

Genocide and Minorities: Preventing the Preventable

By John Packer and Erik Friberg

Introduction

The International Day of Reflection on the Genocide in Rwanda, 7 April 2004, marks 10 years since the international community failed to prevent 'the preventable genocide'.

It was preventable because it had been foreseen in the August 1993 report,¹ of the United Nations (UN) Special Rapporteur on extrajudicial, summary or arbitrary executions. Similarly, had existing international standards been applied, they may have met many of the concerns held by both the majority and minority. However, these standards were not implemented in Rwanda and the international community lacked the political will to heed the available warning.

Without urgent change, the genocide of minorities will happen again. An institutional mechanism is needed to address the root causes of such situations and to bring them to the attention of the Security Council before military intervention is the sole remaining option.

The Secretary-General's call to move the UN from a culture of reaction to a culture of prevention is a welcome development.² His more recent calls to consider the establishment of new mechanisms show his appreciation that such a cultural transformation requires institutional development, and new operational arrangements.

In November 2003, the Secretary-General appointed a High Level Panel to recommend measures to ensure

effective collective action on peace and security.

This briefing outlines how to enhance the UN's capacity to address the interconnected issues of the protection of minorities and the prevention of violent conflict. In concurrence with the Secretary-General's recent suggestions,³ new mechanisms must be created, and existing capacities must be enhanced. New mechanisms should include the establishment of a Special Representative of the Secretary-General on Minorities and the Prevention of Genocide, and the creation of an independent expert committee to supervise compliance with the UN Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention).⁴ Regarding the enhancement of capacities, information gathering and analysis within the UN Secretariat in New York and among the specialized agencies needs to be improved, with the strengthening of the Office of the High Commissioner for Human Rights (OHCHR).

Root causes of conflicts and new mechanisms

Genocides do not just happen. They are preceded by social developments and structures that divide societies and provoke violence. The roots of future conflict are inherent in systematic and systemic discrimination, and policies of exclusion, disregard and humiliation – if not repression or oppression. If genocide is to be prevented, dehu-

manizing politics must be rejected and counteracted, and vulnerable groups must be protected; this is the precondition for the prevention not just of genocide but of any kind of violent conflict involving minorities.

Sustainable prevention requires the development of practical ways for groups to at least peacefully coexist, and in time to integrate on the basis of shared values and interests. This implies the entrenchment of the rule of law based on the full and equal respect for human rights, including the rights of persons belonging to minorities, and governance for the good of the whole population.

The principles of non-discrimination and effective participation in public life both protect minority groups and ensure that their voices are heard in decision-making. Work is needed to ensure the economic participation of marginalized groups, to address their lack of equal opportunities and the inequities in the distribution of resources.

Some governments are hostile towards these ideas. They believe that implementing the rights of persons belonging to minorities may fuel conflicts, and that the best way to maintain unity is to suppress minority identities, limit their participation and hope their voices will fade as they are absorbed or overwhelmed by the majority. Yet, such policies can, in the extreme, lead to genocide. Governments must overcome the fears that are behind such conflict-creating or exacerbating policies, and the UN can

work with them in this regard, for example through its Technical Cooperation Programmes.

Studies have shown that shifts in public policies and practices – lifting restrictions on political and cultural rights, including implementing international standards on individual and group rights – have reduced the potential for violent conflict.⁵

International concern about preventing violent inter-ethnic conflict has been articulated as comprising a ‘responsibility to protect’. Kofi Annan welcomed this clarification, stating:

*‘the issue is not one of a right to intervention, but rather of a responsibility – in the first instance, a responsibility of all States to protect their own populations, but ultimately a responsibility of the whole human race, to protect our fellow human beings from extreme abuse wherever and whenever it occurs.’*⁶

Unfortunately, the initial discussion on the ‘responsibility to protect’ has focused on armed intervention, giving cursory treatment to the diplomatic and cooperative approaches that the UN Charter commends. Efforts should be directed toward non-coercive and preventive mechanisms of early action that are likely to be more effective and have fewer negative repercussions. The OSCE High Commissioner on Minorities, Rolf Ekeus, has argued that there is also a ‘responsibility to prevent’.

Protecting minorities and preventing genocide

The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁷ captures the spirit of the Genocide Convention in that it emphasizes that the right of national, ethnic, linguistic and religious groups to physically exist is not enough: states have a duty to protect the existence

and identity of such groups (see Article 1 [1] of the UN Declaration on Minorities). Governments must respect and support the rights of minorities to use their own languages, enjoy their cultures, profess and practise their religions, and participate effectively in public life.

The rights not to be discriminated against, to be equal before the law, to fair distribution of resources and to enjoy the freedoms of expression, association and assembly are particularly important for minorities. In multicultural environments, it is often disputes over the enjoyment of such rights that lead to conflict.

However, the UN has no dedicated mechanism relating to minorities or genocide prevention with a mandate to follow up on communications pointing to violations of minority rights.

Another issue that has arisen within MRG’s work, is that national and international development processes often fail to consider the concerns and rights of minorities; for example, an education programme may ignore the need to provide education in the minority language, or a minority community may be forcibly removed from land earmarked for development projects. Where tensions between communities already exist, these issues may exacerbate them and increase the risk of violent conflict. MRG is calling on governments, development agencies and international financial institutions to work to ensure that development processes adequately address the concerns of minorities, and benefit all communities. This means ensuring that minority communities can participate effectively in the design, implementation and evaluation of development programmes affecting them. MRG supports the Secretary-General’s recommendation that:

‘the best way to prevent [conflict] is to promote healthy and balanced economic development, combined with human rights, minority rights

*and political arrangements in which all groups are fairly represented.’*⁸

Avoiding inter-ethnic conflict

The innovative and successful approach of the High Commissioner on National Minorities (HCNM) of the Organization for Security and Cooperation in Europe (OSCE) in preventing inter-ethnic conflict at the earliest possible stage is instructive.⁹ The UN Secretary-General has commended the HCNM for his work and called upon other inter-governmental organizations, including the UN, to consider establishing a similar institution.¹⁰ The HCNM’s root causes, problem-solving, human rights-informed approach combines preventive diplomacy, policy advice and technical assistance, addressing situations where leaving problems unresolved may well lead to violent conflict.

The HCNM demonstrates the effectiveness of a cooperative mechanism acting through quiet diplomacy. The HCNM also shows the value of broad and direct high-level contacts, which are necessary to advance useful suggestions. Further, the effective gathering and expert analysis of reliable information informs the dialogue and counsel.

Building the UN’s conflict prevention capacity

At present, the only UN body addressing minority issues directly is the Working Group on Minorities (WGM), a subsidiary of the UN Sub-Commission on the Promotion and Protection of Human Rights. The WGM has fostered dialogue between minorities and governments and has provided a useful interpretation, clarification and development of standards pertaining to minorities through a commentary to the UN Declaration on Minorities.¹¹ However, the WGM is severely under-resourced with only five

meeting days per year, the support of two staff members in the OHCHR, and no fund to support the participation of representatives of non-governmental organizations (NGOs), unlike other such working groups. It is clearly not equipped to perform conflict prevention work in a systematic and timely manner.

There is no central location in the UN system for the collection and careful analysis of available information. Notably, the UN system as currently organized does not effectively use information from its many human rights mechanisms to provide early warning for security mechanisms. This separation of human rights from security concerns was partly responsible for the failure in the case of Rwanda to transform early warning into early action by the Security Council and the Secretariat.

There is room for improvement in the collection of data relating to minorities, especially its disaggregation, including in terms of gender. However, on the assumption that the already available information could be sorted and compiled to produce a fair picture of the situation of minorities and inter-community relations in much of the world, it requires a higher level of analysis to assess the risks of conflict and to pinpoint their causes. Risk assessment is complex and sensitive, and requires political awareness and expert knowledge of context. It also requires specific expertise to process information quickly while distilling predictive elements and suggesting appropriate steps to counteract threats in the short, medium and long terms. Given the connection between the protection of minorities, the prevention of genocide and the aim to maintain peace and security, it is striking that the UN has no dedicated person or mechanism to carry out these tasks.

To move from a culture of reaction to a culture of prevention requires becoming action-oriented at an early stage. Information gathering, system-

atization, analysis and even reporting are not enough. The UN needs a mechanism that can act independently and impartially, to at least warn and, better still, to offer services to address tensions and sources of conflict before they become violent. An effective conflict prevention capacity must have several institutional and operational elements within the relevant parts of the organization. The Secretary-General and others have already made several suggestions, which merit consideration.

In his address to the conference 'Preventing Genocide: Threats and Responsibilities' in Stockholm on 26 January 2004, and in subsequent speeches, the Secretary-General has suggested consideration of the appointment of a Special Rapporteur (or Adviser) on the prevention of genocide, to be supported by the High Commissioner for Human Rights, and reporting directly to the Security Council.¹² This has certain corollaries with MRG's earlier proposal, in coalition with other NGOs, to establish a UN Special Representative of the Secretary-General on Minorities.¹³ This would create the possibility of focused preventive diplomacy along the lines of the HCNM, which could draw from the information gathering and public reporting of other bodies. Equipped with an appropriate mandate, the Special Representative would receive credible information from a variety of sources pointing to violations of the human rights of minority individuals and groups; coordinate the efforts of the relevant UN bodies, in particular the OHCHR and the UN Secretariat in New York; and offer reliable, timely information to the Secretary-General and the Security Council regarding possible or developing crises. Where necessary, s/he would engage in preventive diplomatic activities through visits, with the aim of establishing a structured dialogue between the different parties in a particular situation, and proposing solutions in line with international human rights standards

and good governance. With a Special Representative working from the UN headquarters in New York, the Secretary-General would have more time to focus on specific, targeted, diplomatic conflict prevention activities.

The Special Representative would need the support of a team of specialists, located at the Office of the Secretary-General, from where effective preventive diplomacy could be conducted. In order to gather, systematize and analyse, from a minority rights perspective, the information available from the extensive human rights mechanisms based in the OHCHR, a unit led by a Special Adviser on Minorities should be set up, with institutional links to the Special Representative's team in New York, thus ensuring the crucial flow and analysis of information between human rights and conflict prevention organs.

In the same Stockholm speech, the Secretary-General suggested establishing a Committee on the Prevention of Genocide among States Parties to the Genocide Convention. Such a body composed of independent experts elected by the Parties could review periodic reports from states and make recommendations. However, to maximize its effectiveness, a concerted effort is needed to achieve universal ratification of the Genocide Convention, which is ratified by only 133 of the 192 UN Member States. To make the Convention even more effective, a prospective Optional Protocol (as would be necessary to establish a supervisory Committee) could also include a procedure for the Committee to receive and consider communications and petitions from alleged victims (individuals or groups), or their representatives. Such a treaty-monitoring body would provide authoritative legal decisions and develop jurisprudence on, for example, which acts constitute genocide and under which circumstances states have a duty to prosecute perpetrators who are directly or indirectly involved in genocide.

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Conclusions and recommendations

Minority Rights Group International recommends the following urgent changes to help prevent potential genocides and protect the rights of minorities:

1. The General Assembly should establish the position of a Special Representative of the Secretary-General on Minorities and the Prevention of Genocide, to be located in the Office of the Secretary-General in New York, with a mandate to:
 - receive and collect information from any source;
 - report directly to the Secretary-General and to the Security Council;
 - provide early warning;
 - engage in preventive diplomatic action.
2. All UN Member States should ratify the Genocide Convention.
3. The Commission on Human Rights should draft an Optional Protocol establishing a treaty-monitoring body to the Genocide Convention, with a mandate to consider communications and petitions from persons/groups or their representatives alleging violations of the Convention.
4. The High Commissioner for Human Rights should establish within her Office a Special Adviser on Minorities to head an expert analysing unit.
5. The OHCHR and other relevant UN organs and specialized agencies, when implementing development assistance and Technical Cooperation Programmes, should incorporate guidance on the effective implementation of the UN Declaration on Minorities, and the design of appropriate domestic legislation, policies and programmes accommodating minority concerns in cooperation with all concerned. Such programmes should also focus on improving the compilation and availability of data disaggregated according to minority groups and gender.
6. International and local NGOs and scholarly and policy institutions should enhance research on the role played by the respect (or non-respect) of minority rights in the incidence of violent conflict, and incorporate minority rights into their conflict prevention work.

Notes

- 1 Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, UN. Doc. E/CN.4/1994/7/Add.1.
- 2 See, *inter alia*, UN Secretary-General's report to the General Assembly, 1999, UN. Doc. A/54/1.
- 3 Cf. Speech by UN Secretary-General Kofi Annan to the conference 'Preventing Genocide: Threats and Responsibilities', Stockholm, 26-28 January 2004, UN Press Release SG/SM/9126.
- 4 Adopted by UN General Assembly resolution 260 (III) A of 9 December 1948. Entered into force 12 January 1951.
- 5 Gurr, T.D., *Minorities at Risk; A Global View of Ethnopolitical Conflicts*, Washington, United States Institute of Peace, 2000.
- 6 Speech by UN Secretary-General Kofi Annan, *op. cit.*
- 7 Adopted by General Assembly resolution 47/135 of 18 December 1992.
- 8 UN. Doc. A/54/2000.
- 9 See Kemp, W. (ed.), *Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities*, The Hague, Kluwer, 2001.
- 10 Speech by the UN Secretary-General to the OSCE Summit in Istanbul, 18 November 1999. See also IPA Workshop Report, *Sharing Best Practices on Conflict Prevention: the UN, Regional and Subregional Organizations, National and Local Actors*, 2002, Alexandria, p. 6. While the HCNM has a particular experience from a specific European context, the Secretary-General has stated that it is an example well worth others considering.
- 11 See the Commentary on the UN Declaration of The Rights of Minorities, by Asbjørn Eide, E/CN.4/Sub.2/AC.5.2001/2.
- 12 See UN Press releases SG/SM9126, SG/SM/9190 and SG/SM/9197.
- 13 See *Minorities and Conflict Prevention: The Case for a Special Representative*, London, MRG, March 2002. MRG is part of a coalition lobbying for such a mechanism with the International Movement Against All Forms of Discrimination and Racism, the International Federation of Human Rights Leagues and the Bahá'í International Community. MRG is also a member of the International Campaign to End Genocide, which is lobbying for a dedicated genocide prevention body within the UN Secretariat.

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