers came in his Nobel Peace Prize acceptance speech in December 2009, which observed that the use of military force could be "justified on humanitarian grounds," that "inaction tears at our conscience and can lead to more costly intervention later," and that "responsible nations must embrace the role that militaries with a clear mandate can play to keep the peace."¹⁹ Another early marker came in the 2010 National Security Strategy, which committed the United States to work "both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities."²⁰

The president's recognition of both moral and interest-based rationales for preventing genocide and mass atrocities and his commitment to work in the service of genocide prevention always sat in potential tension with a deeply ingrained wariness of draining entanglements following the US experience in Iraq and, more distantly, Southeast Asia.²¹ That tension, however, did not necessarily set him at odds with the body of atrocity-prevention thinking that had emerged from "*A Problem from Hell*" and the Task Force Report. As indicated above, military intervention was a heavily freighted topic and one on which the Task Force Report walked a careful line, deferring to the judgment of senior policy makers and amply noting the risks and challenges involved. In that sense, Obama's cautious approach to armed intervention could be reconciled with the relevant literature, and his broader policy statements gave ample space for the prevention advocates on his team to pursue their agenda vigorously.

The measures that the administration took in its early years fell into three primary categories. First were the personnel decisions and other signals that structural changes were afoot. Perhaps most prominently, in her capacity as NSC senior director, Power successfully advocated for the creation of a new position in her directorate specifically focused on the prevention of war crimes and other atrocities, and she made a high-profile appointment in the form of David Pressman, a Darfur activist and human rights lawyer.²² Pressman traveled to Eastern Europe to press for the apprehension of at-large war criminals; sounded the drumbeat for contingency planning on potential atrocity crises in places such as Kenya, which faced a constitutional referendum in 2010; and worked effectively for the establishment of commissions of inquiry as a first step toward accountability in multiple atrocity situations. During the same period, National Security Advisor James Jones wrote to Senator Russ Feingold noting that he had been impressed by the Task Force Report and committing to the creation of a new "interagency policy committee" on atrocity-prevention issues,²³ and Director of National Intelligence Dennis Blair wrote to Senator Dianne Feinstein committing to specific measures to enhance the intelligence community contributions to US government atrocity-prevention efforts.²⁴

Second, there was a pronounced investment of intellectual, diplomatic, and political capital in reengagement with the multilateral institutions that the atrocity-prevention community saw as necessary for burden sharing and mobilizing the instruments of collective action, such as multilateral financial sanctions, the tools of international criminal justice, peacekeeping, and use of force mandates. Obama's first speech to the United Nations General Assembly, in September 2009, emphasized that the United States had reengaged the United Nations by paying its dues, joining treaties, and embracing multilateral development goals. The administration also successfully sought election to the UN Human Rights Council in Geneva, which the previous administration had written off as irredeemably flawed but which the Obama team saw as a forum where it could, among other things, help create tools (fact-finding missions, commissions of inquiry, and special procedures) in the service of atrocity prevention. At the same time, senior State Department officials, such as Legal Adviser Harold Koh and Ambassador-at-Large for War Crimes Issues Stephen Rapp, sought to build bridges to the International Criminal Court (ICC), an institution with which the US government historically had a guarded and occasionally antagonistic relationship because of concerns that it would seek to assert jurisdiction over US service members. Recognizing that US membership in the court was not a near-term reality, the focus was on working together to bring atrocity perpetrators to justice in cases of mutual interest, which turned out to be virtually all cases under active investigation by the ICC prosecutor.²⁵

Finally, the new administration threw senior-level diplomatic weight into efforts in a range of countries that demonstrated the broad nature of its atrocity-prevention agenda. Those efforts were summed up in the 2012 fact sheet accompanying the launch of the administration’s new Comprehensive Strategy for Atrocity Prevention, which proclaimed that “The Obama Administration has amassed an unprecedented record of actions taken to protect civilians and hold perpetrators of atrocities accountable.”²⁶ The fact sheet cited US efforts to prevent, respond to, and punish atrocities in a diverse group of countries, many of which were not places where the United States had traditional strategic interests. Among other actions, the fact sheet noted successful efforts to create a commission of inquiry for ethnic violence in Kyrgyzstan; to join with France in brokering a leadership succession in Côte d’Ivoire when the latter teetered on the edge of spiraling violence in 2010–2011; and to guarantee a peaceful independence referendum for South Sudan in the early weeks of 2011.

The two highest-profile countries listed on the sheet—Libya and Syria—were, however, a different story. Libya was a question mark in that it was unclear whether the recently concluded intervention would end well. The UN Security Council had thrown every tool in the atrocity-prevention tool box at the crisis in Libya—escalating through sequential resolutions from an arms embargo, ICC referral, travel ban, and financial sanctions to a mandate for the use of force in enforcing a no-fly zone and protecting civilians. In some respects, the intervention had worked: there was no mass slaughter in Benghazi, and the threat Qadhafi had posed to civilians had been addressed with the downfall of the regime. Inside the administration, however, there was both some regret about the manner of Qadhafi’s demise and some uneasiness about the seeming rudderless nature of Libyan-led efforts to build stable post-conflict governance, which would increasingly founder over time.

Syria was a yet darker story. Russia and China had already vetoed two Security Council resolutions that would have expressed grave concern about the situation in Syria, signaling that the United Nations could not be relied on to generate a collective response to the crisis. That lack of resolve would place a huge obstacle in the path of effective atrocity-prevention efforts. Although the fact sheet sought to emphasize the positive by pairing Assad with Qadhafi—highlighting the administration’s efforts to “bring pressure to bear” on both of their regimes through sanctions, support for the opposition, and support for initiatives to bring perpetrators of atrocities to justice—it could not offer any realistic sense of how the United States would help resolve the Syrian conflagration.

Bringing the Blueprint to Life—2012–2016

On April 23, 2012, President Obama placed his personal imprimatur on the Comprehensive Strategy with a speech at the United States Holocaust Memorial Museum. It was a time when those individuals who worked on prevention issues in the administration saw evidence that the prevention community’s blueprint was working, notwithstanding uncertainty about Libya and deep concerns about Syria. Assertive US leadership on the global stage—channeled where possible through the United Nations and guided by support in the upper reaches of the US government—appeared in many cases to be yielding the kinds of positive outcomes that “*A Problem from Hell*” and the Task Force Report aspirationally envisaged. Next,

the team turned its focus to creating the institutional structures that the Task Force had imagined might take prevention efforts to the next level.

Although those structures were formally rolled out in President Obama's April 2012 speech, they were the outgrowth of a process that had been ongoing for the better part of a year. Eight months earlier, on August 4, 2011, the President had issued a mass atrocities directive, Presidential Study Directive 10 (PSD-10), which traced its lineage back to the Task Force Report and *"A Problem from Hell."* The echoes were striking. In its first sentence, the directive made clear that atrocity prevention would now be a mainstream priority for US foreign policy, deeming the prevention of genocide and mass atrocities to be a "core national security interest and a core moral responsibility of the United States." That statement both drew from and—in characterizing the interests as "core"—went further than the "national priority" language recommended in the Task Force Report. The new language would later engender some criticism when commentators observed that the Obama administration did not, in practice, put atrocity prevention on the same level as other top national security priorities, such as the proliferation of weapons of mass destruction, counterterrorism, and energy security.²⁷ When asked about the use of the term "core interest," two former senior officials suggested that, in hindsight, "strong" or "important" interest might have been better calibrated to the administration's actual approach.²⁸

In a further echo of Power and the Task Force Report, the directive noted that in the face of a potential mass atrocity, "our options are never limited to either sending in the Marines or standing by and doing nothing." Finally, the directive ordered the establishment of an "Atrocities Prevention Board" very much like the committee that the task force had recommended. The board would comprise representatives from all national security departments and agencies and be chaired by the NSC senior director for multilateral affairs and human rights. To inform the board's work, the directive set in motion a 100-day review of the US government's prevention and response capabilities, which would then produce gap-filling recommendations to the president.

The NSC team leading the review pushed hard to make best use of that moment by building consensus around worthy proposals that, under different circumstances, might languish either for lack of momentum or because they ran afoul of one or more agencies' perceived institutional interests. The biggest breakthroughs that approach yielded were with the intelligence community, which agreed to commit the resources necessary to produce the first national intelligence estimate on the global risk of mass atrocities and also to be more flexible about providing surging capabilities to get more accurate ground truth during crisis situations. The interagency review also generated commitments from agencies and departments to focus greater energy on developing training; lessons learned analysis; capacity to deploy civilian technical experts to crisis areas; performance incentives to encourage atrocity reporting and preventive actions; alert channels to ensure that early warnings and dissenting views on atrocity situations would be heard by senior officials; and new partnerships with other governments, regional organizations, the United Nations, and the private sector. Implementation proved to be uneven, but giving the board a presidential mandate and creating the expectation that departments and agencies would be accountable to it for progress on presidentially approved commitments created motivation and opportunities for departments and agencies to allocate staff and resources to atrocity prevention.²⁹

At the same time, the review group also struggled to make progress on two prominent potential policy innovations. The Treasury Department would not commit to supporting the development of a new executive order that would have permitted the US government to designate perpetrators of atrocities for

financial sanctions wherever they might be. There was some debate about whether such an order would add value. Proponents argued that a standing authority would allow the United States to apply pressure to atrocities perpetrators regardless of whether they hailed from a country where the United States had a sanctions program in place. Although the United States could create new programs, proponents of a new executive order pointed out that the country-by-country approach required the president to find a national emergency to exist in each country in question and that such a decision could be a politically costly step in the case of countries where the United States was trying to maintain strong bilateral relations. The Treasury Department, however, believed that the traditional country-specific approach was sufficient; they also feared that creating a new global authority would crank expectations unrealistically high for a constant stream of high-impact designations and place an unsustainable burden on scarce Treasury Department personnel.

For its part, the Defense Department expressed concern about recommending new legislation that would permit the prosecution of perpetrators of crimes against humanity or war crimes on the basis of their presence in the United States. Defense Department lawyers were particularly concerned that such legislation could become the pretext for other states to engage in politicized prosecutions of US service members and officials.

A final report summarizing review-generated recommendations wound up hedging on both items, leaving the Atrocities Prevention Board to work on them further,³⁰ and made its way to the Oval Office as a mixture of normative findings, proposed protocols to govern the operations of the Atrocities Prevention Board, and recommendations of both a broad and a specific character on developing and strengthening atrocity-prevention capabilities. President Obama approved the recommendations in March 2012, roughly a month before his April 23 rollout speech at the United States Holocaust Memorial Museum.

Standing Up the Atrocities Prevention Board

One question with which the 100-day review had to wrestle was what bureaucratic form the board would take. As NSC lawyers informed Power's team while they worked to establish the protocols of the board during the 100-day review process, only three configurations were possible for a standing mechanism of that nature: (a) the national security advisor could chair it as a principals committee; (b) the deputy national security advisor could chair it as a deputies committee; or (c) a senior director—that is, someone at Power's level, which roughly corresponded to the level of assistant secretaries in the departments and agencies—could chair it as an interagency policy committee (IPC). It was unrealistic to expect that either the national security cabinet, with officials at the level of Secretary of State Hillary Clinton and Secretary of Defense Robert Gates, or their deputies would function as the board, so clearly the board would have to be an IPC. As was typical for IPCs, a working-level body chaired by the NSC director for war crimes and atrocity prevention (the sub-APB) would meet more frequently—generally on a weekly basis—to keep tabs on emerging crises, develop policy papers, and prepare matters for consideration by the board.

That configuration did not make everyone happy. David Pressman suggests that casting the board as “just another” IPC subordinate to the deputies and principals robbed it of what could have been its highest function: visibly pushing senior policy makers to make tough choices on thwarting atrocities and raising the political costs for them if they did not.³¹ NSC leadership did look at the board as a mechanism for making sure that future Rwandas would not slip through the cracks, but they expected it to do so within the conventional hierarchy of NSC-led policy-making bodies.³² That approach was consistent with the Task Force Report recommendations, which focused on the creation of a policy-coordinating committee

at the assistant secretary level.³³ Moreover, a feasible alternative was difficult to imagine. Although the board might create internal pressure on deputies to face challenging situations, the idea that it would do so by making a public issue of its concerns was not something that could be easily reconciled with the idea that the board would be a creature of the government, functioning inside the government, and working with nonpublic government information.

That said, a concerted effort was made to give the IPC a strong institutional presence, including by developing a public constituency for it and its work. Principals were requested to appoint their departmental representatives “by name,” which was intended to invite reflection on the specific qualifications of the individuals appointed, and the presidentially approved recommendations in the 100-day report called for one principals and two deputies committee meetings a year to review the board’s track record. In practice, the NSC worked closely with agencies to identify strong candidates with a relevant background, and the first generation of the board included several members with ranks above the assistant secretary level. Don Steinberg (Deputy Administrator at USAID), Rexon Ryu (the head of the Washington office of the US Mission to the UN [USUN]), and Julianne Smith (the Vice President’s Deputy National Security Advisor) all were frequent attendees at deputies committee meetings. Maria Otero, who represented the State Department, was the undersecretary for civilian security. The other inaugural board members also had considerable stature inside their respective organizations.

The rollout for both the Comprehensive Strategy and the board was also intended to give some lift to both the board’s work and the broader atrocity-prevention agenda. As commentators have noted, the April 23 rollout—during which the board attended the President’s speech at the United States Holocaust Memorial Museum and then joined a White House-hosted event at the Eisenhower Executive Office Building (EEOB)—gave the board a far higher public profile than the average IPC. That of course created some political risks because of the way in which it raised expectations, but it also reflected an understanding that generating and maintaining strong public support was critically important for the sustainability of the atrocity-prevention agenda. The high-profile rollout was also intended to give the board momentum that could help it overcome the bumps it would inevitably encounter in the course of its work, protect it from being easily brushed aside or discarded with the passage of time, and possibly help it to endure the transition to the next administration.

Because the rollout to some extent played up the stature of the inaugural slate of board members, commentators have speculated on the effect that it had on the board’s effectiveness downstream. Did the inevitable departure of Power and the inaugural group of high-profile members at the end of the administration’s first term hobble the board? Conversely, would the board have been more effective downstream if the initial board members had been selected with a keener eye to their institutional portfolios?³⁴ Little evidence supports either suggestion. In practice, the board’s effectiveness waxed and waned, and as discussed herein was largely a function of whether it had identified a gap in policy making, whether it was successful in recruiting knowledgeable regional experts to partner with it, and whether the embassy in question was supportive of its efforts. Arguably, it had more success in meeting those conditions over time, as it figured out how to address the challenge of formulating and advancing a specific country-focused agenda.³⁵

In seeking to develop that agenda, the board operated within certain parameters. Under its protocols, it would meet every month to make sure that it was constantly reviewing the landscape for emergent atrocity threats. At the same time, however, the board would generally steer clear of matters already being

covered by other processes operating at an equivalent or higher level—such as the Afghanistan-Pakistan theater, Egypt, Libya, South Sudan, Sudan, or Syria—unless the board had particular insight or value to bring to the ongoing discussion.³⁶ For example, if a country-specific IPC needed support in developing models for an accountability mechanism, it might turn to the board for policy guidance and expertise.

By default, that approach meant that the bulk of the board’s focus would be on countries in which the United States did not have strategic interests, as traditionally conceived, and where violence had not yet escalated to the point at which a whole region was destabilized. The sub-APB would work with the intelligence community to develop a calendar of countries to work through, but the board’s agenda would also be flexible so that if a pop-up crisis required it to pivot, it could do so. To be effective at driving policy for any of those countries, however, the board needed to develop mechanisms for identifying the places most needing attention, secure the help of regional bureaus at the State Department in teeing up points for decision, and engage ambassadors in the field to help ensure that the decisions would be implemented. Generally, the idea was that the board would step in to energize a policy process and take some threshold decisions, and then—after just one or two meetings—would hand the situation off to the relevant regional bureaus and directorates (who had the tools and contacts to manage policy on a day-to-day basis), while remaining sufficiently seized to step back in periodically to assess progress.

That was not something that the board was instantly equipped to do. Getting into a working rhythm and building confidence with the relevant players would take time and involve some trial and error. In the meantime, the board would become familiar with the atrocity risk landscape through the intelligence community’s monthly early warning briefings and focus heavily on building the atrocity-prevention toolbox—including through efforts to address interagency disputes that had prevented the Obama administration from moving forward with certain tools at the end of the 2011 interagency review process, particularly the atrocities executive order and a legislative proposal on crimes against humanity.

Before turning to look at how the board and the new atrocity-prevention policy influenced US decision making—and may have helped shape outcomes—during the period from since 2012, a few caveats are necessary. First, the heavy focus on internal process here is for the sake of creating a historical record from which to learn, not to suggest that process is a surrogate for achieving actual results. Moreover, although the report offers a subjective view of where the board and the administration’s atrocity-prevention policy seem to have been most effective, those judgments are inherently fraught. It is impossible to know for certain whether or not actions that the US government took at the board’s direction, or with the policy in mind, might have been taken in the absence of either. And it is even more difficult to know whether results in the field are better understood as attributable in whole or in part to US engagement or to other factors. Finally, the situations that the board worked on and to which the policy applied often were protracted crises that might well remain desperate situations even after the immediate threat of mass killing was addressed, so deeming US engagement a “success” would be difficult even if it achieved its immediate objectives. The conclusions offered in the following sections should be understood through this lens.

Building a Modus Operandi—Early Cases and the Rakhine State Crisis

The first few months of board meetings involved a certain amount of casting about while the group came to grips with its mandate. A meeting in late spring of 2012 to explore whether there was anything the Board could productively do to support the already well-established Syria IPC consumed enormous

amounts of staff time in preparing the board for its discussion, but it yielded virtually nothing useful in terms of outputs. Although the board could offer recommendations on the margins—for example, about naming and shaming perpetrators or setting up processes to gather information that might be used as evidence of atrocity crimes down the road—it was not equipped in a single meeting to come to grips with the highly complex issues that were being dealt with on a nearly daily basis in other senior channels, such as whether and how to support Assad’s opposition. A meeting on Nigeria in summer of 2012 produced a thoughtful and detailed paper on the different nodes of atrocity risk in the country’s southern Niger Delta, Middle Belt, and northern regions infiltrated by Boko Haram, but the board’s discussion barely got past exposition of the issues and, as with Syria, could not reach the level of sophistication or specificity required to provide useful policy direction in that complex and shifting context. It started to become clear that the board was better equipped to weigh in on situations in which it was working on a relatively blank slate (i.e., an extensive parallel policy conversation was not already taking place) and could be teed up to take relatively straightforward decisions to galvanize support for nascent prevention or mitigation efforts or kick them into gear.

As the year progressed, one country discussion in particular helped sharpen the NSC’s sense of how the board could most usefully operate. The country in question was Burma and the issue related to violence against the minority Rohingya population in Burma’s Rakhine state. The state’s majority Rakhine Buddhist population considered the Rohingya to be foreign interlopers, and government officials referred to them as “Bengali” rather than affording them the dignity of their preferred name. A 1982 law had stripped the Rohingya of Burmese citizenship and made them effectively stateless. They had no real allies anywhere in the Burmese power structure. Nobel Peace Prize Laureate Aung San Suu Kyi, viewed globally as a human rights icon, refused to embrace their cause wholeheartedly.³⁷ In early summer of 2012, allegations that three Rohingya men had raped and killed an ethnic Rakhine woman spiked a cycle of reprisal violence that killed hundreds of Rohingya civilians. According to human rights reports, local security forces and religious leaders abetted the violence with an anti-Rohingya hate speech campaign. Advocacy groups flagged the uptick in anti-Rohingya violence for the NSC multilateral affairs directorate and began reaching out to contacts across the government, suggesting that this was the sort of situation that the Atrocities Prevention Board was created to address. Some State Department regional experts voiced skepticism internally about how much US engagement would be able to affect the situation, but the board nevertheless took it up. A July meeting that covered Rakhine State along with other ethnic conflicts in Burma helped the board get up to speed on the plight of the Rohingya; the board would return to the topic that October when violence in Rakhine spiked again.

The October 2012 meeting included newly installed Ambassador Derek Mitchell, who joined the conversation by secure video conference, as well as representatives of both regional and functional bureaus from the board’s member agencies, who filled the EEOB conference room. President Obama’s plans to make a landmark trip to Yangon in November created a helpful backdrop. Not only would there be a political urgency within both the US and Burmese governments to address the escalation of violence that would mar the trip but the trip created leverage that the US government could use to draw attention to its concerns. The board offered its support to Ambassador Mitchell and dispensed taskings for the collection, analysis, and dissemination of information about ongoing atrocities. The embassy reported on senior diplomatic engagement with both the Burmese government and like-minded partners on the ground, which Mitchell had brought together in a diplomatic coalition to advance the atrocity-prevention

and protection agenda in Rakhine State. Together, they would deliver the message to Burmese President Thein Sein's government that the plight of the Rohingya needed to be addressed.

Perhaps the most important outcome of the meeting was that it helped establish a common understanding among senior policy makers both in Washington and in the field that the United States needed to prioritize protection of the Rohingya as a bilateral issue. Members of the board who also served on the deputies committee brought that perspective into the deputies' planning discussions for the President's upcoming trip, and Samantha Power could draw on it when she traveled to Burma to help prepare for the President's November visit. While in Burma, Power negotiated "eleven commitments" that included a commitment by the Burmese government to take decisive action to try to heal the problems of Rakhine State. Those commitments would frame bilateral engagement between the United States and Burma in the coming period. Moreover, the President himself addressed the violence when he traveled to Yangon in November. Obama spoke about the violence in his historic address to the people of Burma and referred to the Rohingya people by their preferred name rather than the "Bengali" term of disparagement. He said,

*Today, we look at the recent violence in Rakhine State that has caused so much suffering, and we see the danger of continued tensions there. For too long, the people of this state, including ethnic Rakhine, have faced crushing poverty and persecution. But there is no excuse for violence against innocent people. And the Rohingya hold themselves—hold within themselves the same dignity as you do, and I do.*³⁸

The US government continued to press for protection of the Rohingya after the 2012 visit, with the board and sub-APB periodically checking in on progress, but it was never able to persuade Burmese counterparts to make the kind of major reforms that might have eased tensions over the longer term. Although the embassy initially saw a desire by Thein Sein and certain key officials to approach the situation thoughtfully—if nothing else, out of recognition that a massive spike in violence could jeopardize the country's push for legitimacy and acceptance—over time a discouraging pattern emerged. The government would make general commitments that were sufficient to give the impression of progress but show weak or even counterproductive follow-through. For example, in 2014 it took the positive step of creating a pilot mechanism to verify Rohingya citizenship, which was fatally undercut when it required Rohingya seeking to use the mechanism to identify as "Bengali." US officials hoped that the 2015 election that installed Aung San Suu Kyi at the top of the civilian government would be helpful, although they were under no illusions that she would be a champion for the Rohingya. They believed that she would understand the importance of progress for Burma's continuing international rehabilitation and that she would understand the gravity of the situation as a human rights matter.

In reality, the election did not improve the situation. In the run-up, the ruling Union Solidarity and Development Party tried to use anti-Muslim sentiment as a wedge issue, and stopped engaging constructively on issues relating to the Rohingya.³⁹ Nor did the situation improve even after Aung San Suu Kyi's National League for Democracy prevailed in 2015. Indeed, the military's heavy-handed response to attacks by Rohingya radicals in 2016 presaged a devastating pulse of violence in 2017, when more than 600,000 Rohingya would be driven out of Rakhine State in what UN Human Rights Commissioner Zeid Ra'ad al Hussein credibly characterized as "textbook example of ethnic cleansing."⁴⁰

Looking back at the Obama administration's focus on Rakhine State, a former senior official suggests that the US government's engagement likely made a difference for a time but did not generate enough

political will in Burma to set in motion meaningful progress on issues such as citizenship for the Rohingya.⁴¹ In this way, Rakhine State demonstrated both the potential and the limitations of the administration's Atrocities Prevention Board and its atrocity-prevention policy. Both could help drive engagement and make certain that the United States did not look away from atrocities as they happened. They could focus the attention of senior leadership. But the tools for implementing the policy were highly imperfect, the effect of US efforts were difficult to measure, and the crises in question would often be of a nature that might be temporarily slowed or frozen but would be very difficult to fix.

Beyond Rakhine State—Other Second-Term Prevention and Response Efforts

A survey of other second-term atrocity-prevention efforts finds the board sometimes playing a central role driving early attention to emerging crises and in other cases finding itself more on the periphery of policy making. In Burundi, the board worked to help the US government get ahead of a crisis centered around the extension of President Pierre Nkurunziza's term in office and may have helped stave off the worst of the violence. In the Central African Republic, the board was less at the center of activity, and it was a broader range of officials implementing the administration's new prevention policy who, at a critical moment, catalyzed the provision of tens of millions of dollars to support the efforts of French and regional troops in staunching escalating violence. And in the Democratic Republic of the Congo, the board stepped in during a crucial period to support regional offices that were focused on other matters and to ensure that the United States had a solid policy in place as a dangerous moment approached.

Burundi The board first discussed Burundi in 2012, when there were already strong indications that the country's 2015 presidential elections could be a flashpoint for violence. President Pierre Nkurunziza was approaching the end of his second term, but it was increasingly clear that he would seek to remain in power despite a widely held understanding that he was required to step down under the 2005 Arusha Accords, which had ended a long and bloody civil war. The legal provision that related to seeking a third term unfortunately left room for interpretation, and there was little doubt that Burundi's courts, which were less than independent, would tilt any decision in favor of Nkurunziza. Burundi watchers and atrocity-prevention experts inside the US government worried that Nkurunziza's move to cement his rule could undo the fragile peace that the country had built since 2005. Perhaps even more worrisome were the measures that Nkurunziza, his allies, and his opponents were taking in anticipation of unrest. Armed youth militias—the *imbonerakure*—were increasingly active, and politically motivated killings were on the rise.⁴²

The board's involvement on Burundi was to some extent a function of the limited bandwidth of the relevant regional offices. The Africa-focused regional offices at the NSC and the State Department had nearly 50 countries in their portfolio and a seemingly endless stream of major crises to manage. They were not well positioned to focus significant attention on upstream prevention efforts in a tiny country where the United States had limited strategic interests. At the same time, however, Embassy Bujumbura—under the leadership of Ambassador Dawn Liberi—was increasingly concerned about the gathering atrocity threat. To help jumpstart US atrocity-prevention efforts, the board stepped in. It commissioned an interagency team to travel to Burundi and to prepare a report that would both analyze the risks and offer recommendations about how to manage them. Within the framework of that exercise, USAID and the State Department found additional resources to bolster violence-prevention programming.

Importantly, the exercise had the strong support of both the embassy and regional offices, which participated in the board's deliberations.

The board also helped establish atrocity-prevention in Burundi as a priority for US senior officials. Ambassador Power—by then the US permanent representative to the United Nations—arranged to be the most senior US official ever to travel to Burundi when she visited the country in 2014, to underscore in person that the United States was watching the situation closely.⁴³ Following that trip, the US Mission to the United Nations fought furiously against canceling the mandate for the UN special political mission at the end of 2014, finally conceding only because of the impossibility of imposing such a mission on a nonconsenting country. Because of the multiyear focus, when the situation began to escalate in 2015, a knowledgeable corps of officers at every level of the government was already prepared to respond.

As reports filtered in that neighboring Rwanda (which wanted to see Nkurunziza step down) was instigating opposition violence, senior officials in the administration quietly reached out to President Paul Kagame and others to insist that such interference must stop. Deputies met twice to discuss the imposition of targeted sanctions to send a message to perpetrators of violence in Burundi and would-be imitators, ultimately blessing the imposition of evenhanded sanctions against both government and opposition figures associated with fomenting violence.⁴⁴ Days before the Treasury Department announced the sanctions, the White House released a video message from President Obama urging political leaders to “put aside the language of hate and division.”⁴⁵ Although Washington made clear its disapproval of both Nkurunziza's decision to seek a third term and the conduct of elections in July of that year, as the risk of widespread violence increased, US diplomacy focused on de-escalation and a negotiated settlement rather than an insistence that the current government must go. In January 2016, when the UN Security Council traveled to Burundi, Power used her second visit in just a year and a half to warn against escalation.

As with the US response to the anti-Rohingya violence in 2012, it is hard to know just how much effect US government efforts spurred by the board had on the ground. Even making generous assumptions, it is still more difficult to describe the outcome of this several-year effort as a “success.” The outcome, after all, was not a secure, rights-respecting Burundi or even a Burundi that could credibly be described as on its way out of the woods. Without regional leadership or a strong UN negotiator to help craft a political solution, the country entered a state of protracted crisis. And yet the core objective—which Power described during the Council's 2016 trip as “preventing a small fire from becoming a big fire”⁴⁶—was arguably achieved. Burundi suffered too much violence and too much chaos, to be sure, but it did not return to the mass slaughter of innocents that had wracked both Burundi and neighboring Rwanda in past decades.

Central African Republic The administration's efforts in the Central African Republic (CAR) are less an illustration of the board's effect than of the effect of the broader atrocity-prevention policy. The immediate history of the CAR crisis started in 2012, when the Séléka—a predominantly Muslim rebel group from the northern part of the country—began an offensive that would culminate, in March 2013, in the capture of the country's capital city, Bangui, and President Francois Bozize being driven from power. Bolstered by foreign fighters from Chad and Sudan, the Séléka waged a brutal campaign marked by burning villages and wanton attacks on civilians. The violence escalated further in mid-2013 when Christian and animist fighters coalesced into an “anti-balaka” (“anti-machete”) armed movement to oppose the Séléka. The anti-balaka began its own campaign of ethnically targeted violence against Muslim and Peuhl communities. As the situation edged closer to all-out ethnic violence, the region relied

on a local peacekeeping force to contain it. That force—which began under the auspices of the Economic Community of Central African States (ECCAS) and then merged into an African Union (AU) mission in fall 2012—was not up to the task. By October 2012, UN officials were warning of a risk of genocide.

In early December of that year, whatever was left of the dam seemed to burst. According to reports from the field, violence was spreading through the neighborhoods of Bangui; neighbors were turning on neighbors. Early on a Saturday morning, Power forwarded one particularly vivid e-mail to Susan Rice at the NSC, who agreed that the picture was grim, and shared the report with Deputy National Security Advisor Tony Blinken. Blinken put a deputies meeting on the calendar for later that morning. There was broad consensus at the start of the meeting: all agreed that there was a need to prevent the situation from becoming another Rwanda, and all agreed that the United States had be part of the solution. There were no questions about whether the CAR was properly the United States’ problem and no suggestion that, as a Francophone country, it should be left to the French.

As Blinken went around the room seeking recommendations for what could be done, ideas popped up quickly: the Defense Department could airlift African troops to support the French “Sangaris” contingent that would be the core of the response; the United States might be able to equip the troops with excess defense supplies. The State Department would look into whether a group of religious leaders could travel to the region to try to calm some of the intercommunal tensions. USUN would work with colleagues on the UN Security Council to generate an “all necessary measures” mandate under which the French could comfortably use force to stabilize the situation. By the beginning of the following week, the United States had a multipronged strategy for calming the situation in Bangui that included up to \$60 million in defense support to the French and local peacekeeping forces and \$40 million in peacekeeping operations funding.⁴⁷ It also included a recorded message from President Obama to the people of the CAR urging calm. Obama was en route to Nelson Mandela’s funeral but agreed to use part of his stopover time in Senegal to make the recording.⁴⁸

It was a significant package to push out the door so quickly, but it had a long backstory. For months, staffers from the NSC’s Africa directorate, Power’s team at USUN, and allies across the departments and agencies had been working in both formal and informal groups to develop a viable plan to address the deteriorating situation on the ground. The situation had come before the board on several occasions, but the outcome was inconclusive; the conversations had proven more useful for informing participants about the situation than formulating an actual policy. Although, pinpointing precisely why that was the case is difficult, the board struggled to identify leverage that the United States might have exercised over a set of actors that seemed far removed from its influence or to formulate meaningful policy options.

In practice, then, policy was formulated and driven by regional experts at the NSC and the State Department, working within the framework of the broader atrocity-prevention policy. Behind the scenes, those officials were traveling to Paris to coordinate and explore a potential French intervention, working with the Defense Department and USAID to develop ways in which the United States might furnish support, and—to ensure that a senior US official was invested in the issue and would track it beyond the immediate crisis—working to schedule a trip by Ambassador Power to the region in December. As soon as Blinken put the deputies meeting on the Saturday morning schedule, NSC’s Africa directorate rushed to catalog the wish list that had been developed at the working level. That was the unseen script that would drive the deputies meeting. Forty-eight hours later, every item on the list was under way.⁴⁹

As with Burma and Burundi, it is impossible to sound a triumphalist note about the CAR. On the one hand, the violence could have been more severe, and important progress has been made in knitting the state back together. In early 2016, the country was able to hold general elections, which saw former prime minister and mathematics professor Faustin Touadera elected to the presidency. On the other hand, high levels of violence persist in parts of the country, with Séléka and anti-balaka forces continuing to square off and the UN peacekeeping force struggling to maintain order. Moreover, reviews of the US government's performance have been mixed. One account suggested that the US government moved too haltingly to arrest the crisis during the first 10 months of 2013, when Séléka's rampage took many innocent lives, and specifically faulted the board for failing to generate earlier action.⁵⁰

A former official close to the CAR response agrees that the 2013 response was hardly perfect and suggests in particular that the United States should have been more active during the first part of 2013, when the Séléka were on the march across the country—perhaps by appointing a senior US diplomat to do shuttle diplomacy among relevant conflict parties before the most acute violence began later in the year.⁵¹ Because all embassy personnel had been evacuated in December 2012 and the US government did not have an Ambassador on the ground, there was no go-to person to do such shuttle diplomacy in the region. Instead, the US government relied on ECCAS to do what it could to manage the crisis. The same former official, however, argues that this critique somewhat misses the forest for the trees, noting that the US government was working intensively throughout the year to ready a strong crisis response for the moment when it would be most needed: “We laid the groundwork, we knew where the money was, we did the planning. We were ready.”⁵² By making clear that atrocity prevention was a presidential priority, the Mass Atrocities Directive lent a sense of urgency to that work and set the stage for the deputies to put in motion a robust response in November.

Democratic Republic of the Congo As the Hague Institute Report correctly noted, the Obama administration's atrocity-prevention work in the Democratic Republic of the Congo (DRC) comprised two major phases.

During the first phase of the US government's efforts, the administration wrestled with how best to manage Rwandan support for the M23 armed group in Eastern DRC, which in 2012 overran the city of Goma. After the United States was criticized for being too slow to pressure Rwandan President Kagame to end his support, it toughened its approach over the course of 2012, joining likeminded partners in withholding assistance. Following Goma's fall President Obama called Kagame personally to seek his cooperation in ending the violence. The administration also pressed the UN secretariat to throw its weight behind efforts to secure a regional peace agreement. The combined efforts of the United States and its partners worked. In February 2013, 11 regional powers signed a Peace, Security, and Cooperation Agreement calling for an end to regional interference in DRC affairs. A month later, the United States successfully helped press for the UN Security Council's creation of a Force Intervention Brigade with unprecedented authority to engage in offensive operations under the UN peacekeeping mandate. In June, the administration appointed former Senator Russ Feingold to be a high-profile special envoy, and he set out to press the region for compliance with the agreement. In fall 2013, M23 was defeated. Its leader, Bosco Ntaganda—nicknamed “the Terminator” for his decades-long legacy of atrocities in eastern DRC—had already turned himself in to the US embassy in Kigali to be transferred to the ICC.

The second phase of the administration's DRC efforts suggests a greater role for the new atrocity-prevention architecture in driving US policy. That phase of US efforts focused on events in DRC's capital

city, Kinshasa, where a political succession drama was playing itself out in slow motion. As 2016 approached, deeply unpopular President Joseph Kabila's second term was due to expire, with the constitution requiring him to step down no later than December 19, 2016. Kabila, however, had shown signs of hanging on to power by delaying the technical preparations required to hold the election in a strategy called "*glissement*," or "slippage." US officials and other individuals worried about a cycle in which protest and opposition activity would increase, security forces would respond heavy-handedly, and violence in the capital would drag the country into chaos.

A former official who worked on that second phase of DRC atrocity-prevention efforts noted certain key features of the US government's response.⁵³ First, senior State Department officials worked together unusually well to share responsibility for the portfolio across multiple offices. Under Secretary for Civilian Security Sarah Sewall joined the effort, in addition to Special Envoy Tom Perriello, Feingold's successor. At the time, Sewall was the State Department's representative on the Atrocities Prevention Board. As a member of the department's seventh-floor management team, Sewall was positioned to throw political weight behind Perriello's efforts when helpful. Sewall traveled to Kinshasa in 2015 carrying a letter from Secretary Kerry, who had visited Kinshasa in 2014 to try to persuade Kabila not to run for a third term. Sewall delivered a senior-level message of concern about the coming year and opened a direct channel to Kabila that was used when tensions flared. The White House also weighed in, with President Obama calling Kabila in March 2015 to emphasize the importance of peaceful and credible elections and protecting the rights of all DRC citizens.⁵⁴

Second, the board stepped in effectively to backstop the regional interagency policy committee as 2016 approached and there was an increasingly urgent need to review the US strategy for dealing with the gathering crisis. Questions that required interagency discussion included, How would the United States use sanctions to create costs for irresponsible behavior? What kinds of trigger events would be of particular concern? Could the UN peacekeeping operation be relied on to help manage any outbreak of violence? Given that a new senior director was getting up to speed in NSC's Africa directorate, it made more sense for the board—which had been tracking DRC for some time as an atrocity hotspot—to take the lead in coordinating policy. With Ambassador Jim Swann and Special Envoy Perriello joining the discussion, the board met in the second half of 2015 to push the prevention planning into full gear.

Partly because of that planning exercise, the US government developed an effective and (at least in the context of African sanctions regimes) innovative strategy for using sanctions to apply pressure to the regime. Importantly, the strategy did not link sanctions to an insistence that Kabila step down on December 19, understanding that it might well not happen and the tool would then have been squandered in the service of an unachievable goal. Instead, the State and Treasury Departments prepared sequenced tiers of increasingly senior designations, which they would proceed to roll out following certain trigger events, primarily involving violence against civilians. Each tier moved up a rung in terms of proximity to Kabila and his family (who had substantial overseas assets), making clear that they themselves could be ensnared. At the same time, Perriello engaged internal DRC influencers (including, most important, the Catholic Church) to create pressure on Kabila to negotiate an agreement with key stakeholders, and he orchestrated outreach to EU counterparts to ensure that the United States would not be by itself in the sanctions it was imposing.

Although the pressure did not lead Kabila to step down, it did help bring about the surprise Saint Sylvester political agreement at the very end of the year. On December 31, 2016, talks mediated by the

local Catholic bishops yielded a deal under which elections would be held in 2017 and Kabila would not run again. The deal was not airtight, in part because Kabila—who had been acting through surrogates—did not personally sign it. Nevertheless, it created a basis for de-escalating the immediate crisis and a framework for longer-term efforts. By way of lessons learned, a former senior official suggested that the United States lost some opportunities for leverage because of protracted internal deliberations about how to implement it (including when and under what circumstances to move ahead with sanctions designations), and that a key takeaway is the importance of thinking such issues through in advance.⁵⁵

As with all of the cases described, the atrocity risks that the US government sought to address during the Obama administration persist to this day. Indeed, the future—always murky—looks less promising from the vantage of 2018. The Kabila government has continued to delay national elections since the December 2016 deal, and escalating conflict in the Kivus and the Kasai region displaced more than 1 million Congolese in 2017. Nevertheless, the principles articulated in the Saint Sylvester framework likely remain the best hope for a peaceful political transition in the coming period.⁵⁶

Second-Term Roundup—Other Items This report has focused on the foregoing four countries—Burma (Rakhine State), Burundi, CAR, and DRC—as second-term cases in which the effect of the Atrocities Prevention Board and atrocity-prevention policy can be most clearly identified. It should also be noted, however, that atrocity prevention was an important goal of US policy in many other situations during roughly the same period, including the following:

Counter-IS: At the top of the list is the August 2014 armed intervention at **Mount Sinjar** to save thousands of Yazidis from marauding fighters of the self-proclaimed Islamic State (IS), who had made clear their intention to exterminate the Yazidis. “That was pure atrocity prevention,” said Ben Rhodes, who played a key role in pressing for United States’ engagement on behalf of the Yazidis. “We had not acted against ISIL up to that point even though they’d overrun Mosul and whole swathes of western Iraq. The tripwire for intervention was we had a report saying that their intent was genocide.”⁵⁷ Although the board was one subsidiary hub of discussions about the Sinjar intervention and prepared materials to brief principals on the location of civilians in and around Sinjar, the question of whether to intervene was already being discussed at the most senior levels when the board convened, and its role was more to support than to drive policy. Moreover, although the Sinjar intervention had an atrocity-prevention focus, the counter-IS campaign as it progressed did not. Whereas the ultimate objective of the campaign was fundamentally in the interests of civilian protection, the day-to-day work was not primarily focused on atrocity prevention.⁵⁸ Vulnerable individuals and communities, including Yazidis, remained exposed to horrific violence, and the policy making was driven by regional and counterterrorism offices at a tempo that made it difficult for the board (which met on a monthly basis) to track closely and meaningfully shape the campaign.

One notable instance in which IS-related efforts did focus on prevention came two years later, when Kurds in the east Syrian town of Kobani had been hemmed in by IS. Although they did so independent of the board, the NSC officials who pushed for action in Kobani emphasized that it was an atrocity-prevention case—and therefore consistent with the atrocity-prevention agenda—in pressing a reluctant Defense Department to use force to free the town. Using force to save civilians also became a pull factor for IS militants, recalled one former administration official who worked on Syria policy at the National Security Council, noting that militants flowed “like an army” into Kobani. That wound up being a benefit to US operators because it helped to concentrate a diffuse enemy in a single location.⁵⁹

Sub-Saharan Africa: Although the Obama administration’s atrocity-prevention efforts extended to multiple countries in sub-Saharan Africa, in some cases those efforts were an extension of long-term projects dating back to previous administrations, and in other cases they flowed from other bilateral policy considerations as much as from the Mass Atrocities Directive. Particularly in countries that have traditionally been regarded as anchor states in their respective regions—for example, **Kenya** in the east and **Nigeria** in the west—it is difficult to imagine a US Africa policy that would not seek to maintain stability in those countries, including through the prevention of mass killings. Indeed, in both Kenya and Nigeria, regional offices and the regional IPC were strongly in the lead in the run-up to elections that could have been flashpoints in both countries—in 2013 in Kenya and in 2015 in Nigeria.

That said, the Atrocities Prevention Board was one of several forums for the coordination of preelection anti-violence efforts in 2013 in Kenya, and the focus on accountability that board members brought to interagency discussions likely influenced the administration’s very strong messaging in support of ICC efforts in Kenya and its decision to keep a distance from Uhuru Kenyatta—both as a presidential candidate and following his election to the presidency—during the period when he was under indictment by that court. As for Nigeria, the State Department’s representative on the Atrocities Prevention Board, Sarah Sewall, worked through State Department channels to emphasize civilian security, including by standing up a State Department–led interagency task force that focused on the overlapping issues of countering Boko Haram and protecting civilians in northern Nigeria.

The Obama administration’s policies toward both Sudan and, as of 2011, South Sudan were deeply bound up with the atrocity-prevention agenda. Those policies, though, also maintained strong continuity with the work of the two preceding administrations—which had launched the framework of sanctions applicable to Sudan, made a genocide finding with respect to the Bashir regime’s actions in Darfur, effectively supported the UN Security Council’s referral of the Darfur situation to the ICC, and brokered the Comprehensive Peace Agreement that led to South Sudan’s independence.

In **Sudan**, the administration appointed two envoys during the first term: one focused broadly on relations with Sudan and South Sudan, and the other focused solely on Darfur. Despite those appointments, the administration found advancing peace and civilian security difficult in the conflict-affected regions of Darfur, South Kordofan, and Blue Nile—all areas that saw surges of violence at different times during the administration. In the last six months of the administration, the US government proposed to motivate better Sudanese behavior by offering sanctions relief in return for meeting certain goals in five “tracks”—(a) cooperating on counterterrorism, (b) enacting a cease-fire in conflict zones, (c) defeating the Lord’s Resistance Army (LRA), (d) enabling humanitarian access, and (e) stopping support to South Sudanese opposition fighters. Some outside experts, although agreeing that the old sanctions framework was becoming dated, took issue with the administration’s assessment of Sudan’s performance and also argued that the absence of a sixth track—with goals for improved performance by Khartoum on human rights—was a significant flaw.⁶⁰

The trajectory of **South Sudan** was a source of deep personal and professional disappointment to administration officials, many of whom had labored for years to make its independence possible.⁶¹ In December 2013, after months of deteriorating governance and increasing tension, a leadership contest between President Salva Kiir and Vice President Riek Machar plunged the country into violence, which has killed tens of thousands of South Sudanese civilians and displaced millions more. Although the overall picture points to a failure of prevention, three modest points are worth highlighting. First, as has

been documented elsewhere, the US government's intensive focus on intercommunal violence in Jonglei State during the summer of 2013 can likely be attributed to the administration's prevention agenda and the board's involvement.⁶² Second, atrocity prevention was at the top of the list of reasons for the administration's extraordinary efforts to keep Embassy Juba open even as the country lapsed into escalating violence in late 2013. In the aftermath of the attacks on the Benghazi consulate in 2012, the administration's tolerance for embassy security risks was extremely low. Still, Obama "understood the costs" of leaving South Sudan, according to one former senior official.⁶³ Within the administration, there was a widespread conviction that violent factions would see a US withdrawal from South Sudan as a green light for mayhem; at least one senior official referred to the possibility of genocide in cautioning against that step. To balance the two interests, NSC leadership called for daily meetings at the principals and deputies levels—including on Christmas and New Year's Eve—until the most immediate threat was at a more manageable level. The administration also insisted on maintaining a significantly expanded security presence that would remain until the end of Obama's term. Third, the administration used the President's final trip to Africa in summer 2015 and the threat of an arms embargo (which it has been criticized for not moving more quickly to impose) to help broker a peace deal that offered some hope of bringing Kiir, Machar, and other elements together in a transitional government. Those hopes were largely dashed, however, after Machar's followers clashed with Kiir's in July 2016, following which Kiir's forces chased Machar from the country. Here again, identifying evidence that the atrocity-prevention policy influenced US action in South Sudan does nothing to minimize the horrors of the atrocities that continue to this day or to diminish the need to analyze this troubled period to understand whether the United States, the United Nations, and other relevant actors might realistically have taken more effective steps to prevent the violence that erupted in 2013 and thereafter.

Ethiopia was twice the topic of board discussion—the first time in early 2013 and the second time toward the end of 2016. Although the first meeting did not point to an immediate risk of mass killing, the second came following the Ethiopian government's heavy-handed response to civil unrest in Amhara and Oromia provinces that produced, by some estimates, hundreds of deaths and thousands of security detentions and included the imposition of a state of emergency. Because the US response had already been put in motion—including a State Department travel warning, senior-level private messages, and the redirection of certain arms shipments away from areas where they might be used for repressive purposes—the board meeting functioned more as a check-in than as a driver of policy.

Finally, the administration made a very substantial investment in countering Joseph Kony, the leader of the murderous **Lord's Resistance Army**, which spread terror across Uganda and neighboring countries, enslaving children and forcing them to commit acts of almost unimaginable brutality. Launched in October 2011, Operation Observant Compass placed US Special Operations Forces in central Africa to assist regional powers in their struggle to remove Kony from the battlefield and address the threat posed by the broader organization. Although Observant Compass did not result in Kony's capture, the US Africa Command assessed that it significantly degraded the LRA's capacity—reducing the group's active membership to fewer than 100—and led to the capture of four of the group's five key leaders.⁶⁴

South Asia: The final period of **Sri Lanka's** bloody civil war during the first half of 2009 saw as many as 40,000 civilian casualties. The Sri Lankan government's brazen efforts to control international reaction were initially successful, most notably in Geneva, where Sri Lanka manipulated a June 2009 Human Rights Council resolution so that it effectively lauded the government's campaign.⁶⁵ Over time, however,

international pressure for accountability and reconciliation—much of which was attributable to US government efforts—began to catch up. After joining the Council in 2010, the United States began laying the groundwork for a more critical resolution and in March 2012 successfully led efforts to adopt a text that pressed Sri Lanka to take action on accountability and reconciliation while providing the Office of the UN High Commissioner for Human Rights a basis for reporting back to the Council on its progress.⁶⁶ In 2014, the United States shaped and cosponsored a Human Rights Council resolution that created the mandate for an international inquiry into crimes committed during the 2009 campaign.⁶⁷

In December 2014, the intelligence community flagged a surprise concern for the Atrocities Prevention Board: Sri Lanka’s presidential election in January 2015 was apparently going to be much closer than expected. If incumbent strongman Mahinda Rajapaksa lost, it was unclear whether he would step down or try to stay in power and prompt civil unrest. In the weeks leading up to the election, the board helped to coordinate outreach to countries and individuals that might have leverage to help manage such a crisis. The Vatican was a relevant player because Pope Francis had— independent of those developments—been planning a visit to Sri Lanka shortly after the election. In the end, Rajapaksa lost and stepped down, and US policy efforts pivoted to supporting the new government of Maithripala Sirisena while continuing to press for accountability and reconciliation as called for in the Human Rights Council resolutions.

New Capacity—Tool Development. Beyond its effect on US posture toward specific countries, the Obama administration’s atrocity-prevention policy also created an impetus for the development of certain new capabilities, although the final inventory of new tools attributable to the policy was perhaps smaller than might have been anticipated or hoped for at the time of the 100-day review. The most meaningful new additions to the toolbox included the following:

Suspension of Entry. Presidential Proclamation 8697, launched alongside the Mass Atrocities Directive on August 4, 2011, created a new tool intended to deter perpetrators of serious human rights and humanitarian law violations and abuses by suspending their ability to enter the United States. Denial of entry to the United States can be a powerful motivator for perpetrators who have family or friends in the country (e.g., children studying at college). One State Department expert who had worked on the Côte d’Ivoire crisis in 2010 and 2011 recalled that a US travel ban announced at the end of 2010 under different authority had been a particularly useful tool for pressuring Laurent Gbagbo, who had a daughter in Atlanta.⁶⁸

That said the proclamation was probably not used to full advantage in the Obama administration. The document contains a loophole that effectively nullifies the operative provisions of the proclamation when the entry of the person in question “would not harm the foreign relations interests of the United States.” The document contains no requirement that this “would not harm” determination be made at senior levels of the State Department, and in practice it was unclear how broadly that provision was applied. The tool also could not technically be used until an individual actually applied for a visa, although individuals could be flagged as candidates for suspension in advance of any application. Finally, the State Department would not release the names of individuals either watch-listed or whose entry had been suspended. Although subsequent legislation seemed to give the State Department greater authority both to designate perpetrators before they applied for visas and to disclose those designations publicly, divisions within the department about how and when to exercise that authority meant that it was effectively not on the table during interagency discussions.⁶⁹

Notwithstanding those challenges, evidence suggests that visa sanctions can be a useful tool for encouraging positive human rights behavior. For example, the administration relied in part on the proclamation to beneficial effect in devising consequences for Uganda's passage of anti-LGBT (lesbian, gay, bisexual, and transgender) legislation in 2014.⁷⁰ After a court overturned the law for technical reasons in July 2014, the Ugandan legislature declined to pass a successor, which suggests that the pressure tactics may have been effective. There is room for further work to consider how the proclamation and legislative visa ban authorities might be most effectively used in other prevention-related contexts given constraints.

National Intelligence Estimate: The first-ever National Intelligence Estimate (NIE) on the global risk of mass atrocities was a useful tool for scanning the horizon and identifying the countries at greatest risk of mass-scale civilian casualties, as well as seeing the connections between mass atrocities and other security threats. A version of the text was made available to certain foreign partners, and the intelligence community offered briefings to members of Congress and staff. A May 2016 executive order formalizing the atrocity-prevention strategy, as well as the structure and protocols of the board, calls for the intelligence community to update its judgments in the NIE to inform the board's ongoing work.⁷¹ Properly framed, those updated judgments should be able to assist the board in developing its long-term agenda and help departments and agencies engage in long-term planning and resource allocation to address future atrocity-prevention needs.

Rewards for Justice Legislation and Other ICC Assistance: The administration worked closely with Congress to pass bipartisan legislation in 2013 that expanded the Rewards for Justice (RFJ) Program to allow an unprecedented level of US government support for ICC efforts.⁷² Previous RFJ legislation had permitted the State Department to offer cash rewards of up to \$5 million for information leading to the arrest or conviction of foreign nationals accused of war crimes, crimes against humanity, or genocide by certain international tribunals. Consistent with long-standing congressional concerns that the ICC might someday seek to prosecute US service members, the previous RFJ legislation purposefully excluded the ICC from those tribunals. The desire to facilitate Joseph Kony's apprehension helped overcome those concerns, however, and in January 2013 the RFJ expansion legislation eliminated the restriction that barred awards for information leading to the arrest or conviction of ICC indictees.

As political acceptance of the court expanded, the executive branch deepened its cooperation in other ways. Two operations of particular note included assisting the Office of the Prosecutor to transfer to The Hague former Congolese warlord Bosco Ntaganda (who turned himself in at the US embassy in Kigali in March 2013⁷³) and senior Lord's Resistance Army commander Dominic Ongwen (who surrendered in the Central African Republic in January 2015⁷⁴). Toward the end of the administration, however, growing signs that the prosecutor was preparing to move toward a formal investigation of US conduct in and relating to Afghanistan raised serious questions about whether the United States would sustain that level of cooperation.⁷⁵

Peacekeeping Expansion and Reform: The administration invested considerable effort in strengthening and reforming multilateral peacekeeping and making it a more flexible and effective instrument for civilian protection. Although President Obama met with leading troop contributors on the margins of his first trip to the UN General Assembly in 2009, the big push on peacekeeping came during the second term. Following up on a summit led by Vice President Joe Biden in September 2014, Obama headlined a 2015 leaders' summit that required governments to make certain commitments if they wanted to

participate. The event yielded commitments for more than 40,000 new troops (including police) together with more than 40 helicopters, 22 engineering companies, 11 naval and riverine units, and 13 field hospitals.⁷⁶ For its part, during the last three years of the administration, the US government sponsored a new program to upgrade rapid response capabilities in a select group of African partners;⁷⁷ upgraded its own peacekeeping policy for the first time in more than 20 years;⁷⁸ championed reforms to improve mission leadership and demand accountability for UN troops that engage in human rights abuses;⁷⁹ promoted the “Kigali Principles on the Protection of Civilians”—a set of guidelines intended to promote more proactive and effective engagement by UN troops operating under civilian protection mandates;⁸⁰ and pressed for the UN Security Council to develop a new mechanism (which was not completed) by which assessed UN contributions could be used to support a portion of the costs of authorized African Union missions.⁸¹ Although the administration worked with partners to follow up on those efforts—the UK Ministry of Defense hosted a ministerial meeting in September 2016—sustained engagement going forward will be necessary to ensure that progress on all those tracks continues.

Unfinished Work: In addition to noting the tools that the administration developed and strengthened, important also to note are the ones that failed to emerge from interagency discussions. In the area of financial tools, the board prepared a draft executive order on atrocities that would have created a global authority to designate for sanctions large-scale violators of human rights, as had been discussed during the 2011–2012 review process. The majority view within departments and agencies was that this executive order would streamline the imposition of targeted sanctions—or credible threats of sanctions—in the context of crises arising in countries where the US government had not already created a sanctions program and where the process of creating one might either be slow or cause unwanted bilateral friction.⁸² Even if some of the designees had few assets in the United States (often the case with, for example, African warlords accused of atrocities), the thought was that many potential perpetrators would want to avoid inclusion on what would come to be seen as the “US atrocities list.” Avril Haines, who served as deputy national security advisor during the Obama administration’s second term, notes that an advantage of sanctions tools is that “we have seen people react in significant ways to even the threat of sanctions, so that by simply putting in place the framework and demonstrating intent by perhaps making a few designations, the tool can have an outsized impact. This is true, even in situations in which the sanctions themselves are unlikely to have a financial impact because people see them, I think, as doing significant reputational damage and ultimately leading to the potential of additional accountability measures.”⁸³

The Treasury Department strongly opposed the issuance of the new order, however, arguing that it would create unmeetable expectations within the advocacy community and create undue burdens on the department’s small staff. The Treasury Department also voiced concerns about the overuse of sanctions in general and the potential effect on the dollar as a reserve currency, although outside experts convened by the NSC to discuss US sanctions policy suggested that neither of those was an especially great concern for a targeted sanctions program of the nature contemplated. Still, despite a principals meeting that sought to bridge gaps, the Treasury Department’s concerns carried the day, and the order was never issued. A year and a half after principals deliberated over the order, however, Congress enacted legislation—the Global Magnitsky Human Rights and Accountability Act—that created a global designation authority for individuals who have engaged in gross corruption or the abuse of human rights defenders.⁸⁴ While the Global Magnitsky legislation achieved some of the objectives of the global order that the Obama administration had discussed, the Trump administration took a very significant further step in issuing

Executive Order 13818, which permits the designation of any foreign person determined “to be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse.”⁸⁵

Another major tool that failed to emerge from the interagency process during the Obama administration was a draft proposal that would have made crimes against humanity an offense under US law. The term “crimes against humanity” is generally understood to refer to widespread or systematic attacks against civilians,⁸⁶ with “attacks against civilians” referring to a range of law of war or human rights violations, such as murder, sexual assault, and torture. The notion that crimes against humanity are of international concern dates to the Nuremberg trials⁸⁷ and is one that the United States has long supported, including in the drafting of the ICC Rome Statute. Indeed, as noted previously, recent legislation permits the State Department to offer a multimillion-dollar cash award for information that leads to the prosecution or conviction of a foreign person accused of crimes against humanity in a mixed, hybrid, or international tribunal, such as the ICC. Consensus within the US government broke down, however, around the question of whether domestic courts should be able to assert jurisdiction over a foreign national accused of crimes against humanity purely because that person is present in the state. The Defense Department in particular has long-standing concerns that the assertion by the United States of “present in” jurisdiction puts US service members and other officials in jeopardy of prosecution abroad. The concern is that other countries might reciprocally assert such jurisdiction to arrest and prosecute US officials present in their countries on trumped-up or political charges. Noting that the United States already has multiple criminal statutes that create “present in” jurisdiction—including for torture, genocide, child soldier recruitment, and piracy—the Departments of Justice and State took the view that the statute did not create additional legal risk for US personnel, particularly because the proposal included certain safeguards (e.g., providing for precharge consultation among the Justice Department and other key departments) to ensure careful consideration of any reciprocal or other policy implications before bringing charges under the statute. Those assurances were not sufficient to overcome Defense Department concerns, however, and the proposal never made it past the deputies committee.

Some commentators have also suggested that the development of military doctrine for the protection of civilians is an area that remains underdeveloped. The board embraced the addition of an appendix on mass atrocity response operations to the Department of Defense’s Joint Publication 3-07.3. The appendix is drawn largely from the 2010 Mass Atrocities Response Operations handbook by the Harvard Kennedy School’s Carr Center and the Army Peacekeeping and Stability Operations Institute. Commentators have subsequently suggested, however, that the board should have looked more closely into whether that addition represented sufficient progress. One recent review of the military’s literature on civilian protection described the US Army’s translation of joint doctrine into its own training and doctrine publications as a “halfhearted effort” and argues that “the minimal doctrine that exists does not provide the military planner with a comprehensive guide to preventing and responding to atrocity crimes during the course of armed conflict.”⁸⁸ A former senior administration official argued, however, that although any doctrine could likely be improved, there is no such thing as a “right” doctrine that would by itself change the military’s reluctance to embrace humanitarian intervention.⁸⁹

Beyond the Blueprint—Libya, Syria, and the Intervention Conundrum

No discussion of atrocity prevention during the Obama administration would be complete without consideration of Libya and Syria. Although both are considered to be foreign policy failures for the administration, the two cases pull in somewhat different directions in terms of the lessons that they teach.

Libya

Libya is a particularly challenging case for atrocity-prevention advocates because, at least in the early stages, the response by the United States and its partners response was so close to what the Task Force Report would have posed as the ideal. By way of background, in early 2011, at a moment of sweeping political change across the Arab world, Muammar Qadhafi moved to suppress political dissent in his country by marching on the city of Benghazi—a city of 650,000—and threatening to kill all who did not lay down their arms. In one radio broadcast reported in western media, Qadhafi said, “It’s over. The issue has been decided... We are coming tonight... We will find you in your closets... We will have no mercy and no pity.”⁹⁰

Officials who were close to decision making inside the US government and the United Nations at the time recall that there was a remarkable level of international cohesion around the desire to prevent mass slaughter. To be sure, the motives varied slightly. Western European governments, for example, feared the waves of migrants who might follow if Qadhafi made good on his promise. Within the US government, there was concern both about the immediate carnage that Qadhafi appeared to be planning, and the implications it might have for democratization movements springing up across the region. If Qadhafi massacred protesters to put down dissent, what kind of message would that send to other strongmen in the region? But even outside US and European circles on the UN Security Council, there was a genuine belief that a massacre was in the offing and that the council might be able to do something about it.⁹¹

Against this backdrop, senior US officials explored options for military intervention. President Obama was wary of intervention in general and not especially drawn to it in Libya (he was “talked into it against his better instincts,” said one former senior advisor), but he was also concerned about intervening in a way that would be ineffectual.⁹² He rejected options that would have focused on grounding the Libyan Air Force and establishing a no-fly zone on the grounds that they would have left Benghazi exposed to tanks and ground artillery. From that feedback emerged the plan that would ultimately carry the day: his team at the United Nations would seek a broad civilian protection mandate that would allow military engagement

to protect innocent life in Benghazi and elsewhere in Libya, and the United States would contribute to a “coalition of the willing”—offering its “unique capabilities” as needed to the military effort but otherwise relying on its partners to carry the burden of the intervention and its aftermath.

Although that approach is now widely second-guessed, it was not at the time. “The president was looking to avoid a long-term, open-ended entanglement, so seeking to hand off the baton seemed to make sense,” observes Samantha Power, who was at the National Security Council during the Libya campaign. “The problem was our coalition partners and the U.N. were unable to shape a complex post-conflict phase, and the Libyans quickly shunned foreign involvement and began fighting amongst themselves.”⁹³ A former senior official notes that it is an “open question whether more intensive US leadership in the immediate aftermath of Qadhafi’s fall could have made a difference,” and adds that, “I wish we could look back and say we invested all we had and came up short. Instead, for a long period, we let others lead – a mistake.”⁹⁴ Obama himself has called the failure to plan adequately for Libya after the intervention the “worst mistake” of his presidency.⁹⁵

What accounts for the “mistake”? Part of the problem may have been that the administration entered the conflict without a clear vision about how the intervention would affect Libya’s leadership. “We really did craft that mandate and initiate that campaign to protect civilians,” notes Ben Rhodes. “But once we were in the conflict it became almost impossible to see it through until Qadhafi was gone. It exceeded the initial purpose of the policy.”⁹⁶ Indeed, by mid-April, President Obama had gone on the record with UK Prime Minister David Cameron and French President Nicolas Sarkozy to argue that Qadhafi’s presence in office was incompatible with a democratic transition and that “he must go and go for good.”⁹⁷ Less clear was exactly how or when he would go or how the leadership succession would work. Certainly, the plan was never that he would be dragged from a bombed vehicle and summarily executed by a mob, as happened in October 2011.

But the challenge ran much deeper than that. A more fundamental problem was the failure to anticipate how dysfunctional the incoming group of leaders would be and how much of a problem it would present for the transition. What leadership there was proved unresponsive to offers of assistance from the donor community and unwilling or unable to do the hard but necessary work of disarming the militias that were consolidating their control over huge swathes of the country. “We overestimated the Libyans’ receptivity to foreign support,” suggests Tony Blinken, who at the time was Vice President Biden’s national security advisor. While questioning whether the United States really could have done much more, Blinken notes that “We also underestimated the incompetency of the Libyan civil service, which Qadhafi had completely eviscerated. We just didn’t understand the terrain as well as we could.”⁹⁸

Samantha Power also notes the deep-seated Libyan opposition to any kind of foreign presence to assist with stabilization: “The Libyans wouldn’t tolerate a foreign footprint. It was one of the few things the Libyans could agree upon,” she recalls. “They wouldn’t even tolerate beefing up the UN security detail for the Special Representative of the UN Secretary-General. Even though many Libyans would say quietly that they needed a more substantial international presence, they couldn’t admit it publicly because it would have been politically toxic.”⁹⁹ Although the country managed to hold democratic elections in summer 2012, they only masked deep divisions between multiple power centers. For US officials, any illusions that the country was on a positive trajectory were definitively shattered on September 11, 2012, when US Ambassador Chris Stevens and three other Americans were murdered in an attack on the US consulate in Benghazi.

Finally, the United States and its allies may have been too dismissive of the possibility of a negotiated settlement working with regional partners. Although the preamble to Security Council Resolution 1973—which authorized the military intervention—spoke about the African Union’s efforts to shape a political solution to the crisis, critics argue that the United States, United Kingdom, and France never took that possibility seriously.¹⁰⁰ A high-level AU panel seeking to travel to Tripoli toward the end of March 2011 to discuss that possibility was told by NATO that its safety could not be guaranteed. Although subsequent AU missions were able to enter the country—and although many former US officials are deeply skeptical that the AU could have convinced Qadhafi to negotiate given his “complete and demonstrated” unwillingness to respond to AU overtures¹⁰¹—some observers criticize the United States and its allies for not supporting the AU more fully in its efforts, even knowing that they might not succeed. (Those observers argue that failure to do so both weakened the AU as a regional interlocutor and strengthened resistance in Africa and elsewhere to future humanitarian interventions.)¹⁰² The United States did float the idea of managing an exit for Qadhafi at a meeting in Tunis in July 2011, but the Libyans—expressing disappointment in the United States for not “protecting” them after the reopening of ties in 2003—declined to pursue that idea.¹⁰³

Although considerable interest already exists in studying what happened in Syria to understand what might have been done differently to produce a better outcome, less focus has been trained on the situation in Libya, which deserves much closer study. The essential questions posed by the Libyan intervention—for example, whether it is possible to fashion such an intervention that does not result in regime change (taking into account the timeframes imposed by the War Powers Act) and how to manage post-conflict dynamics in a country that has virtually no functioning public institutions or civil society—are certain to arise again.¹⁰⁴

Syria

If Libya is a powerful example of how armed intervention can go awry, Syria provides an almost perfect counterpoint in demonstrating the perils of unaddressed mass violence against civilians. Since 2011, when the Assad regime’s heavy-handed suppression of Arab Spring protests began to morph into violence and atrocities of horrific proportions, the question for the United States and its partners has been whether and how to respond to the situation. Absent resolution, civilian and noncivilian casualties have mounted: roughly 500,000 people have been killed, and roughly half of the country’s pre-war population has been displaced—with at least 5 million leaving Syria’s borders as refugees and either setting up camp in an adjoining country or making the fraught and dangerous trip to Europe to seek asylum.¹⁰⁵ The humanitarian tragedy has bred instability and security threats that extend well beyond the immediate neighborhood. Extremists such as the Nusra Front and, ultimately, IS gained footholds amid the chaos, with IS using Syrian territory as the staging ground for its campaign into Iraq. Refugee flows out of Syria merged with mass migration originating in South Asia and sub-Saharan Africa to create a huge destabilizing surge that roiled European politics and had ripple effects into the United States.

Whereas Libya demonstrated that measures endorsed by the UN Security Council do not—at least without prudent planning by implementing states—guarantee positive outcomes, Syria shows how cramped the US options become when the council refuses to authorize meaningful action. With the Syrian crisis heating up just as the Libyan intervention unfolded, Russia and China made very clear that they would under no circumstances support council-endorsed coercive measures in Syria, arguing that the coalition had exceeded its authority in Libya. US analysts believed that Russia’s strong interest in maintaining access to its base at Tartus—its only port on the Mediterranean—was also deeply significant.¹⁰⁶

A recent paper published by the United States Holocaust Memorial Museum’s Simon-Skjoldt Center reviews US decision making at critical junctures in the Syria crisis and offers a number of insights relevant here. First, the US response to increasingly heavy-handed tactics being used by the Assad regime to suppress political dissent in the first part of 2011 both underestimated the extent of Assad’s determination to cling to power and the extent to which his powerful outside backers in Moscow and Tehran would stand by his side even as violence rose to conscience-shocking levels.¹⁰⁷ Against that backdrop, some of the pressure tactics that the US government adopted over the course of 2011 take on a different cast. A sequence of senior-level statements—that Assad must accept reforms or get out of the way, that he had lost legitimacy, and finally that he “must go”—may not have been intended as a signal that the United States insisted on regime change in Syria, but they were almost certainly perceived that way. The way in which Qadhafi came to his end in October 2011 also could not have helped. (“He died in a sewer,” noted one former senior official. “Everyone saw that.”¹⁰⁸)

In a different context—one in which Assad had less-powerful patrons and the United States had more leverage—that kind of pressure might have been effective in creating a sense of isolation and, over time, weakened the regime. In the present context, however, the effect may well have been counterproductive—suggesting to dissidents that the United States would have their backs and to regional powers that it was time for them to move vigorously to protect their interests. “It opened the door for everyone to engage,” observed Jeremy Weinstein, who served both on the Atrocities Prevention Board and the deputies committee during Obama’s second term. Weinstein observed that the United States erred by not having a plan to back up what was perceived as very strong rhetoric on the prospect of regime change: “We were a second-tier player. We were not that attentive to external dynamics. We underestimated Assad’s staying power and the willingness of others to create a mess.”¹⁰⁹ Ben Rhodes notes that the US early handling of the Syria crisis brought to the fore the tension that sometimes exists between the different values-oriented strands of US foreign policy: “Our ethos of universal principles is that the story always has to end in a democratic election. But that wasn’t ever going to be accepted by Russia, Iran, and Assad. The humanitarian impulse to save lives can clash with the democratic impulse toward self-determination.”¹¹⁰

As the United States threw its support behind a six-point plan advanced by UN and Arab League Joint Special Envoy Kofi Annan, the violence continued to escalate, and the Security Council remained deadlocked.¹¹¹ In the first two years of the conflict, the Security Council got no further than the creation of an unarmed UN monitoring mission. Reflecting on Annan’s resignation as envoy in August 2012, Middle East scholar Aaron David Miller summarized the situation as follows:

*Bottom line on Kofi’s mission. D.O.A. from the get-go. Too much blood spilled for a negotiated settlement between the Assads and the rebels, and not enough for foreign intervention to pressure the Assads to leave.*¹¹²

The dynamic changed, however, following a massive sarin gas attack by the regime at Ghouta on August 21, 2013. The attack crossed a “red line” that President Obama had laid down almost exactly a year earlier,¹¹³ and the United States began preparing a limited forcible response (i.e., one not intended to lead to regime change).¹¹⁴ The response, however, never came. Obama instead announced on August 31 that, although he wished to proceed, he also preferred to have congressional authorization first.¹¹⁵ The desire for authorization was understandable given the pushback the administration received for proceeding in Libya without a congressional mandate (and, in the eyes of critics, beyond what the War Powers Act permitted). Moreover, the President’s power to use force in this situation was arguably at a low ebb because he not only lacked Congress’s support but also would be using force against a nonconsenting state without one of the rationales typically used to demonstrate a national interest sufficient to justify the use of force under US domestic law (i.e., action in self-defense or to support enforcement of a UN mandate). Additionally, the administration had been counting on support from European partners, but the prospects for that diminished considerably when UK Prime Minister David Cameron chose to approach Parliament for its support and was rebuffed. As the administration watched to see how Congress would react to the challenge, Russia seized on a remark by Secretary of State John Kerry to the effect that the United States might revisit the use of force if Assad gave up every bit of his chemical weapons, and focus shifted from a possible use of force to an arms control exercise. With Russia on board, the UN Security Council mobilized to create a binding framework intended to rid Syria of its very sizable chemical weapons stockpile.

There is considerable debate about whether focusing on stockpile reduction was the best way to use the leverage created by that moment, with some critics arguing that the United States should have instead proceeded with airstrikes and pressed the parties to come to the table to develop a de-escalation plan. Regardless of the answer, however, the credible threat of force clearly seems to have produced what is perhaps to this day the most consequential multilateral response to an aspect of Assad regime violence, and this is not altogether surprising. Keeping matters within the UN Security Council played to Russia’s advantage, as Moscow had permission from the Assad regime to pursue its military objectives on Syrian territory and did not require Security Council approval. Russia later used that advantage to join forces with the regime in the campaign that ultimately, among other things, led to the fall of Aleppo.

Although individuals interviewed on this topic were of mixed views about whether the administration’s decision not to use force in 2013 (and subsequently) was wholly a matter of policy or whether it also reflected a measure of deference to international law, President Obama himself seemed to suggest that concerns about legality played an important role in his thinking.¹¹⁶ Against this backdrop, some former senior US government lawyers have suggested that the time has come for the US government to move in the direction of the UK and Denmark, which interpret international law to permit the use of force to address extreme humanitarian emergencies in certain limited circumstances—even absent Security Council authorization, the territorial sovereign’s consent, or a credible self-defense claim. Former Legal Adviser Harold Koh has called for the creation of a high-level working group to examine the issue.¹¹⁷ Recognizing that force by itself is rarely the solution to an atrocity situation, Koh explains that the “goal is not for lawyers to provide an excuse for unconstrained use of force in places like Syria. Rather the goal is to make legally available the option of diplomacy backed by force.”¹¹⁸ Because such a theory could also be used to justify a wide range of interventions, however, a key question for any group along the lines that Koh proposes will be how to articulate limiting principles that can be a meaningful safeguard against abuse.

Blueprint as Policy: After Action

The Obama administration's experience with atrocity prevention both affirmed and challenged core precepts of the atrocity-prevention agenda set forth in *"A Problem from Hell"* and the Task Force Report. Asked whether the administration's prevention policy was ultimately worthwhile, former senior officials were on the whole positive and underscored benefits that flowed from placing a conscious emphasis on prevention—from the cultivation of expertise to the development of new capabilities to better policy and outcomes in situations that might not otherwise have attracted focused US attention. Certainly the administration's approach dramatically undercut the idea that looking away from an emerging atrocity might be widely, if quietly, understood to be a "success." At the same time, however, there was a general sense that redefining bureaucratic success and lending a stronger sense of mission to the US government's prevention efforts would not by themselves be sufficient to avoid future Libyas and Syrias. Some interviewees felt strongly that additional tools and authorities could help make the United States more effective in at least some such scenarios.

The Affirmative Case

Former officials who praised the policy and its implementation tended to group their comments as follows:

Focusing Senior-level Attention and Guiding Policy on Below-the-Radar Situations

Officials expressed near-uniform agreement that the policy was important for generating focus on situations that could otherwise slide beneath the notice of senior policy makers until a full-blown crisis had developed, and the range of options for staving off horrific violence had significantly narrowed. That kind of upstream work was important for moral and humanitarian reasons, but it was also important for avoiding regional destabilization that could have negative national security implications. "There is so much value in working on places that would not come before principals or deputies," notes former board member Jeremy Weinstein. "That includes a regularized process to force this basket of issues onto someone's agenda and keep it from getting lost. If you don't have it, then Burundi risks getting lost in the Africa bureau's inbox, and the Central African Republic gets left to the French."¹¹⁹ Ben Rhodes says that, because of the strategy, "I found the atrocity-prevention focus and early warning signs to be more a driver of policy. I saw them elevating the profile of issues not otherwise on the agenda. As a result, these issues were in the White House in a different way. I remember the president being involved on Côte d'Ivoire. On the Central African Republic. On South Sudan."¹²⁰ Echoing those sentiments, former National Security Advisor to Vice President Biden, Jake Sullivan, notes, "Let's remember that we sort of take a case like CAR for granted because it seems a bit soft—not that big a lift. But compare it to what another administration would do in a similar situation without this policy. Nothing."¹²¹

Surge Capacity and Backstopping A number of former officials spoke about the additional capacity created by bringing together functional experts from across the government to bear down on a problem that might not otherwise be fully staffed. Weinstein spoke of “empowering people who care about these issues and are more powerful than they would be from within their silos—and also benefit from the White House access they gain through the NSC chair.”¹²² A former NSC staffer who worked in a regional directorate echoes the sentiment and remembers drawing on the board and its network to work on a range of prevention issues that regional offices were too overtaxed to handle on their own: “If you have prevention-minded people and you don’t have to worry about competing interests, you can get a huge amount done. We were able to develop a whole team resourced out of the atrocity-prevention pieces of government. It didn’t take a ton of effort.”¹²³ The limiting factor, notes this former official, is country expertise: “The APB can give you additional bandwidth, especially if you have people who know what they’re doing on specific countries. But if you don’t have regional expertise, then you have real problems.”¹²⁴

In another variation on the theme of surge capacity, board members knew that they could be called to meet at pretty much any time if a crisis arose, and the board was sometimes more nimble than were regional processes at coming together quickly. On multiple occasions, the board convened for pop-up weekend conversations to fill a planning gap. The announcement of a board meeting would occasionally prompt the regional group to convene in advance so they could be the first to occupy the relevant policy space. The NSC Multilateral Affairs directorate dubbed that the “APB effect.”

Options, Expertise, and Intelligence Former officials who ran deputy-level processes expressed particular appreciation for the way in which the board marshalled intelligence and cultivated options so that deputies could usefully weigh in on atrocity-related issues. Former Deputy National Security Advisor Avril Haines saw value in “having informed views at the table regarding the various ways in which you might mitigate the chances of violent incidents erupting into mass atrocities, particularly when animated by hatred or prejudice.”¹²⁵ Haines noted that, “For example, recognizing the value of, and recommending the use of, public messaging in some circumstances from certain credible voices on tolerance and peace was important. Experts in this area generally knew what the content of such a message would be and had the networks and tools to deploy it intelligently. Through the conversation they’d also be educating high-level policy makers to the idea that there are special issues relating to this category of crimes and special tools that ought to be deployed.”¹²⁶ Tony Blinken—who served as Deputy National Security Advisor immediately before Haines—similarly appreciated the ideas that the board and its network would surface “not just for engaging governments and key players but for shaping the public space, using radio addresses and public service announcements to create counterpressure.”¹²⁷ Blinken felt that even more could be done to marry up the work of the board with the “normal” NSC process and wondered whether giving an official board designee a specified seat at interagency policy committee meetings and deputies meetings on atrocity-inflected issues might be a way to help achieve that goal.¹²⁸

A Framework for Developing Tools The strategy writ large provided a rolling impetus to develop and deploy new capabilities that otherwise would not have seen the light of day, argues former Atrocities Prevention Board member Jeremy Weinstein: “You need a concerted effort to develop the toolbox... Who cares about these things in the absence of a specific policy and structure? If you have the policy and the structure, then you get a foothold, and allow outside groups to hold you accountable.”¹²⁹ A former State Department official who began working on board initiatives during the Obama administration’s second term agreed with that sentiment and also suggested that, for that reason, the administration may have

missed an opportunity when it chose not to release a declassified version of the report that emerged from the 100-day review process in 2011. The official noted that the recommendations in that report could have been a useful checklist for civil society in monitoring implementation of the prevention strategy.¹³⁰

Shortcomings, Challenges, and Possible Solutions

Although most former officials interviewed were solidly supportive of the board and atrocity-prevention strategy for the noted reasons, they also identified serious challenges that surfaced as the administration sought to move from the Task Force Report to an actual policy:

Overcoming Challenges to Multilateral Action One of the major gaps in the Task Force Report, and in the policy that flowed from it, is a failure to grapple fully with scenarios in which a veto-wielding member of the UN Security Council blocks authorization of collective measures that are required to address an atrocity situation. That always had the potential to be a substantial obstacle to US prevention efforts because working within a multilateral framework—to optimize burden sharing, effectiveness, and legitimacy—was a key emphasis of “*A Problem from Hell*,” the Task Force Report, and the administration’s strategy. In practice, however, it was unclear how big a problem it would be. During the first few years of the administration, it seemed that Russia and China could generally be pressured into joining the United States and its partners even when their instincts might have led them in a different direction—as was the case in Côte d’Ivoire (where the Russians reluctantly joined the Security Council in affirming the legitimacy of Alassane Ouattara’s election as president and pressuring Laurent Gbagbo to step down) and Libya. In Syria, however, a combination of factors—Putin’s replacement of Medvedev in May 2012, the messiness of the Libyan intervention, and Russia’s perceived strategic interests—brought this trend to a crashing halt. Recalling how Secretary of State Albright had spurred the Security Council to action in the Balkans in 1995 by producing aerial photographs of mass graves around Srebrenica,¹³¹ the United States sought to raise the costs of intransigence by declassifying and posting information about regime atrocities and packaging the information in ways that would be easily digested. Russia, however, was prepared to absorb those costs, and over time a numbing could be observed not just in the Security Council and the broader public (which the Russians sought to exacerbate through an active disinformation campaign) but even within the US government. “People were overwhelmed by the sheer scope and variety of the horror inflicted,” says one former senior official.¹³²

Although multilateralism will continue to be important to any US government atrocity-prevention policy going forward, future administrations will need to fully absorb the lessons of the Syria interlude, which include understanding the challenges of operating in a very different global landscape than the one that Albright faced when she pushed the UN Security Council to action in 1995. “The 1990s frame, that mindset, is not going to be helpful,” says one former senior official. “The Russians will not roll over while Putin is in charge.”¹³³

The question, then, may be whether the United States can devise tools that will either apply more effective pressure on Russia to work constructively in the Security Council or afford a viable alternative

to council-sanctioned action. As Harold Koh has suggested, one area for focused work could be an effort to develop a considered legal framework, with appropriate limiting principles, that would make clear to Moscow that the United States considers itself to have the legal right of forcible intervention to address extreme humanitarian emergencies. At least in 2013, Russia's concerns about the threat of force outside a council-sanctioned framework helped bring it to the table in New York. Any effort to develop a legal framework would have to be approached with eyes open to the challenges. That humanitarian intervention is prohibited by the UN Charter is by far the dominant (although not the exclusive) perspective within international legal circles, and any shift away from that view by the US government will be intensively scrutinized for fealty to the Charter's text and history. An approach that is not well supported and subject to robust limiting principles will be criticized as illegitimate and damaging to the rule-based international order. As a policy matter, any legal justification would have to be framed such that the United States could abide its reciprocal application by other countries.

With respect to other coercive measures, the relatively successful US collaboration with the European Union in the context of DRC targeted sanctions offers one possible model to emulate. "Taking joint action with the EU on sanctions is not common or easy," says one veteran of the DRC sanctions effort. "The fact that we went the extra mile was impactful. That should be the norm."¹³⁴ Additionally, although proceeding multilaterally may be strongly preferred when it comes to financial sanctions, the United States also has a significant range of options for proceeding unilaterally, including potential new tools. For example, a 2017 Enough Project publication¹³⁵ urged new strategies, such as targeting perpetrator networks (as the Treasury Department did on a modest scale when it simultaneously so designated DRC General Francois Olinga and one of his business concerns); using anti-money laundering tools; and potentially broadening the use of secondary-type sanctions—that is, sanctions that impose restrictions on foreign (as opposed to US) entities that do business with regimes or actors the United States is seeking to pressure. The Center for Global Development has also promoted the notion of preemptive contract sanctions, which would "put creditors and investors on notice that any future contracts to a regime would not be considered binding on successor governments."¹³⁶

Although those new tools, as well as the new global designation authority created by Executive Order 13818, may be helpful in creating useful leverage—even where multilateral pressure is unavailable—like all sanctions, they are most likely to be effective if employed as part of a political strategy, with off-ramps that allow lifting when parties meet demands. Collateral effects—including damage to the local economy (which can have negative humanitarian consequences) and impacts on US businesses with interests there—should also be carefully weighed when considering the application of new sanctions and should be minimized to the extent possible.

Finally, the multilateral institutions with a role in driving international criminal justice—most importantly the UN Security Council and the ICC—have not yet been able to deliver fully on their promise for deterring, punishing, or restraining perpetrators of atrocity crimes. As one former official noted, norm and institutional development have proceeded apace in recent decades, but the apprehension and sentencing of perpetrators has not. Whether or not the ICC can overcome extraordinary political and practical challenges to become an effective forum for the prosecution of atrocity crimes is not yet clear. One lesson of the ICC period, however, is the critical importance of local and regional cooperation to the apprehension of alleged perpetrators. The concerted efforts of the European community to bring war criminals to justice from the Balkans conflicts of the 1990s stand in stark contrast to efforts to bring to justice Sudanese President Omar Bashir, who has been

able to travel relatively widely, particularly in Africa, including to ICC states parties.¹³⁷ Moreover, the Security Council has done virtually nothing to back up the court, even in situations (such as the Darfur cases) that arose out of a Security Council referral. That leads some former officials to emphasize the importance of leaning more heavily on regional mechanisms and developing the local support that will give those mechanisms sufficient strength so that their decisions are enforced. “While the ICC is an important institution, there are many situations where the ICC will not have jurisdiction, and it will always be far from affected communities. Thus, in many cases we need more specialized courts, hybrid courts, that are located in the region,” argues one former official, who also notes the critical importance of building local constituencies—looking, for example, to victims groups for leadership—to support those courts and their missions. “The specialized court for CAR, the South Sudan AU hybrid court, the Habre court in Senegal—we need to move in that direction.”¹³⁸

Greater Space for Pragmatism While recognizing that the topic is somewhat amorphous, a number of former senior officials suggested that the Obama administration sometimes boxed itself in by seeking to serve multiple values-linked goals at the same time, and that future administrations would do better to preserve greater flexibility. The comments had echoes of the long-standing “peace-versus-justice” debate about the tensions that can arise when seeking to forge diplomatic compromise with individuals alleged to have committed mass atrocities, who may resist peace absent guarantees that they will not face justice. Says one former senior official, “A core question is how you balance the impulse to save lives with seeking justice and democracy promotion. The reflexive US instinct was to do all three in Syria. Going all in is the way we operate—we’re wired to think that way — but in some places this may not be conducive to a good outcome.”¹³⁹ This former official notes that steps to advance accountability for atrocity crimes, such as an ICC referral, can make a leader like Assad feel as though he is in an existential battle, making him less likely to strike a deal that would protect civilians. “What happens to the Assads of the world?” asks the former official. “If it were up to me, I’d put them on a resort island with lifetime protection.”¹⁴⁰

In the same vein, another former official argues that, “We need to be better at conciliation—very often you need to pair conciliation and coercion together, like we did in the Iran deal, in order to get an outcome that will prevent a crisis from reemerging in the immediate and longer term.”¹⁴¹ Still another former official underscores that, “We have got to get a lot more comfortable cutting deals with really bad guys.”¹⁴² At the same time, that official acknowledges the enormous downsides of seeming to reward perpetrators of the most serious international crimes with impunity: “We don’t want to create incentives to commit atrocities.”¹⁴³

Although drawing sharp lessons from these reflections was difficult, what emerged was a sense that the United States should force itself to be realistic about how much leverage it has and the extent to which it can effectively pursue civilian protection, accountability, and democratic governance simultaneously in future crises. That is not to say that the United States should ever abandon any of those objectives or pursue peace at any cost but to recognize that sometimes being nuanced about how to pursue accountability and governance objectives may be helpful during periods when officials have acute concerns about civilian protection. In some situations, the course change may simply be a matter of sequencing—for example, prioritizing de-escalation and civilian protection over calls for transition and immediate accountability when the situation requires it but preserving as much latitude as possible to pursue both in the long term.

The US approach to Burundi, discussed previously, is an example of that approach—as tensions there increased, the United States focused on de-escalation and seeking a political settlement rather than on pushing

Nkurunziza from office. That type of approach “is reasonable if you are trying to prevent a conflagration,” said one former senior official. “You want someone trying to balance things intelligently.”¹⁴⁴

Communications: Striking the Right Tone Shaping expectations and communicating the prevention agenda to Congress and the public will be essential to political and financial support for prevention-related projects. During the Obama administration, those efforts suffered at certain points for several reasons.

First, the 2008 Task Force Report helped set expectations sky high for the atrocity-prevention agenda by simultaneously broadening the scope of “genocide” to include a far wider range of atrocities and declaring that ending genocide was an achievable goal. The administration, if anything, augmented those expectations with the high-profile rollout of the “Atrocities Prevention Board” and indeed with the very name of the board. Notwithstanding early efforts to manage expectations by explaining that the board was not a panacea and would not in fact be dealing with matters already receiving high-level attention, bridging the gap between the aspirational rhetoric of the Task Force Report and the reality of the board’s mission was difficult —particularly while Syria burned.

Second, much as the board and its members welcomed and sought input from civil society, the advocacy community persistently suggested that it lacked sufficient access to the board and its work. In hindsight, one reason for the disconnect may be that the board was focused on its role as an interagency policy committee, which dealt in classified and other nonpublic information, and generally kept its deliberations internal to the US government. By contrast, the advocacy community may have had expectations that the board would be more active in trying to raise public awareness around atrocity issues and also in visibly pushing more senior officials to develop the political will to take certain risks in the service of the atrocity-prevention agenda.

For similar reasons (i.e., because the board was conceived of as an IPC and therefore a quintessentially executive-branch entity), early efforts to cultivate a congressional constituency for its work were thin. Although some already sympathetic staffers took an interest in its agenda, understood its focus, and sought to educate others, the effort was not fully successful. “The Republicans still see it as a failure,” explains one senior congressional staffer, noting that this is particularly a problem if there is a desire to get any funding for prevention-related projects.¹⁴⁵ There is such a desire. Although the board was initially conceived as a coordinating entity that would not command additional resources—as similar other IPCs—State Department representatives over time pushed back on that premise. One concern that quickly emerged was the difficulty of securing regional bureau cooperation on board-endorsed efforts unless the functional components most closely tied to the board could offer some resources by way of support. The State Department’s “J Bureau” (which had responsibility for civilian security, democracy, and human rights) pressed for funding and was able to secure a modest earmark to support prevention-related work, but congressional support remained tenuous. “You can get earmarks,” says the staffer, “but over the long term you can’t make this work if you don’t get the Republicans on the Senate Foreign Relations Committee to support it.”¹⁴⁶

Looking Ahead: A Fork in the Road?

Just past the ninth anniversary of the Task Force Report, the world looks very different from the way it did when the report launched. Although the Task Force Report informed the creation of a policy and a process that former officials generally believe has added some value, those tools have not necessarily had the full real-world effect that was hoped for or intended. The promise that ending genocide and other mass atrocities is an achievable goal does not necessarily seem more realistic today than it did in 2008, and in some ways it seems more aspirational. Great power tensions have strained the international order that, it was hoped, would provide the framework and tools for addressing those crises.¹⁴⁷ A UN-authorized intervention in Libya ended in chaos. A revanchist Russia has put itself beyond shaming in the Syria crisis and made clear its open hostility to the protection of human rights around the world. Against that backdrop, the atrocity-prevention movement needs to decide where to go next.

One option would be to focus mainly on expanding and perfecting the niche that the board carved out for itself. Under that approach, the US government would focus on further institutionalizing the board so that its work becomes yet better integrated with the mainstream of US foreign policy. Work could also continue on developing new tools—for example, a crimes-against-humanity statute—and to bring along other international partners to help bolster US efforts. Recognizing the challenges of mitigating atrocities once they flare to Syria levels of violence, the US government could also seek to increase dramatically its early prevention efforts, as one group of experts recently proposed.¹⁴⁸

Although many of those suggestions are worthy (and, indeed, consistent with recommendations made herein), the present report suggests that cleaving strictly to that path will cause a missed opportunity to learn from the past and to fill in some holes that must be addressed for the atrocity-prevention project to be more successful in the future. Although room for improvement remains, the US government has now learned how to configure itself in a way that addresses the structural issues raised by *“A Problem from Hell”* and the Task Force Report. Much as appreciating and preserving those gains is important, also important is recognizing the magnitude of what those formal and structural changes failed to do in Libya and Syria. The very substantial damage caused by the failure of the system to bring to heel the Syria crisis is particularly important. That damage accrued primarily to the innocents caught up in the horrific violence and secondarily to political stability in the Middle East and Europe, but it also had an incidental effect on the credibility of the atrocity-prevention agenda writ large. “Syria blots out the sun,” notes one former senior official.¹⁴⁹

The recommendations that follow are offered with that context in mind.

Recommendations

For the Executive Branch

- 1 To advance the US government’s effectiveness at preventing atrocities, it will need both to consolidate the progress it has made in implementing the core recommendations from the Task Force Report *and* look beyond those recommendations to compensate for gaps in capabilities and for obstacles to multilateral action at the United Nations that affected its ability to shape positive outcomes in Libya and Syria.**

- 2 With respect to consolidating areas in which it has made progress in the past few years, the US government should do the following:**
 - Incoming administrations should make clear publicly that the Atrocities Prevention Board will meet at the assistant secretary level.
 - In addition to its horizon-scanning and country-specific work, the reconstituted board should focus on unfinished work to expand prevention capacity. Areas requiring attention include the following:
 - *Financial Sanctions.* The US government should make clear its intention to use Executive Order 13818 as a tool for sanctioning perpetrators of mass atrocities in the context of broader policies intended to address the causes of violence.
 - *Visa Sanctions.* The chair of the Atrocities Prevention Board should seek a memorandum from the Consular Affairs bureau and the Office of the Legal Adviser at the State Department that provides answers to questions about how Presidential Proclamation 8697 and Section 7031(c) of the FY2016 State, Foreign Operations, and Related Programs Appropriations Act have been applied and offers recommendations, as appropriate, for adjustments that would allow for the more effective use of visa sanctions as an atrocity-prevention tool. Those recommendations should focus in particular on how current authorities can be used or new authorities created for the imposition of bans before an individual’s application for a visa for and the public release of banned individuals’ names. They should take into account that designation under newly issued Executive Order 13818 denies the designee entry to the United States.
 - *Military Doctrine.* The Department of Defense should develop further doctrine on civilian protection that provides military planners a comprehensive guide to preventing and responding to atrocity crimes during the course of armed conflict.
 - *International Criminal Justice.* The Department of Justice should forward the draft crimes against humanity statute, which was previously reviewed and approved at the level of the deputy attorney general to Congress as a legislative proposal, and work with Congress to get it enacted into law.

- *National Intelligence Estimate.* The intelligence community should prepare an updated national intelligence estimate on the global risk of mass atrocities that builds on the first NIE prepared in 2013 and covers the five-year period beginning in 2018. The NIE should be updated every five years going forward.
- *Supporting UN Capacity.*
 - The State Department, Defense Department, and US Mission to the United Nations should press for implementation of any outstanding pledges from the September 2015 leaders' summit on peacekeeping and continue driving for reforms to improve leadership, accountability, and civilian protection (including by seeking further support for the Kigali Principles).
 - Beyond peacekeeping, the US Mission to the United Nations should press the new secretary-general to stand behind the Office of the Special Adviser on the Prevention of Genocide as a strong and independent voice on emerging atrocity risks.
 - Representatives of the Atrocities Prevention Board should also continue to engage with their counterparts in like-minded governments to coordinate atrocity-prevention efforts both at and outside the United Nations.
- *Learning from Past Cases.* The executive branch should develop an effective system for reviewing US government efforts on atrocity prevention and preparing case studies that describe the tools and approaches deployed and that identify lessons learned. In that connection, the State Department should identify an outside actor or actors—such as a nongovernmental organization (NGO) or academic institution with relevant expertise—with cleared staff to prepare a periodic digest of US government work on prevention cases.
- *Dedicated Resources.* The State Department should formulate, and OMB should support, a budget request for resources that would be under the supervision of the under secretary for civilian security (or the successor office that represents the State Department on the board) and that could be allocated to prevention projects directed by the board. The request should take into account the funding levels suggested in previous reports¹⁵⁰ as well as the State Department's own assessment.

3 The US government should seek to compensate for gaps in capabilities and consider ways to overcome obstacles to multilateral action at the United Nations that affected its ability to shape positive outcomes in Libya and Syria.

- *Legal Authority for the Use of Force.* At the direction of senior policy makers, the interagency lawyers group should consult with outside experts to develop the best available justification for the use of force without a UN Security Council authorization or traditional self-defense justification to address humanitarian crises of a type or magnitude that threaten the international order. The justification should include robust limiting principles and be framed in such a way that the United States could accept, as a policy matter, its reciprocal application by other governments.
- *Forcible Intervention Review.* The Department of Defense, the Office of the Director for National Intelligence, and the Department of State should coordinate a review of past instances in which military force was used to create pressure for modification of behavior within a conflict or a political solution to civil conflict short of regime change. The review should reflect the substantial academic literature on this subject and the input of outside experts.
- *Sanctions Strategy and Tool Development.*
 - Drawing from the example of US-EU cooperation in the context of DRC sanctions, the Treasury and State Departments should continue to coordinate sanctions efforts whenever possible with the EU and, where relevant, other regional organizations or like-minded partners. Recognizing the diplomatic challenges that such coordination can involve, senior White House, Treasury, and State Department officials should make themselves available for outreach to EU member states to encourage the prioritization of those efforts.
 - The State and Treasury Departments should deepen outreach to other regional organizations, such as the African Union, both to build political support for US sanctions efforts and to explore ways that the United States can furnish technical assistance to improve sanctions enforcement capabilities.
 - The Treasury and State Departments should also prepare a white paper for review by the board (and, where necessary, consideration by either deputies or principals) that proposes possible new applications of tools that leverage the unique power of the US financial system such as network targeting, secondary sanctions, and anti-money laundering authorities in the service of atrocity prevention.
- *International Criminal Justice.* In addition to continuing to work with existing international, mixed, and hybrid tribunals to advance accountability for atrocity crimes, the State and Justice Departments should deepen their focus on support for regional and national accountability processes and on building local constituencies for these processes. The State Department should prepare a strategy paper for consideration by the board about how the United States can most effectively support such processes through, among other things, support to victims groups and the cultivation of grassroots support in relevant countries.

- *Diplomatic Surge Capacity.* Although primary responsibility for regional diplomacy should rest with the relevant embassies, State Department assistant secretaries, and their NSC senior director counterparts, the State Department’s seventh-floor leadership must be closely attuned to emergent crises that cannot adequately be addressed through normal staffing. It should maintain a roster of senior mediators who can be deployed to address crisis situations. That “bench” may include senior departmental officials with general portfolios and relevant experience (e.g., the under secretary for civilian security) or former officials with relevant diplomatic experience. The Atrocities Prevention Board should similarly monitor diplomatic coverage of emerging atrocities crises and make recommendations to the deputies committee for additional coverage where appropriate.

4 Communicate and coordinate with Congress and civil society. As each incoming administration’s atrocity-prevention strategy takes shape, the administration should communicate its plans and objectives clearly to civil society and invite comments and recommendations. At the appropriate time, a senior interagency team including NSC representation should brief congressional members and staff on prevention policy and strategy, including any items that require funding or other congressional support. The board should make available a designated member to brief congressional interlocutors on the administration’s atrocity-prevention efforts at specified intervals if so desired.

5 Board representation at senior-level meetings. The national security advisor and deputy national security advisor should invite a board representative to participate in principals committee and deputies committee meetings relating to atrocity situations. Moreover, as set forth in Executive Order 13729, deputies should meet at least twice a year and principals once a year to review the work of the board and offer guidance on the US government’s atrocity-prevention and response efforts.

For Congress

- 1 Congress should invite members of the board to brief members and staff on the executive branch's atrocity-prevention work, strategy, and objectives.** The briefing would be an opportunity to forge a common understanding of the board's work and prevention work the executive branch is doing outside the board. Such briefings could be held at regular intervals (e.g., semiannually) and could give the board an opportunity to update Congress on emerging atrocity risks.
- 2 Congress should enact a crimes-against-humanity statute that enables the exercise of "present in" jurisdiction.**
- 3 Congress should provide funding for resources that would be under the supervision of the under secretary for civilian security (or the successor office that represents the State Department on the board) and that could be allocated to prevention projects directed by the board.**
- 4 Congress should fund UN peacekeeping at the levels assessed by the United Nations and be open to a mechanism that would permit the use of assessed contributions to pay a portion of the cost of missions specified by the Security Council.**

For Civil Society

- 1 Civil society should continue to support the US government's atrocity-prevention work by sharing field knowledge, recommendations for US government engagement on specific situations, support for specific projects, and ideas for tool development.**

Endnotes

¹ Samantha Power, *“A Problem from Hell”: America and the Age of Genocide* (New York: Basic Books, 2002).

² Madeleine K. Albright and William S. Cohen, *Preventing Genocide: A Blueprint for US Policymakers* (Washington: US Holocaust Memorial Museum, American Academy of Diplomacy, and Endowment of the United States Institute of Peace, 2008). <http://www.ushmm.org/m/pdfs/20081124-genocide-prevention-report.pdf> (hereafter Task Force Report).

³ Interviewees for this report who agreed to be identified are (in alphabetical order) Salman Ahmed, Alex Bick, Tony Blinken, Todd Buchwald, Anna Cave, Andrew Gilmour, Avril Haines, Grant Harris, Naomi Kikoler, Tom Malinowski, Rob Malley, Gideon Maltz, Derek Mitchell, David Mortlock, Charlotte Oldham-Moore, Samantha Power, David Pressman, Ben Rhodes, Susan Rice, Adam Smith, Donald Steinberg, Jacob Sullivan, Beth Van Schaack, Colin Thomas-Jensen, Mona Yacoubian, Howard Wachtel, Jeremy Weinstein, Anne Witkowsky, and Lawrence Woocher. In some cases, interviewees preferred that their quotes not be attributed to them by name.

⁴ Those reports include the following: John Norris and Annie Malknecht, *Atrocities Prevention Board: Background, Performance, and Options* (Washington: Center for American Progress, June 13, 2016), <https://www.americanprogress.org/wp-content/uploads/2013/06/AtrocitiesPrevBoard.pdf>; James P. Finkel, *Atrocity Prevention at the Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years* (Washington: US Holocaust Memorial Museum, Center for the Prevention of Genocide, Occasional Paper No. 2, September 2014), <https://www.ushmm.org/m/pdfs/20140904-finkel-atrocity-prevention-report.pdf>; Charles Brown, “The Obama Administration and the Struggle to Prevent Atrocities in the Central African Republic: December 2012–September 2014” (Washington: US Holocaust Memorial Museum, Policy Paper, November 2016), <https://www.ushmm.org/m/pdfs/20161116-Charlie-Brown-CAR-Report.pdf> (hereafter C. Brown CAR Report); Experts Committee on Preventing Mass Violence, “A Necessary Good: U.S. Leadership on Preventing Mass Atrocities” (Washington: Friends Committee on National Legislation, Prevention and Protection Working Group, November 2016), <https://www.fcnl.org/updates/report-a-necessary-good-388> (hereafter FCNL Report); Tessa Alleblas, Eamon Aloyo, Sarah Brockmeier, Philipp Rotmann, and Jon Western, *In the Shadow of Syria: Assessing the Obama Administration’s Efforts on Mass Atrocity Prevention* (The Hague: The Hague Institute for Global Justice, Global Public Policy Institute; and Mount Holyoke College, April 2017), <http://www.thehagueinstituteforglobaljustice.org/wp-content/uploads/2017/05/In-the-Shadow-of-Syria-final.pdf> (hereafter Hague Institute Report). All linked texts in this report were accessible as of February 1, 2018.

⁵ Hague Institute Report, 8.

⁶ Power, “A Problem from Hell,” xvi. (“People have explained US failures to respond to specific genocides by claiming that the United States didn’t know what was happening, that it knew but didn’t care, or that regardless of what it knew, there was nothing useful to be done. I have found that in fact US policy makers knew a great deal about the crimes being perpetrated. Some Americans cared and fought for action, making considerable personal and professional sacrifices. And the United States did have countless opportunities to mitigate and prevent slaughter. But time and again, decent men and women chose to look away. We have all been bystanders to genocide.”)

⁷ Power, “A Problem from Hell,” 508.

⁸ Power, “A Problem from Hell,” 512.

⁹ Task Force Report, xxii.

¹⁰ Task Force Report, xv.

¹¹ Power argues that “the United States should not frame its policy options in terms of doing nothing or unilaterally sending in the Marines.” “A Problem from Hell,” 513–14.

¹² Task Force Report, 2.

¹³ Task Force Report, 7–8.

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- ²⁷ Hague Institute Report, 4.
- ²⁸ Author interviews with former senior administration officials, May 2017.
- ²⁹ A former official recalls that the Justice Department dedicated staff from its Human Rights and Special Prosecutions Section and USAID deployed staff and recruited two expert fellows in its Bureau for Democracy, Conflict, and Humanitarian Assistance. The State Department later designated a team within its Bureau of Conflict and Stabilization Operations to act as the department’s secretariat for the board. E-mail from former USAID official Lawrence Woocher, July 19, 2017.
- ³⁰ Although the deadlock surrounding the executive order was not surmounted during the Obama administration, the Trump administration (with encouragement from the advocacy community) went even further than proponents had recommended in adopting Executive Order 13818. See discussion at text accompanying fn. 85.
- ³¹ Author interview with David Pressman, April 25, 2017. Pressman served in the mass atrocities director position while at the NSC and later represented the Department of Homeland Security on the board. He ultimately became the alternate permanent representative at the US Mission to the United Nations (USUN).
- ³² NSA Jones’s 2010 letter to Senator Feingold, for example, refers expressly to the creation of an “interagency policy committee,” which was the Obama administration’s term of art for an NSC-led assistant secretary level body that reported to the deputies committee (see note 22).
- ³³ Task Force Report, 8.
- ³⁴ Hague Institute Report, 30–31.
- ³⁵ Author interview with Gideon Maltz, former NSC director responsible for war crimes and atrocity prevention, July 18, 2017.
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The Simon-Skjodt Center for the Prevention of Genocide

of the United States Holocaust Memorial Museum works to prevent genocide and related crimes against humanity. The Simon-Skjodt Center is dedicated to stimulating timely global action to prevent genocide and to catalyze an international response when it occurs. Our goal is to make the prevention of genocide a core foreign policy priority for leaders around the world through a multi-pronged program of research, education, and public outreach. We work to equip decision makers, starting with officials in the United States but also extending to other governments, with the knowledge, tools, and institutional support required to prevent—or, if necessary, halt—genocide and related crimes against humanity.

The assertions, opinions, and conclusions in this report are those of the author. They do not necessarily reflect those of the United States Holocaust Memorial Museum.



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