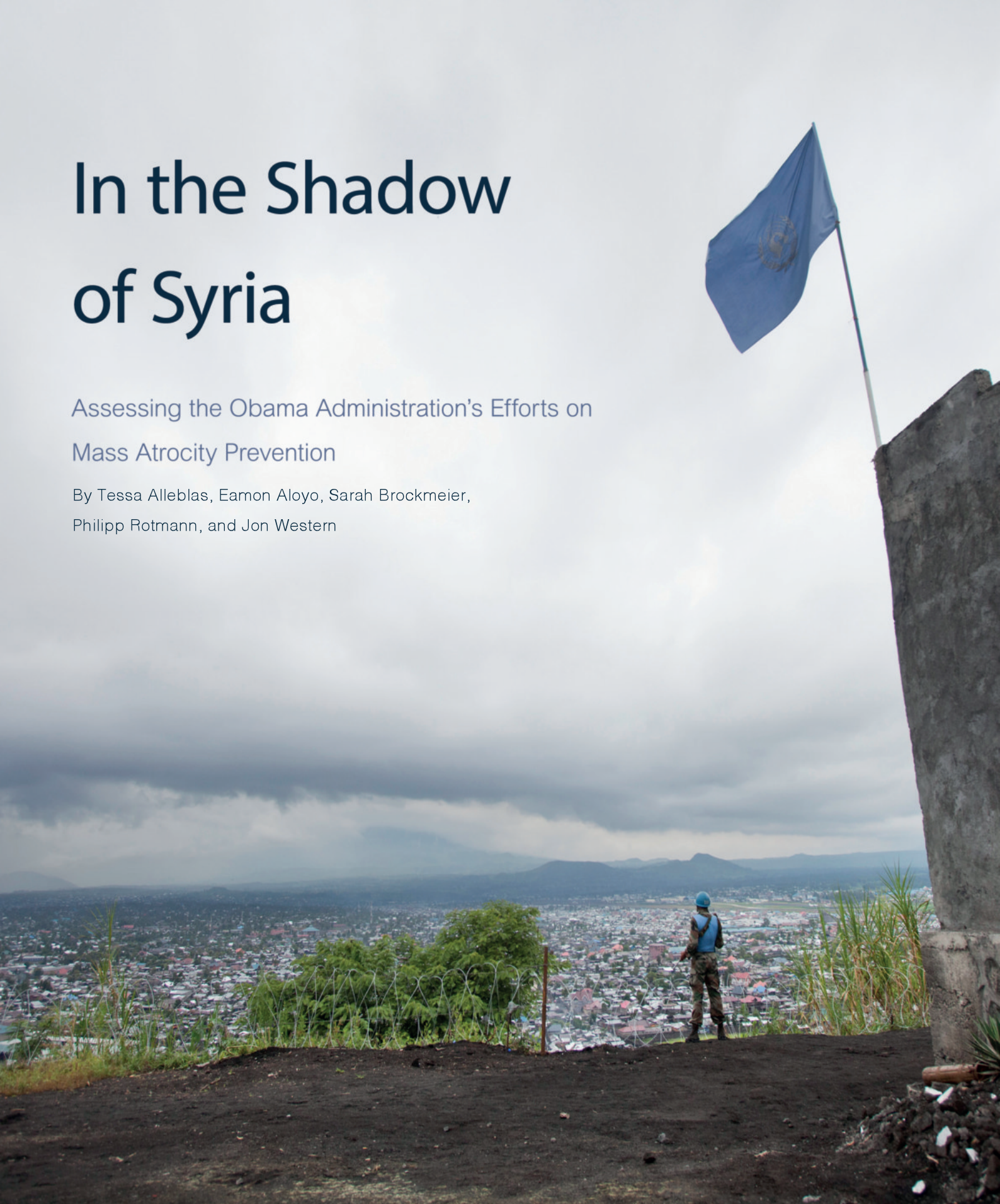


In the Shadow of Syria

Assessing the Obama Administration's Efforts on
Mass Atrocity Prevention

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Table of Contents

About the Authors	2
Acknowledgements	3
Executive Summary	4
Introduction	8
Chapter 1. US Foreign Policy and Atrocity Prevention.....	11
Chapter 2. Atrocity Prevention Policy Tools and Policy Advances from 2012 to 2016	33
Chapter 3. Country Cases.....	44
Burundi	44
Central African Republic	55
Democratic Republic of the Congo	64
Iraq	72
Kenya	80
Libya	88
Myanmar.....	100
South Sudan.....	108
Syria	121
Chapter 4. Assessment of US Atrocity Prevention Efforts and the APB	132
Chapter 5. Recommendations.....	143
Works Cited.....	146

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Cover image: UN Photo/Sylvain Liechti

Executive Summary

Mass atrocities planned and orchestrated by individuals continue to cause death, pain and destruction for millions of people in Syria, Iraq, South Sudan, the Central African Republic (CAR) and elsewhere. Large-scale, systematic and indiscriminate violence against ethnic or religious groups have led tens of millions of people mostly from the Middle East to seek refuge in Europe. The resulting political shock of the so-called “refugee crisis” will still shape this year’s elections in several EU member states. As an international community and as individual states, we have yet to learn how to prevent or stop atrocities with any regularity. Despite individual cases of relative success (some of which we analyze in this study) and larger political and legal advances, such as the International Criminal Court (ICC), the Human Rights Up Front initiative of the United Nations (UN), and the Responsibility to Protect (R2P), leaders and governments are failing all too often to live up to their commitment to assist individual states to meet their obligation to protect their own population from atrocities, and if a state manifestly fails to do so, to implement the international community’s subsidiary responsibility to protect threatened populations.

The US experience in atrocity prevention and its institutional reform initiatives aimed at improving its capacity to prevent atrocities provide an excellent opportunity to study efforts at the national level with a view to realizing states’ commitment to R2P and mass atrocity prevention. In 2011, President Obama declared that “preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States of America.”¹ This review of the atrocity prevention toolkit across the US government found that the established tools and procedures were unable to meet this level of ambition despite the important and hard work of many, including in previous administrations.

The Obama administration chose two primary means to meet his goals on mass atrocity prevention: to elevate and institutionalize mass atrocity prevention as a priority in US foreign and national security policy, and to prevent and mitigate specific episodes of mass atrocities. Created in 2012 to “coordinate a whole-of-government approach to preventing mass atrocities and genocide,”² the president’s Atrocities Prevention Board (APB) was the means to pursue the first goal, and made key contributions to the second.

This study identifies lessons for the Trump administration as well as other governments and non-state actors who share the goal of preventing and stopping mass atrocities. The study draws on data obtained from government, NGO, and scholarly sources, as well as interviews conducted with current and former US government officials and country experts from civil society organizations. Nine case studies (including Burundi, the CAR, the Democratic Republic of Congo (DRC), Iraq, Kenya, Libya, Myanmar, Syria, and South Sudan) illustrate the various tools that the Obama administration has used to prevent and respond to atrocities from 2009 to the present.

We found that the president’s declaration in the Presidential Study Directive on Mass Atrocities (PSD-10) that atrocity prevention is a “core national security interest” did not raise atrocity prevention to a level comparable to other core national security interests, such as weapons of mass destruction (WMD) proliferation, terrorism, or energy security, all of which attract much greater attention and resources. This shortfall has been glaringly obvious in places such as the CAR and South Sudan.

¹ White House, “Presidential Study Directive on Mass Atrocities,” August 4, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities>.

² Ibid.

Yet, we have also seen some notable and positive changes—situations in which atrocity prevention has been significantly elevated. Persistent diplomatic engagement with Kenyan and Myanmar political leaders, as well as military interventions in Libya in 2011 and in Northern Iraq in 2014 to protect the Yazidi population, indicate a qualitative difference in the political attention given to mass atrocity violence compared to previous administrations. Behind the scenes of day-to-day policy decisions with regard to particular countries, the work of the APB and the institutionalization of President Obama’s “Comprehensive Approach to Atrocity Prevention and Response” via Executive Order in May 2016 leaves the Trump administration with a much improved institutional starting point to prevent and stop mass atrocities in the fight against the “Islamic State” and beyond.

In the face of ongoing mass atrocities, the failure to reign in the killing in Syria weighs heavily on the international community’s conscience. In the world’s most acute humanitarian crisis, not only the United States but also the international community at large has revealed itself to be unwilling or unable to control and mitigate the violence. Beyond Syria, however, the picture is more mixed. In the CAR and the renewed civil war in South Sudan, US engagement was too little, too late to prevent atrocities. However, the administration’s emphasis on atrocity prevention likely helped to limit, contain, and control extreme violence in Burundi, Kenya, and the Jonglei crisis in South Sudan. It is likely that military action in Libya in 2011 and Northern Iraq in 2014 saved lives, notwithstanding the otherwise dismal record of the Libya intervention.

Our analysis also reveals that the Obama administration employed a wide range of different tools to prevent and react to atrocities. One of our central findings is that US atrocity prevention policy has become far more nimble and its toolkit more diverse than the simple dichotomy of standing idly by and sending in US ground troops. In all of the cases we analyzed, the United States used a mix of various policy tools.

Key Findings

1. The “Comprehensive Approach to Atrocity Prevention and Response” around the APB greatly improved the overall early warning capability—particularly considering the fundamental ambiguity of early warning indicators which is unlikely to be resolved any time soon—and delivered a broader preventive toolbox for the US government. Early coordination to develop effective policy options for prevention and response, however, is still insufficient—both within Washington and with regard to other governments and international organizations, whose influence with possible perpetrators and protectors could complement that of the United States. In addition, effective early action alone is not enough: there are no quick fixes, and Washington consistently struggles with deeper and more sustained efforts of conflict prevention and resolution, stabilization, and reconstruction.
2. While the United States remains far ahead of any other country in terms of its efforts to prevent and mitigate mass atrocity violence, there are limits to what it can do, and even tighter limits to what US power and influence can do alone. Perpetrators of atrocities often operate independent of outside pressure; the geopolitical deadlock with Russia and other attempts at balancing US power often limit the effect of US policy tools. The Obama administration’s single-minded focus on its own tools helped little in promoting this adjustment.
3. The binary debate between military intervention and non-intervention remains entrenched in much of the inter-governmental and public discourse on mass atrocity prevention and response. While in reality, a broad range of tools was applied in every case, it continues to be a challenge for the foreign policy and national security process in Washington to effectively integrate diplomatic and military tools into nuanced and effective statecraft.

4. Most mass atrocity violence unfolds quickly within complex civil or regional conflicts, taxing the US government's all-too-limited bandwidth for atrocity prevention. Even for actively monitored risk situations, the appointment process left key diplomatic posts vacant for months, depriving the United States of key assets to exert influence to prevent and stop atrocities.
5. Due to the secretiveness of the APB's work, the considerable efforts of the Obama administration have had little or no effect on the expansion of US domestic constituencies on atrocity prevention, either inside or outside of government. Without compromising sources and methods, more can be done to promote a wider and better-informed public discussion that would result in broader mobilization and attention to atrocity prevention.

Recommendations

To the Executive Branch of the US Government

The overall culture within US foreign policy and national security institutions remains predominantly ambivalent or skeptical of elevating atrocity prevention to a real priority. The regional/functional divide continues to hamper coordination efforts on early warning, mobilization of resources, and response. To respond to these concerns, we recommend the following:

1. Further institutionalize the APB: the APB's overall performance to date has been beneficial to US policy by providing a forum to examine crises through a mass atrocity lens. The president, his National Security Adviser and appropriate Cabinet Secretaries should (a) maintain Executive Order 13729, including the APB, as well as high-level National Security Council (NSC) representation for mass atrocity prevention and response, (b) provide dedicated full-time personnel resources to offices within departments and agencies that service and support the APB and its sub-group, (c) incentivize and compensate regional bureaus to support the APB with additional full-time staff or resources, (d) improve mass atrocity prevention culture and incentives by tying mass atrocity prevention and APB service to promotion and professional development, and (e) establish lessons learned procedures and periodic reviews of mass atrocity prevention strategies and APB processes.
2. Open channels of information: the overall efforts of the APB would be enhanced by greater disclosure of information, publication of success stories, reports to Congress, and more frequent dialogue and briefings to and from civil society groups.
3. Increase mass atrocity prevention training within each department and agency: training is critical because it enhances overall analysis and policy development, and facilitates the socialization of the bureaucracy to the importance of atrocity prevention to overall US policy and goals.
4. Strengthen the integration and coordination of political-military planning and mass atrocity prevention decision-making: stronger integration and coordination is required to ensure the adequate deployment of the correct range of policy tools and instruments during prevention and response phases. This coordination is also needed to strengthen the capacity to support the transitions to peace and reconciliation.
5. Launch diplomatic efforts to strengthen international capacities and strategies for mass atrocity prevention: the United States should expand its efforts to create stronger institutions, capacities,

and strategies with partners, regional, and international organizations. The United States should review its “whole-of-government” approach and the work of the APB, and share its procedural and institutional lessons with other states and partners to develop strong capacity and institutions.

To Congress

1. Establish a Congressional Atrocity Prevention oversight mechanism: oversight structures should be developed to review mass atrocity prevention strategies and the work of the APB and designated to existing standing committees in both the Senate and the House.
2. Establish a formal annual reporting mechanism from the administration (the APB) to Congress on atrocity risk and prevention developments and strategies: reporting mechanisms similar to the annual Country Reports on Human Rights Practices authorized under the Foreign Assistance Act of 1961 and the Trade Act of 1974 should be established.
3. Develop flexible programming funds across all agencies and departments supporting the APB in its atrocity prevention and response efforts: developing flexible programming funds will enhance the analysis of countries at risk by providing flexible resources to support deep dives and the deployment of inter-agency teams in countries at risk to investigate and develop more agile and speedier response efforts.

To Civil Society

1. US advocacy groups should continue their advocacy and mobilization efforts on atrocity prevention: a critical role continues to fall to civil society to direct political attention to neglected atrocity risks and help inform policy options.
2. Advocacy organizations should be more self-critical about past mistakes, and more nuanced about their proposals: reflecting on the harm done by past advocacy efforts should help avoid excessively simplistic analyses and predictions in the future.

Introduction

Three years ago today, I joined many of you for a ceremony of remembrance at the US Capitol. And I said that we had to do "everything we can to prevent and end atrocities." And so I want to report back to some of you today to let you know that as President I've done my utmost to back up those words with deeds. Last year, in the first-ever presidential directive on this challenge, I made it clear that "preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States of America."

That does not mean that we intervene militarily every time there's an injustice in the world. We cannot and should not. It does mean we possess many tools -- diplomatic and political, and economic and financial, and intelligence and law enforcement and our moral persuasion -- and using these tools over the past three years, I believe -- I know -- that we have saved countless lives.

—President Barack Obama on April 23, 2012, at the US Holocaust Memorial Museum in Washington, DC

No US president has more systematically confronted the challenges of preventing and responding to mass atrocities than Barack Obama. He has had mixed results. In Libya in 2011, US military intervention with France and Britain likely helped to save thousands of civilian lives, but also left chaos in its wake that gave rise to new dangers to civilians. In Syria, five years of minimal intervention for fear of making things worse did nothing to prevent hundreds of thousands of civilian casualties. Both countries became hotbeds of militants and terrorists, far from success cases of atrocity prevention.

This is not where the story ends, however, because no US president has more systematically sought to expand the range of available policy options to prevent and stop mass atrocities than President Obama, either. For Obama, the reluctant interventionist, atrocity prevention must not come down to a choice between two extremes: send in the Marines or do nothing and become “bystanders to genocide”—the title of Samantha Power’s 2001 article in *The Atlantic*, the expanded version of which brought her to the attention of a certain junior senator from Illinois. In Myanmar and Kenya, in the Central African Republic (CAR) and South Sudan, and in the Democratic Republic of the Congo (DRC) and Burundi, his administration responded to atrocity risks with a broad range of diplomatic, intelligence, economic and military tools short of American boots on the ground. In Northern Iraq, limited military action in support of Kurdish forces protected civilians from the Islamic State’s genocidal actions against the Yezidi.

The centerpiece of Obama’s ambition to improve the US government’s ability to prevent mass atrocities is this short sentence, first written in a “presidential study directive” in 2011 and recently affirmed by Executive Order: “Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States.”³

Obama created an Atrocities Prevention Board (APB) to leverage inter-agency attention and drive capability development, appointed atrocity prevention advocates such as Samantha Power to high-level positions within his administration, and personally took key decisions for atrocity prevention in some cases, such as in Libya. At the same time, the strength and clarity of his declaration that atrocity prevention is a “core national security interest” never made it even into his own National Security

³ Ibid., “Executive Order -- Comprehensive Approach to Atrocity Prevention and Response”, May 18, 2016, <https://www.whitehouse.gov/the-press-office/2016/05/18/executive-order-comprehensive-approach-atrocity-prevention-and-response>.

Strategy, mirroring the president's own conflicted views on intervention and a broader wariness throughout the foreign policy and security establishment.⁴

As American citizens—and populations globally—face a new US administration, it is a good time to take stock of the work of the APB and the atrocity prevention efforts of the US government more broadly. This study aims to (1) review the atrocity prevention efforts of the US and (2) to draw lessons from the US experience. In doing so, we hope these insights will contribute to public and private discussions about how to improve atrocity prevention efforts in the US and elsewhere.

We aim to provide insights into the bureaucratic reforms, policy processes, and associated political outcomes of the Obama administration's atrocity prevention efforts. From our analyses, we hope to provide useful, policy relevant recommendations, in addition to contributing to the public knowledge regarding various aspects of US government policy. While we were able to speak with many of those involved in atrocity prevention efforts, there are limits to our work. Some of the material that would be ideal to consult for this study is classified, and a Freedom of Information Act (FOIA) request that we submitted in 2014 is still pending, as of early 2017. We rely on publicly available information in addition to private interviews. Some of the people we consulted requested anonymity, and it is for that reason that some of the individuals we quote in the study are not identified by name.

The study has two central research questions. First, what has the US government done under President Obama in terms of building institutional processes for atrocity prevention, and what has the US government done to prevent and mitigate atrocities in specific countries? Second, how effective have these efforts been? Building on our analysis, we then provide recommendations for how to increase the chances of effectively meeting the aims of preventing and ending atrocities.

Asking these questions about a problem of prevention, in which perfect success would mean that mass atrocities do *not* occur in the first place, makes it difficult to establish a valid and fair standard against which to judge the Obama administration's record. The US government's inability to prevent and adequately respond to a number of atrocities in recent years stems in part from its own failures. It also highlights the inherent limits of US power and foreign influence more generally, as well as the inability to predict with an adequate degree of certainty what is likely to work in some of the most difficult humanitarian challenges of global politics.

Our study is a joint effort between five researchers, four in Europe and one in the United States: Tessa Alleblas and Eamon Aloyo from The Hague Institute for Global Justice in The Netherlands, Sarah Brockmeier and Philipp Rotmann from the Global Public Policy Institute (GPPi) in Germany, and Jon Western from Mount Holyoke College in the United States. Parts of the study build on previous work conducted by the GPPi team together with the Heinrich Böll Foundation, for whose ready permission to use our previous joint work the authors are very grateful.⁵ The research methods included conducting nearly two dozen interviews with current and former US Government officials, and other experts, who have direct knowledge of US policies on mass atrocities prevention and reaction across a range of agencies and departments, desk research, and consulting with NGO and academic experts. Our work unfolded alongside two similar projects, James Finkel's *Atrocity Prevention at the Crossroads* for the US Holocaust Memorial Museum and the Friends Committee on National Legislation's *A Necessary*

⁴ Neither the 2011 nor the 2015 National Security Strategies declare mass atrocities to be a "core national security interest", despite considerably stronger and more specific sections on mass atrocity prevention compared to those issued by previous presidents.

⁵ Sarah Brockmeier, Gerrit Kurtz, and Philipp Rotmann, "Schutz und Verantwortung: Über die US-Außenpolitik zur Verhinderung von Gräueltaten," Heinrich-Böll-Stiftung & Global Public Policy Institute (Berlin: 2013), <http://www.gppi.net/publications/peace-security/article/schutz-und-verantwortung-ueber-die-us-aussenpolitik-zur-verhinderung-von-graeuel-taten/>.

Good: US Leadership on Preventing Mass Atrocities, led by Charles J. Brown. We are grateful for many insightful discussions with Finkel, Brown and many others in the atrocity prevention community within and outside the US government. Without their support, this study would not have been possible.

The report proceeds as follows. In the first chapter, we outline the historical and institutional context in which Obama's atrocities efforts emerged. Second, we discuss the main policy tools deployed by the United States in the atrocity prevention and response toolbox. Third, we present case studies of nine countries where the United States engaged in atrocity prevention efforts during the Obama administration. These countries include Burundi, the CAR, the DRC, Iraq, Kenya, Libya, Myanmar, South Sudan, and Syria. Our selection is far from a complete sample; additional countries that faced serious atrocity risks and/or mass atrocities between 2009 and 2016 include Kyrgyzstan, Nigeria, North Korea and Sudan, among others. Some argue that atrocities are even more common. For instance, researchers from the Open Society Justice Initiative argue that individuals have committed atrocities in Mexico.⁶ Notably, for diplomatic reasons, the US government does not publish a list of atrocity risk situations that are on its institutional radar. Our sample was selected based on varying degrees of success and failure of atrocity prevention, geographic diversity and availability of, and accessibility to, public information. Following the case studies, we present our assessments of the Obama administration's efforts. We conclude with policy recommendations for the executive branch of the US government, Congress, and civil society.

⁶ Open Society Justice Initiative, "Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico," 2016, <https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-2nd-edition-20160808.pdf>.

Chapter 1. US Foreign Policy and Atrocity Prevention

While “mass atrocity prevention and response” as a policy objective that is beginning to acquire its own institutional infrastructure is a very recent development, moral and humanitarian motives have a long history in US foreign policy. Time and again they have appealed to both conservatives and liberals, and to society at large.⁷ However, despite extensive, and often heated, moral rhetoric, prior to the Obama administration taking office the prevention of genocide and mass atrocities never constituted an explicit goal of US foreign policy. In her 2002 book *“A Problem from Hell”: America and the Age of Genocide*, Samantha Power described how US policymakers ignored or dismissed dramatic warning signs that genocide was taking place throughout the 20th century: from the Armenian genocide in 1915 to the Holocaust and the atrocities in Rwanda and Bosnia in the 1990s.⁸

Power’s explanation for America’s failure to grasp the potential for genocide was as simple as it was plausible: most leaders, she argued, simply could not imagine that rational politicians or generals directing and fighting wars, wherever they might be, would redirect scarce resources from their war efforts for barbaric purposes that rarely fulfilled a strategic goal.⁹ American decision-makers assumed that “once the killings start,... civilians who keep their heads down will be left alone. They urge cease-fires and donate humanitarian aid.”¹⁰

Using force for humanitarian purposes, Power wrote, simply was not something most US officials thought much about, and even if they did, force was seen as either unnecessary or as doing more harm than good. At the same time, however, US decision-makers historically were rarely willing to consider unconventional military and non-military options or to think about measures that could prevent atrocities in the long term. Power’s sober conclusion in 2002 was that: “No US President has ever made genocide prevention a priority, and no US President has ever suffered politically for this indifference to its occurrence.”¹¹

Power’s book won the Pulitzer Prize in 2003. Obama, then a US Senator, read Power’s analysis and met her for dinner in early 2005.¹² When he became president four years later, he appointed her to his NSC staff and signaled that his administration would elevate the status of the prevention of genocide and mass atrocities.

The appointment of Power to a high level national security staff position—as well as the appointment of others sympathetic to atrocity prevention to senior civilian positions elsewhere in government—reflected the broad shift in domestic and international norms of genocide prevention and mass atrocity response over the past two decades. The widespread support for mass atrocity prevention across the political spectrum and within civil society has grown steadily since the mid-1990s and now includes a diverse

⁷ Cf. Gary Jonathan Bass, *Freedom’s Battle: The Origins of Humanitarian Intervention* (New York: Alfred A. Knopf, 2008).

⁸ Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Harper, 2002).

⁹ Cf also Ivan Arreguín-Toft, “The [F]Utility of Barbarism: Assessing the Impact of the Systematic Harm of Non-Combatants in War,” in *Annual convention of the American Political Science Association* (Philadelphia, PA, 2003); Alex J. Bellamy, “Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Protect,” in *Policy Analysis Brief* (The Stanley Foundation, 2011); Lisa Hultman, “Targeting the Unarmed: Strategic Rebel Violence in Civil War,” in *Report No. 82* (Uppsala: Department of Peace and Conflict Research, Uppsala University, 2008).

¹⁰ Power, *A Problem from Hell: America and the Age of Genocide*, xvii.

¹¹ *Ibid.*, xvii, xviii and xxi.

¹² Sheryl Gay Stolberg, “Still Crusading, but Now on the Inside,” *The New York Times*, March 29, 2011, <http://www.nytimes.com/2011/03/30/world/30power.html?ref=samanthapower>, last accessed on December 8, 2013.

group of advocates: politicians from both the Democratic and the Republican parties, human rights groups, Hollywood stars, Jewish groups, Holocaust survivors, and evangelical Christians. In addition, think tanks and professional activists have developed practical proposals, and influential personalities such as Madeleine Albright have generated high-level political attention on the subject. The genocide prevention movement became a rich source of personnel, concepts and political pressure for the US government during President Obama's tenure.

This chapter examines the evolution of US atrocity prevention norms and policies over the past two decades. In the first part of the chapter, we examine the history of the genocide and atrocity prevention movement since the 1990s in the United States. A number of individuals and groups were deeply moved by the atrocities in Bosnia and Rwanda and, over the next decade, their combined efforts contributed to a significant elevation of attention to genocide prevention efforts. The crisis in Darfur in the early 2000s triggered a major mobilization effort within civil society, demanding a more forceful US political and military intervention in Sudan. The Save Darfur Movement was striking—one of the largest and fastest growing genocide prevention and response movements in history—and became a significant catalyst for the growth of mass atrocity prevention across the US political spectrum. This broad movement helped inspire the high-level, bipartisan Genocide Prevention Task Force (GPTF) led by former Secretary of State Madeline Albright and former Secretary of Defense William Cohen. The GPTF suggested a variety of concrete measures to improve US policy on mass atrocity prevention and elevated the credibility of this issue in Washington.

In the second part of this chapter, we review the evolution of the Obama administration's initiatives on genocide prevention and mass atrocity response, including a discussion of the institutional reforms and the personnel appointed to guide the Obama administration's efforts. Critical to the administration's efforts was the work of a small network of individuals in the White House, the State Department, the Pentagon, and the intelligence community who developed a number of building blocks for a serious US policy on atrocity prevention. It should be noted that without top-level direction from the president and his inner circle, these efforts could only make piecemeal progress. Still, it took until August 2011, three years into Obama's first term of office, for the White House to provide greater clarity and direction through issuing a Presidential Study Directive on Mass Atrocities (PSD-10), commissioning a (still classified) study and establishing an Atrocities Prevention Board, which the White House has since described as the core of the tool box for the prevention of mass atrocities.¹³

From Rwanda and Srebrenica to “Save Darfur”: Growing Mobilization for Atrocity Prevention

When President Bill Clinton took office in January of 1993, he faced a long list of foreign policy crises. In war-torn Somalia, he inherited a hastily arranged deployment of 30,000 US troops to protect the distribution of humanitarian relief. In Bosnia, another civil war was raging. Reports about massacres and ethnic cleansing were growing more frequent and desperate, even though a UN peacekeeping mission had been on the ground in the former Yugoslavia since the previous June.

Clinton and members of his cabinet strongly condemned the atrocities in Bosnia. In contrast to European governments, the Clinton administration named Serb nationalists as the main perpetrators of the violence early on. Even though his officials did not see the war or its atrocities as a matter of US national interest, Clinton intended to be more engaged politically with humanitarian aid than the previous administration. For several years into his presidency, however, he was not willing to send US troops into a combat mission to Bosnia. In October 1993, 18 US soldiers were killed in Somalia and graphic video of their mutilated bodies being pulled through the streets of Mogadishu were broadcast

¹³ Interview with White House official, December 18, 2012.

widely on American television. The shock effect made it more difficult for political leaders to justify similar missions.¹⁴

It was against this background that a generation of policymakers and activists that would later play important roles in the Obama administration experienced the failure of the United States and the world to stop mass atrocities in Rwanda and Bosnia.

Between April and July 1994, more than 800,000 people were systematically slaughtered in the Rwandan genocide. During the 100 days of the genocide, not a single official meeting took place in the White House to address the situation in Rwanda. The State Department concentrated its efforts on trying to reinvigorate the peace negotiations in Arusha between the government and the rebel army. Meanwhile, more broadly, the Clinton administration actively worked to prevent a new military engagement. At the UN, Ambassador Madeleine Albright, then US ambassador to the UN, advocated to the UN Security Council for a reduction of the UN mission in Rwanda. The way the administration saw it at the time, the United States would not, after Somalia, be able to rescue another hopelessly overstretched UN mission. In the first few weeks of the genocide, Secretary of State Warren Christopher instructed his staff not to use the term "genocide" for the situation in Rwanda to avoid calls for a stronger US role in addressing the killings.¹⁵

The experience of US policy during the Rwandan genocide had a lasting effect on many of the policymakers involved. Years later, Hillary Clinton remembered a visit to a refugee camp in Rwanda:

I believe that our government failed. [...] I think that for me it was one of the most poignant and difficult experiences when I met with Rwandan refugees in Kampala, Uganda, shortly after the genocide ended and I personally apologized to women whose arms had been hacked off who had seen their husbands and children murdered before their very eyes and were at the bottom of piles of bodies, and then when I was able to go to Rwanda and be part of expressing our deep regrets because we didn't speak out adequately enough and we certainly didn't take action.¹⁶

According to her and her husband, Hillary Clinton had privately and unsuccessfully pushed him to consider military intervention in Rwanda.¹⁷

At the time of the Rwandan genocide, Susan Rice was Director of International Organizations and Peacekeeping at the National Security Council. She later blamed herself for not having argued for intervention. Her visit to Rwanda after the genocide left such a mark on her that she told then-journalist Power in 2001: "I swore to myself that if I ever faced such a crisis again, I would come down on the side of dramatic action, going down in flames if that was required."¹⁸

¹⁴ Cf. Power, *A Problem from Hell: America and the Age of Genocide*, 310-18.

¹⁵ Samantha Power, "Bystanders to Genocide," *The Atlantic*, September 2001, http://www.theatlantic.com/magazine/archive/2001/09/bystanders-to-genocide/304571/?single_page=true#. In 2014, the National Security Archive at George Washington University released new documents on the US administration's response to the genocide in Rwanda. They are available at <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/>.

¹⁶ Steven Harris, "Clinton Cites Rwanda, Bosnia in Rationale for Libya Intervention," *ABC News*, 27 March 27, 2011, <http://abcnews.go.com/blogs/politics/2011/03/clinton-cites-rwanda-bosnia-in-rationale-for-libya-intervention/>, last accessed on December 17, 2012.

¹⁷ Scot Helman, "Bill Clinton: Hillary Was Right on Rwanda," *Boston.com*, December 10, 2007, http://www.boston.com/news/politics/politicalintelligence/2007/12/bill_clinton_hi.html, last accessed on December 18, 2012.

¹⁸ Power, "Bystanders to Genocide."

Meanwhile, after three-and-a-half years of limited policy response to the massive violence in Bosnia, the Clinton administration shifted its policy focus in response to the Srebrenica massacres in July 1995, when approximately 8,000 Bosnian men and boys were abducted from the UN-designated safe haven by Serb forces and summarily executed. In response, the United States took the international diplomatic and military lead for the first time in the Bosnian conflict. Under US diplomatic pressure and six weeks of NATO airstrikes on Bosnian Serb targets, the United States and its allies compelled all sides to the negotiating table at Dayton, Ohio. 32 months after the US Secretary of State had called the conflict a “problem from hell,”¹⁹ fueled by age-old ethnic hatreds and essentially intractable, the Dayton Peace Accords stopped the war on a dime. In the twenty years since the peace agreement, there has been no coordinated inter-ethnic violence in the country. Power experienced the war in Bosnia as a journalist. Deeply affected by what she saw and heard in Bosnia during the war, she later wrote in the foreword to her book: “I was haunted by the murder of Srebrenica’s Muslim men and boys [and] my own failure to sound a proper early warning.”²⁰

In 1998, President Clinton apologized to the victims of the genocide in Rwanda: “All over the world there were people like me sitting in offices, day after day after day, who did not fully appreciate the depth and the speed with which you were being engulfed by this unimaginable terror.”²¹

Clinton called on the world to pay more attention to future atrocities and promoted the idea of an international criminal court. Bosnia had shown, Clinton argued in the same speech, that the international community was not yet sufficiently prepared to address mass atrocities. It had taken “more than two years” to find a consensus within his administration and with US allies for the intervention in Bosnia.²² Not least because of this experience, in 1997, Clinton appointed David Scheffer as the first ever Ambassador-at-Large for War Crimes Issues. He also established an Atrocity Prevention Interagency Working Group that Scheffer chaired from its first meeting in 1999 until the group was disbanded by the Bush administration in 2000.²³

The alarm bells rang again in 1998 and 1999, when Serb militia, backed by Serb officials in Belgrade, escalated their attacks on Albanian civilians in Kosovo. The violence in Kosovo triggered renewed US and international concerns of mass atrocities in the Balkans. Republican William Cohen, Secretary of Defense at the time, described the plight of Kosovo-Albanians as a “suffering we thought modern man was incapable of contemplating and surely not disposed to inflicting.”²⁴ Diplomatic pressure failed as Serb leaders refused to comply with US and NATO demands to suspend violence against Kosovo Albanian civilians. Led by the United States, NATO launched a bombing campaign against Serbia. After the end of the 75-day air war, President Clinton declared: “whether you live in Africa, or Central Europe, or any other place, if somebody comes after innocent civilians and tries to kill them en masse because of their race, their ethnic background or their religion, and it's within our power to stop it, we will stop it.”²⁵

¹⁹ Warren Christopher on CBS’ Face the Nation, March 28, 1993.

²⁰ Power, *A Problem from Hell : America and the Age of Genocide*, xiv-xv.

²¹ James Bennet, “Clinton in Africa: The Overview; Clinton Declares U.S., with World, Failed Rwandans,” *The New York Times*, March 26, 1998, <http://www.nytimes.com/1998/03/26/world/clinton-in-africa-the-overview-clinton-declares-us-with-world-failed-rwandans.html?pagewanted=all&src=pm>, last accessed on December 14, 2012.

²² Ibid.

²³ David Scheffer, *All the Missing Souls: A Personal History of the War Crimes Tribunals*, Reprint edition (Princeton, N.J.; Woodstock, Oxfordshire: Princeton University Press, 2013), 300; James P. Finkel, “Atrocity Prevention at the Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years,” *Center for the Prevention of Genocide Series of Occasional Papers* No. 2, September (2014): 7.

²⁴ William Cohen, “Remarks to the Atlantic Council,” April 22, 1999,

<http://www.defense.gov/speeches/speech.aspx?speechid=403>, last accessed on December 8, 2012.

²⁵ The White House, “Remarks by the President to the Kfor Troops,” June 22, 1999,

<http://clinton2.nara.gov/WH/New/Europe-9906/html/Speeches/990622d.html>, last accessed on December 14, 2012.

The Clinton administration's new-found interventionism was neither popular internationally nor domestically. Internationally, the administration overlooked the fact that the US did not have the credibility in wide parts of the world to identify perpetrators and victims and to decide when and where a humanitarian intervention would be appropriate. The conscious breach of international law involved in the circumvention of the Security Council for the Kosovo intervention had increased concerns over a new US imperialism. The Kosovo intervention was followed by a wave of protests at the UN and an increase in resistance against the legitimacy of humanitarian interventions.²⁶

Domestically, the new liberal interventionism provided ammunition for the conservative opposition heading into the 2000 presidential campaign. From the conservatives' point of view, Clinton and his vice president—then-presidential hopeful Al Gore—sacrificed American national interests for global liberal ambitions, for example by allowing allied partners to weigh in on military decisions during the Kosovo air war and by supporting the International Criminal Court (ICC)— something that they argued could put American troops at risk of international prosecution. Condoleezza Rice, who would later become Bush's National Security Advisor and Secretary of State, criticized the Democrats during the 2000 campaign for their "overly broad definition of America's national interest."²⁷ Bush used his rejection of interventions as part of an anti-internationalist foreign policy agenda to paint Gore as out of touch with the priorities of most Americans.

Bush's Foreign Policy, the Responsibility to Protect and a Growing Political Commitment Against Genocide and Mass Atrocities

President George W. Bush came to office in 2001 pledging to recalibrate and restrain Clinton's interventionism. The terror attacks of 9/11, however, turned the Bush administration's foreign and security policy on its head. The National Security Strategy of September 2002 laid out how the confluence of radicalism and modern technology required a shift in overall American strategic thinking. This Bush Doctrine privileged American unilateralism over multilateral action and articulated a doctrine of preventive war masked as preemption. The invasion of Iraq in 2003, premised on exaggerated claims of Iraqi capabilities and threat,²⁸ confirmed the worst international suspicions about America's motives and methods.²⁹ False information presented by Secretary of State Colin Powell to the Security Council in the weeks leading up to the Iraq War and later revelations of systematic human rights violations by the US government in the context of the "war on terror" all proved costly to American credibility abroad.

Domestically as well as internationally, the dominant concern with fighting terrorism immediately overshadowed everything else, including atrocity prevention abroad. As James Finkel writes, "the Bush administrations certainly included senior officials who were passionately concerned about—and continue to advocate around—the prevention of genocide and atrocities," they "tended to be fewer in number, and, especially following 9/11, were more challenged to make their voices heard [and] found themselves redirected to a variety of other war-related tasks."³⁰

²⁶ Oliver Stuenkel and Marcos Tourinho, "Regulating Intervention: Brazil and the Responsibility to Protect," *Conflict, Security & Development* 14, no. 4 (2014): 384. Xymena Kurowska, "Multipolarity as Resistance to Liberal Norms: Russia's Position on Responsibility to Protect," *Conflict, Security & Development* 14, no. 4 (2014): 493.

²⁷ Condoleezza Rice, "Promoting the National Interest," *Foreign Affairs* 79, no. 1 (2000): 54.

²⁸ The White House, "President Says Saddam Hussein Must Leave Iraq within 48 Hours," *Remarks by the President in Address to the Nation*, March 17, 2003, <http://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030317-7.html>, last accessed on December 14, 2012.

²⁹ On the topic of the preventive war doctrine cf. for instance The White House, "The National Security Strategy," (Washington, DC, 2002), v.

³⁰ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years": 8.

On the international stage, the idea of a “responsibility to protect” (R2P) populations from atrocity crimes similarly suffered from bad timing. Encouraged by UN Secretary-General Kofi Annan to find a way out of the “Kosovo dilemma” between illegality and inaction, an International Commission on Intervention and State Sovereignty (ICISS) suggested a subsidiary international responsibility to step in when states proved unable or unwilling to effectively protect their populations from mass atrocities. Originally scheduled to release its report on September 12, 2001, ICISS effectively sought to reframe national sovereignty as contingent on a state’s ability and willingness to protect its population from large scale loss of life or large scale ethnic cleansing— just when the world’s most powerful country was about to embark on preventive warfare in countries such as Afghanistan and Pakistan, whose governments were unable or unwilling to prevent terrorist networks from operating on their territory.³¹

Unsurprisingly, R2P met with mixed reactions in Washington.³² Embracing rigid unilateralism, the Bush administration categorically rejected the idea of tying itself to international law, an international criminal justice system and multilateral decision-making mechanisms as suggested by ICISS in accordance with international law.

The United States nevertheless supported in principle many of the basic tenets embedded within R2P. The concept’s basic idea of protecting populations from genocide and mass atrocities echoed the values of the Bush administration’s neo-conservative foreign policy, which had at this point dedicated itself to spreading “freedom, democracy and human rights”³³ in the world.

In addition, across the United States, human rights advocates, Jewish organizations and Christian church groups lobbied for a number of suppressed groups abroad. Evangelical Christians—a significant part of President Bush’s base—played an important role in this movement. Individual lobby groups, for instance, advocated for fighting the Lord’s Resistance Army and a more active US policy to address atrocities in Darfur. From 2004, the “Save Darfur Coalition” began to bring thousands of mostly young people to the streets.³⁴ They succeeded in lobbying Congress to pass a concurrent resolution in the summer of 2004 that referred to the situation in Darfur as genocide and accused the Sudanese government of breaching the 1948 Genocide Convention.³⁵ A few months later, Secretary of State Colin Powell also called the atrocities in Darfur “genocide.”³⁶

The Bush administration incorporated a “moral imperative that states take action to prevent and punish genocide” into its next National Security Strategy, published in March 2006.³⁷ A month later, an estimated fifty thousand people marched on the National Mall in Washington calling for a more decisive US intervention in Darfur.³⁸ Holocaust survivor and Nobel laureate Elie Wiesel, then-Senator Obama, and actor George Clooney were some of the prominent speakers at the event. Together with noted

³¹ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001); Sarah Brockmeier, Gerrit Kurtz, and Philipp Rotmann, “Major Powers and the Contested Evolution of a Responsibility to Protect,” *Conflict, Security & Development* 14, no. 4 (2014).

³² Julian Junk, “The Two-Level Politics of Support - Us Foreign Policy and the Responsibility to Protect,” *Conflict, Security & Development* 14, no. 4 (2014).

³³ The White House, “Joint Statement by President George W. Bush and Chancellor Gerhard Schroeder on a Transatlantic Vision for the 21st Century,” March 29, 2001, <http://georgewbush-whitehouse.archives.gov/news/releases/2001/03/20010329-5.html>, last accessed on December 9, 2012.

³⁴ Rebecca Hamilton, *Fighting for Darfur: Public Action and the Struggle to Stop Genocide* (Palgrave Macmillan, 2011).

³⁵ US Senate, “Declaring Genocide in Darfur,” (Washington, DC, 2004).

³⁶ Bruce W. Jentleson, “The Obama Administration and R2p: Progress, Problems and Prospects,” *Global Responsibility to Protect* 4, no. 4 (2012): 403.

³⁷ “The National Security Strategy of the United States of America, March 2006,” <http://georgewbush-whitehouse.archives.gov/nsc/nss/2006/>, 17.

³⁸ Save Darfur History, at <http://savedarfur.org/about/history/>, last accessed on February 2, 2016.

activist David Pressman, who would later be in charge of atrocity prevention in the White House, Clooney and other Hollywood stars subsequently founded the campaign “Not on our Watch”.³⁹ Other initiatives such as the “Enough Project”, documentaries, and op-eds followed.⁴⁰

In many ways, activism around Darfur amplified the voice and organizational backbone of the genocide prevention movement in US civil society, connecting ad-hoc advocacy groups with longstanding institutions such as the US Holocaust Memorial Museum, which has made genocide and atrocity prevention a major priority in its work. United to End Genocide, a merger of the Save Darfur Coalition and the Genocide Intervention Network, has had annual budgets of several million US dollars in the last few years and employed several professional lobbyists.⁴¹

The growing civil society mobilization and awareness of mass atrocity prevention were reflected in the Bush administration’s second National Security Strategy in 2006: “It is a moral imperative that states take action to prevent and punish genocide. [...] Where perpetrators of mass killing defy all attempts at peaceful intervention, armed intervention may be required, preferably by the forces of several nations working together under appropriate regional or international auspices.”⁴²

Democratic Opposition and the 2008 Campaign

Several leading members of the Democratic Party became actively involved in the Darfur movement. Senator Obama was one of only many who spoke at the 2006 rally on the National Mall.⁴³ Obama and his Democratic colleagues on the Senate Foreign Relations Committee used their positions to press for a more comprehensive US and international response to the conflict. In a video contribution to the Save Darfur Coalition a year later, Obama said: “When you see a genocide in Rwanda, Bosnia or in Darfur, that is a stain on all of us, a stain on our souls. [...] We can’t say ‘never again’ and then allow it to happen again, and as a president of the United States I don’t intend to abandon people or turn a blind eye to slaughter.”⁴⁴ Along with Hillary Clinton and then-Senator Joe Biden, as well as with Republican colleagues in the Senate, Obama supported a number of initiatives on Darfur, including a call for a no-fly zone over the Sudanese region.⁴⁵

Obama emphasized, however, that he would not support interventionism at any cost. He presented himself as a pragmatic politician who would always weigh the risks and benefits of military intervention—an attitude that would later make him the recipient of scathing criticism for “dithering” over Syria.⁴⁶ During the 2008 New Hampshire primaries, Obama explained why even the risk of genocide would not compel him to leave US ground troops in Iraq, foreshadowing his administration’s limited

³⁹ Not on our Watch Project, “Who We Are,” (w.y.), http://notonourwatchproject.org/who_we_are, last accessed on December 14, 2012.

⁴⁰ Cf. <http://www.enoughproject.org/>, accessed on December 14, 2012, and George Clooney and John Prendergast, “Dancing with a Dictator in Sudan,” *The Washington Post*, May 28, 2011, http://www.washingtonpost.com/opinions/dancing-with-a-dictator-in-sudan/2011/05/27/AGYMCzCH_story.html, last accessed on December 14, 2012.

⁴¹ Between 2010 and 2013, United to End Genocide budgets ranged between \$2.4m (2013) and \$4.3m; see <https://www.citizenaudit.org/300335420/>. [An earlier version of this footnote mistakenly listed the budgets in billions instead of millions.]

⁴² The White House, “The National Security Strategy,” (Washington, DC, 2006), 17.

⁴³ Holli Chmela, “Thousands Rally in Support of American Aid to Darfur,” *The New York Times*, May 1, 2006, http://www.nytimes.com/2006/05/01/us/01rally.html?_r=0.

⁴⁴ Glenn Kessler, “Libya, Obama and the Tragedy in Darfur,” *The Washington Post*, March 24, 2011, http://www.washingtonpost.com/blogs/fact-checker/post/libya-obama-and-the-tragedy-in-darfur/2011/03/23/ABlu34KB_blog.html.

⁴⁵ Michael Bear Kleinman, “How Obama and McCain Would Respond to Darfur,” *Foreign Policy Digest*, November 1, 2008, <http://www.foreignpolicydigest.org/how-obama-and-mccain-would-respond-to-darfur-2/>.

⁴⁶ Walter Russell Mead, “The Cost of Obama’s Syria Dithering,” *Time*, August 27, 2013, <http://ideas.time.com/2013/08/27/obama-and-the-sybil-2/>.

intervention to prevent the slaughter of the Yezidi sect in 2014: “[B]y that argument you would have three hundred thousand troops in the Congo right now, where millions have been slaughtered as a consequence of ethnic strife, which we haven’t done. We would be deploying unilaterally and occupying the Sudan, which we haven’t done. Those of us who care about Darfur don’t think it would be a good idea.”⁴⁷

Still, despite the caveats and ongoing violence in Darfur, in a sign of the movement’s “coming of age,” the three main presidential candidates in 2008—Obama, Hillary Clinton, and Republican nominee John McCain—all supported a stronger US and international response to the violence in Darfur and to atrocity prevention more generally.⁴⁸ Hillary Clinton, for example, pledged, “As President I will adopt a policy that recognizes the prevention of mass atrocities as an important national security interest of the United States, not just a humanitarian goal.”⁴⁹

“A Blueprint for the Next Administration”

While US politicians and the public increasingly focused on the (Democratic) primaries, in November 2007 the US Holocaust Memorial Museum, the American Academy of Diplomacy and the United States Institute for Peace jointly launched a bipartisan “Genocide Prevention Task Force” (GPTF).⁵⁰ Its goal was to familiarize a broad range of political, diplomatic, military, and economic policy elites with the subject of atrocity prevention. The Task Force’s year-long consultations “touched hundreds of people in and out of government”⁵¹ who were not as easily influenced by public mobilization or the activities of a few Hollywood stars, and who hold crucial influence over policy formulation and implementation.

While any such commission works under the assumption that its recommendations will be implemented, this rarely happens. The GPTF was an exception: its recommendations would become the “blue print” for the Obama administration’s work on atrocity prevention. “The report has become must reading for those who follow atrocity issues” a participant in the internal deliberations of the administration later remarked.⁵²

Two veterans of the Clinton administration chaired the commission: former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, a Republican appointee who served under President Clinton. Together they assembled a strategic selection of “credible security figures.”⁵³ No one could accuse the commission’s members of being naïve or too removed from the realities of policymaking. Albright and Cohen put their own influence and credibility on the line to integrate “genocide prevention measures into the respectable mainstream of national security policy.”⁵⁴ The Task Force included members of the foreign policy establishment from both parties: four task force members had served as Cabinet Secretaries under Clinton or George H.W. Bush, while others had

⁴⁷ Associated Press, “Obama: Don’t Stay in Iraq over Genocide,” *MSNBC*, July 20, 2007, <http://www.msnbc.msn.com/id/19862711/#.UPAvddf-uSo>.

⁴⁸ Cf. John McCain, “An Enduring Peace Built on Freedom,” *Foreign Affairs* 86, no. 6 (2007).

⁴⁹ Cf. Theresa Reinold, “The United States and the Responsibility to Protect: Impediment, Bystander, or Norm Leader?,” *Global Responsibility to Protect* 3, no. 1 (2011): 80.

⁵⁰ The activities of the Task Force were financed to a large extent by “Humanity United”, a charitable foundation of the entrepreneurial couple Pierre and Pam Omidyar. Pierre Omidyar is the founder of eBay. Cf. Humanity United, “Atrocities Prevention,” <http://humanityunited.org/performance-report2013/atrocities.html>, last accessed on April 16, 2015.

⁵¹ Interview by Jon Western with Victoria K. Holt.

⁵² Finkel, “Atrocity Prevention at the Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years”: 9.

⁵³ Sarah Sewall, “Do the Right Thing. A Genocide Policy That Works,” *Boston Review* (September/October 2009), <http://bostonreview.net/BR34.5/sewall.php>, last accessed on December 18, 2012.

⁵⁴ *Ibid.*

occupied leading positions in Congress, were former UN ambassadors, Deputy Secretaries or in one case, a four star General.

With the help of five expert working groups, the commission assembled a wide range of ideas for a better US policy on mass atrocity prevention. Overall, the members of the commission interviewed more than 100 people. Over 50 experts participated in the working groups. Their report “Preventing Genocide: Blueprint for U.S. Policymakers” was strategically launched in the transition period between the Bush and Obama administrations in December 2008 – exactly 60 years after the UN General Assembly had adopted the Genocide Convention.

“Genocide and mass atrocities threaten American values and interests,” argued the Task Force. “If the United States does not engage early in preventing these crimes, we inevitably bear greater costs—in feeding millions of refugees and trying to manage long-lasting regional crises.”⁵⁵ If it was “perceived as bystanders to genocide”, the Task Force underlined, the United States would lose its international credibility and with it the authority to take on an internal leadership role.⁵⁶

Against the widespread skepticism in diplomatic, political and military circles, the authors of the report claimed that “preventing genocide is an achievable goal.”⁵⁷ The Task Force members justified this claim by describing the nature of mass atrocities: “Genocide is not the inevitable result of ‘ancient hatreds’ or irrational leaders. It requires planning and is carried out systematically. There are ways to recognize its signs and symptoms, and viable options to prevent it at every turn if we are committed and prepared. Preventing genocide is a goal that can be achieved with the right organizational structures, strategies, and partnerships – in short, with the right blueprint.”⁵⁸

In order to go beyond the mere rhetorical commitment of “never again”, the Task Force argued, the president needed to declare the prevention of genocide and atrocity crimes a national priority and establish a high-level interagency body with representatives from all government agencies. Early warning systems in the State Department needed to be strengthened—with training for both working level analysts and high-level decision makers. The Task Force recommended the strengthening and building of capacities to intervene early with means ranging from diplomatic involvement to military measures. Where prevention and non-military measures failed, the US military would have to develop scenarios and expand its doctrine and training exercises accordingly. The government would also have to advocate for the appropriate changes in international organizations.⁵⁹

Next to many concrete organizational and normative changes, however, the Task Force concluded that the most important factor would be political leadership, beginning with the president: “It means taking on inertia within the government, investing political capital, doing the heavy lifting of persuasion. Political will involves fending off critics and cynics. It means bucking the tides of caution. It means risking failure.”⁶⁰

⁵⁵ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for U.S. Policymakers," (Washington, DC: The American Academy of Diplomacy, US Holocaust Memorial Museum, US Institute of Peace, 2008), xv.

⁵⁶ *Ibid.*, xv.

⁵⁷ *Ibid.*, xv.

⁵⁸ *Ibid.*, xv.

⁵⁹ Jim Finkel recently provided a detailed assessment of progress in implementing the Task Force’s recommendations. Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years".

⁶⁰ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for U.S. Policymakers," xv-xxiv.

From Words to Deeds: Great Expectations and Piecemeal Progress (2009-2012)

In the first two years of the Obama Presidency, the principal foreign policy focus of the administration focused on ending the wars in Iraq and Afghanistan and shifting US attention to new priorities including the Asia-Pacific region, the global economy, and nuclear non-proliferation.⁶¹ From the administration's perspective, human rights issues such as closing the prison camp at Guantanamo Bay were part of an effort to regain American credibility abroad, but atrocity prevention did not feature prominently on the agenda of the first two years.

Arguably, Obama's first term was not the most convenient moment for a foreign policy initiative on the prevention of genocide and mass atrocities. Far beyond Election Day, the political agenda was dominated by the worst economic crisis since the Great Depression. It was economic and social policies at home that proved decisive for the 2008 elections. Even the war in Iraq, which at this point had become unpopular, generally played a minor role in the elections.

Nonetheless, the Obama Administration clearly articulated its commitment to mass atrocity prevention and, despite Congressional reservations, to the idea of an international responsibility to protect people from genocide, crimes against humanity, ethnic cleansing, and war crimes.⁶² In her first speech as UN ambassador on the Security Council, Susan Rice emphasized the Administration's support for the concept: "As agreed to by member states in 2005 and by the Security Council in 2006, the international community has a responsibility to protect civilian populations from violations of international humanitarian law when states are unwilling or unable to do so. But this commitment is only as effective as the willingness of all nations, large and small, to take concrete action. The United States takes this responsibility seriously."⁶³ International organizations such as the UN, from the perspective of the Obama team, should do the same, as their credibility depended on their ability to find effective solutions to these worst of crimes.⁶⁴

The president laid out his thinking on the matter on a number of occasions during his first term. In June 2009, Obama visited the Buchenwald concentration camp together with Chancellor Angela Merkel and Elie Wiesel. When asked by a journalist what meaning he attributed to the phrase "never again", Obama answered: "[It] means that the international community has an obligation, even when it's inconvenient, to act when genocide is occurring."⁶⁵

"To act," however, did not imply military intervention. On the sides of the 2009 G8 summit in L'Aquila, Obama described the question of a military intervention in the case of the worst human rights violations as "one of the most difficult questions in international affairs. And I don't think that there is a clean formula."⁶⁶ Still, Obama argued, military means should never be excluded. He emphasized this point in

⁶¹ Ryan Lizza, "The Consequentialist," *The New Yorker*, May 2, 2011, http://www.newyorker.com/reporting/2011/05/02/110502fa_fact_lizza.

⁶² Junk, "The Two-Level Politics of Support - Us Foreign Policy and the Responsibility to Protect."

⁶³ Susan E. Rice, "Respect International Humanitarian Law," *US Mission to the United Nations*, January 29, 2009, <http://usun.state.gov/briefing/statements/2009/january/127018.htm>.

⁶⁴ The White House, "The National Security Strategy," (Washington DC, 2010), 13.

⁶⁵ The White House, "Remarks by President Obama and Chancellor Merkel of Germany in Press Availability," June 5, 2009, <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-obama-and-chancellor-merkel-press-availability-6-5-09>.

⁶⁶ The White House, "Press Conference by the President," July 10, 2009, <https://obamawhitehouse.archives.gov/the-press-office/press-conference-president-laquila-italy-7-10-09>.

his acceptance speech for the Nobel Peace Prize in December 2009, in which he emphatically made the case for the possibility of just war while resisting Power's lobbying to endorse the R2P.⁶⁷

*Those who seek peace cannot stand idly by as nations arm themselves for nuclear war. The same principle applies to those who violate international laws by brutalizing their own people. When there is genocide in Darfur, systematic rape in Congo, repression in Burma - - there must be consequences. Yes, there will be engagement; yes, there will be diplomacy -- but there must be consequences when those things fail. And the closer we stand together, the less likely we will be faced with the choice between armed intervention and complicity in oppression.*⁶⁸

Personnel Decisions: True Believers Conquering the Corridors of Power

For his first appointments on foreign and security policy, Obama put a premium on experience. He made former CIA Director Robert Gates Secretary of Defense and General James L. Jones, former Supreme Allied Commander of NATO, become National Security Advisor. Together with Hillary Clinton as Secretary of State and Joe Biden (who worked on the Senate Committee on Foreign Relations for decades) as vice president, they signaled continuity and reliability.

Jones and Gates proved to be skeptical of making the prevention of mass atrocities a national priority. They feared overstressing US forces if the government gave in to the calls for more active atrocity prevention efforts. Both Biden and Clinton, however, had advocated for a more engaged US policy on the prevention of mass atrocities for years. Susan Rice, who was appointed US ambassador to the UN, was an even stronger advocate for the issue. Rice's lasting memories of the US failure to respond to the genocide in Rwanda stayed with her during her career in the second Clinton administration. At Brookings, during the two terms of the Bush administrations, she also worked on Darfur and recommended stronger sanctions against the Sudanese government.⁶⁹

While Clinton and Rice had to start working on many other foreign policy priorities, it became Power's task to make the president's vision of a substantive US commitment to atrocity prevention reality. As Special Assistant to the president and Senior Director for Multilateral Affairs and Human Rights at the NSC, Power now held a formal position in the White House and—by virtue of her prior personal relationship with Obama—direct access to the president.

Power was not the only former genocide prevention activist in the Obama administration. Donald Steinberg, formerly with the International Crisis Group and a staff member of the NSC during the genocide in Rwanda, became the Deputy Administrator of USAID. Victoria Holt, who had led an expert working group for the GPTF and pioneered work on the protection of civilians by UN peacekeepers, was appointed to the State Department to help manage US engagement with international organizations. Gayle Smith, another Senior Director at the National Security Council in charge of humanitarian affairs, had previously worked as the co-chair of the "Enough Project". David Pressman, co-founder of a lobby group on Darfur, became Power's principal adviser for mass atrocity prevention at the NSC.

With the exception of Power, none of these appointments reflected an intentional or systematic recruitment of genocide prevention activists to the administration. Rather, these appointments show

⁶⁷ Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, April 2016,

<http://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/>.

⁶⁸ The White House, "Remarks by the President at the Acceptance of the Nobel Peace Prize," December 10, 2009, <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>.

⁶⁹ Susan E. Rice, "The Genocide in Darfur: America Must Do More to Fulfill the Responsibility to Protect," *Opportunity* 08 (2007),

http://www.brookings.edu/~media/research/files/papers/2007/10/24darfur%20rice%20opp08/pb_darfur_rice.pdf.

how much the activism against genocide and mass atrocities had become part of the foreign policy establishment, at least within the Democratic Party. The fact that the democratic national security “talent pool” included a certain percentage of “true believers” in these issues provided some of the fertile ground necessary for any policy effort to succeed.

The Might of the Quill: Injection into Foreign Policy and Security Doctrine

During the first years of the Obama administration, the strategic and normative considerations described above were integrated into the key strategic documents of the White House, the Pentagon and the State Department. Obama published his first NSS in 2010. Putting mass atrocity prevention into the context of restoring America’s credibility and moral authority abroad, the document committed the administration to both atrocity prevention and multilateralism:

The United States and all member states of the UN have endorsed the concept of the ‘Responsibility to Protect.’ In so doing, we have recognized that the primary responsibility for preventing genocide and mass atrocity rests with sovereign governments, but that this responsibility passes to the broader international community when sovereign governments themselves commit genocide or mass atrocities, or when they prove unable or unwilling to take necessary action to prevent or respond to such crimes inside their borders. The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will 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.⁷⁰

These considerations equally featured in the planning documents by the Pentagon and State Department. The 2010 Quadrennial Defense Review (QDR) explicitly mentioned “preventing human suffering due to mass atrocities” as a contingency that might require the involvement of US military forces.⁷¹ That same year, the State Department issued its first-ever top-level strategy document for US foreign and development policy. Building on the NSS, the Quadrennial Diplomacy and Development Review (QDDR) defined mass atrocity crimes as a threat to US national interests.⁷² That crucial bit of language echoed a bipartisan resolution by the US senate in August 2010 which welcomed the report of the GPTF and referred to the prevention of mass atrocities as a “national interest” of the United States. Sponsored by senators Russ Feingold (D-WI) and Susan Collins (R-ME), and adopted unanimously, the resolution was described as crucial in providing credibility and political backing to mass atrocity prevention as a serious issue for the national security and foreign policy community.⁷³

⁷⁰ The White House, "The National Security Strategy," 48. The 2015 National Security Strategy uses similar language to “affirm our support for the international consensus that governments have the responsibility to protect civilians from mass atrocities” and commits the US to “continue to mobilize allies and partners to strengthen our collective efforts to prevent and respond to mass atrocities using all our instruments of national power,” without explicitly mentioning the military. The White House, ‘National Security Strategy,’ (Washington, DC, 2015), 22, https://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy.pdf.

⁷¹ US Department of Defense, "Quadrennial Defense Review Report," (Washington, DC, 2010), vi, 15.

⁷² US State Department, "Leading through Civilian Power. The First Quadrennial Diplomacy and Defense Review," (Washington, DC, 2010), 128-29.

⁷³ US Senate, "Recognizing the United States National Interest in Helping to Prevent and Mitigate Acts of Genocide and Other Mass Atrocities against Civilians," (Washington, DC, 2010).

Building Blocks: Intelligence, Diplomacy, Economic, and Military

The GPTF recommendations concerned a wide range of agencies from the State Department, USAID, the Treasury Department, and the Pentagon to the intelligence community. The Task Force suggested that critical contributions to better early warning, for example, could be made by diplomats as well as development workers and the half million US soldiers stationed abroad. The Task Force called for a whole-of-government approach and further called on the State Department and USAID to improve coordination with human rights groups, academics, think tanks, other governments, and international organizations on early warning.⁷⁴ Prevention and response would require different instruments such as civilian stabilization programs and multilateral peace operations, which had been the focus of US government attention for a long time, just without a particular focus on mass atrocities. As a result, the incoming Obama administration found a number of building blocks in place and some decentralized or Congressionally-sponsored initiatives that had been underway for several years until the White House launched its overarching atrocity prevention agenda in April 2012.

Intelligence

To harness the intelligence community's resources for early warning, the GPTF recommended that the Director of National Intelligence should include risks of genocide and mass atrocities in his annual testimony to Congress on threats to US national security. The Task Force specifically criticized an existing Atrocities Watchlist, which the intelligence community had been keeping since 1997. Having "been drawn from a combination of statistical modelling—primarily developed by the Central Intelligence Agency's (CIA) Political Instability Task Force—and expert insights,"⁷⁵ the GPTF found it to be "not as well known or useful as might be expected."⁷⁶ Most importantly, the Task Force found it to be insufficiently integrated into the policymaking process to be of more than "marginal value," according to some of its members.⁷⁷

The Obama administration took up the recommendation of the Task Force to improve the reporting and coordination of intelligence on mass atrocities. In 2010, Director of National Intelligence Dennis Blair issued his "Annual Threat Assessment" for the first time with a section which described the risk of mass killing of civilians as "a persistent feature of the global landscape."⁷⁸ The document went on to summarize key drivers of atrocity risks and identified Sudan as the country most at risk in the following five years, given the country's upcoming national referendum on secession of the South.⁷⁹ Recognizing the need for broader intelligence coordination, in 2011, Blair's successor James Clapper created the position of Special Assistant to the Director of National Intelligence on War Crimes and Human Rights issues to coordinate intelligence collection and analysis on war crimes and atrocities across all 19 US government intelligence organizations.

Diplomacy and multilateral engagement

As the QDDR was underway, a small group of people in the State Department "began exchanging views about how the State Department and other agencies should actually go about preventing

⁷⁴ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for US Policymakers," 23-33.

⁷⁵ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years", 14.

⁷⁶ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for US Policymakers," 23-33.

⁷⁷ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years", 14.

⁷⁸ Dennis Blair, "Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence," February 2, 2010,

http://www.dni.gov/files/documents/Newsroom/Testimonies/20100202_testimony.pdf

⁷⁹ Ibid.

genocides and mass atrocities” and “subsequently organized an informal interagency group.”⁸⁰ Even inside the State Department, there were a number of bureaucratic players to coordinate: in addition to the Bureau of Democracy, Human Rights and Labor, the traditional advocate for human rights issues, there was the Bureau of International Organization Affairs, which covered peacekeeping; the Office of Global Criminal Justice (successor to the Clinton-era Office of War Crimes Issues), which focuses on prosecuting perpetrators and holding them accountable;⁸¹ and the Bureau of Intelligence and Research, which built a war crimes analysis unit tied to the Office of the Geographer that also contributed to the coordination of collection and analysis of atrocity risks. Most of these departments had some interest in working on atrocity prevention, but had limited resources to do so and faced competing priorities with their more traditional tasks.⁸²

The main role, however, was assigned to the newly created Bureau of Conflict and Stabilization Operations (CSO). The institutional successor to the ill-fated Office of the Coordinator for Reconstruction and Stabilization, CSO had a primary role in managing a pool of civilian experts for rapid deployment to stabilization operations in Iraq, Afghanistan, and beyond, and to provide expertise and support on conflict prevention and conflict management to the rest of the government.⁸³ While the Bureau was tasked with developing an atrocity prevention strategy, most of CSO’s energy, at least during Obama’s first term, was absorbed by finding its place in the maze of the US national security apparatus and developing its staff and procedures in a way that would allow the Bureau to develop an atrocity prevention role.

Every one of the bureaus tasked with advancing atrocity prevention were part of what the State Department calls the “functional” side of the house—the bureaucratic home for thematic priorities that cut across different world regions. These functional bureaus provide the Department with specialization on broad issues such as proliferation, migration or human rights. However, as in many other foreign ministries across the world, the main centers of power within the State Department are the regional bureaus and country desks. Constantly in touch with embassies and foreign governments, they are the ones most closely following local events and play the lead role in formulating US policy. The functional bureaus, in contrast, are often subordinated in the policy process, including atrocity prevention cases.⁸⁴

This cultural divide limited the overall strength of the atrocity prevention initiatives. With regional bureaus skeptical of atrocity prevention as a critical national security issue, many of the most practical atrocity prevention efforts during this period of US government were launched at the United States Mission to the United Nations. Susan Rice led a strong push for advancing atrocity prevention within the Security Council and the UN General Assembly. During a pivotal moment for R2P in 2009, when the principle faced pushback at the General Assembly partly for fears of US global hegemony, Rice successfully walked a tightrope of providing “forceful” but not “overwhelming” support. Thus, Washington managed to “make it easier for member states usually critical of the US to sign up” to a constructive General Assembly resolution that confirmed the elements of R2P as agreed in 2005.⁸⁵ Over the next several years, the Obama administration actively used the Security Council to exert

⁸⁰ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years ", 9.

⁸¹ Cf. US State Department, "Office of Global Criminal Justice," <http://www.state.gov/j/gcj/>.

⁸² Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years ", 9.

⁸³ US State Department, "Leading through Civilian Power. The First Quadrennial Diplomacy and Defense Review," 135-35.

⁸⁴ Farah Thaler, Rachel Gerber, and Richard H. Stanley, "Atrocity Prevention and US National Security: Implementing the Responsibility to Protect," in *Policy Dialogue Brief* (51st Strategy for Peace Conference, Warrenton, VA: The Stanley Foundation, 2010), 5.

⁸⁵ Junk, "The Two-Level Politics of Support - US Foreign Policy and the Responsibility to Protect," 548.

international pressure on the regimes in Kenya, Darfur, Sudan, and later Libya and in extreme cases, such as Côte d'Ivoire and Libya, to obtain the authorization for coercive military measures.

In contrast to the previous administration, the United States under President Obama also worked constructively with the ICC, sometimes stretching the constraints imposed by Congress and domestic politics.⁸⁶ The administration helped the ICC in order to apprehend and prosecute suspected perpetrators of mass atrocities in Sudan, Kenya, Côte d'Ivoire, Libya and members of the Lord's Resistance Army. The United States also supported the search for fugitive defendants at the International Criminal Tribunals for Rwanda and the former Yugoslavia, and the Special Court for Sierra Leone by offering rewards for information that may lead to the suspects' arrest.⁸⁷

The United States also pushed for the recognition and prosecution of atrocities at the UN Human Rights Council, which it joined in 2010 after reversing the Bush administration's opposition to the body.⁸⁸ Among other cases, the United States was one of the members leading the Council to condemn the Gaddafi government for atrocities committed against civilian opponents and to suspend Libya's membership.⁸⁹ After the grave human rights violations in Sri Lanka and Kyrgyzstan, the United States worked to establish independent commissions of inquiry as a means for both accountability and prevention.⁹⁰

Military doctrine

While putting its main focus on early warning, diplomatic and civilian prevention, the GPTF saw military force as a necessary part of effective atrocity prevention and response: "US leaders must consider how to leverage all instruments of national power to prevent and halt genocide and mass atrocities, including military assets. Military options are especially relevant when opportunities for prevention have been lost, but they can also play an important role in deterring and suppressing violence."⁹¹

The Albright and Cohen-led GPTF suggested that the defense secretary and military leadership be tasked with developing military advice and concepts to prevent and respond to mass atrocities. The priority of preventing mass atrocities should "be incorporated into national policy guidance and planning for the military and into defense doctrine and training", argued the Task Force.⁹² The recommendation was unanimously endorsed by Congress, which "urged" the secretary of defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to help respond to genocides and mass atrocities.⁹³

⁸⁶ Colum Lynch, "The World's Court Vs. The American Right," *Foreign Affairs*, February 11, 2013, http://turtlebay.foreignpolicy.com/posts/2013/02/11/the_icc_vs_american_conservatives. See US Embassy to the Netherlands, "Statement by the United States of America, Eleventh Session of the Assembly of States Parties of the International Criminal Court," November 15, 2012, http://www.state.gov/j/gcj/us_releases/remarks/2012/200880.htm.

⁸⁷ US Embassy to the Netherlands, "Statement by the United States of America, Eleventh Session of the Assembly of States Parties of the International Criminal Court."

⁸⁸ Colum Lynch, "US To Join U.N. Human Rights Council, Reversing Bush Policy," *Washington Post*, March 31, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/31/AR2009033102782.html>.

⁸⁹ US Mission to the United Nations in Geneva, "Ambassador Donahoe on the Unga Suspension of Libya's Human Rights Council Membership," March 2, 2011, <http://geneva.usmission.gov/2011/03/02/ambassador-donahoe-on-the-unga-suspension-of-libya%E2%80%99s-human-rights-council-membership/>.

⁹⁰ US Mission to the United Nations in Geneva, "Secretary Clinton Congratulates HRC for Mandating Human Rights Investigation in Syria, Press Statement," August 23, 2011, <http://geneva.usmission.gov/2011/08/24/secretary-clinton-syria/>.

⁹¹ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for US Policymakers," xviii.

⁹² *Ibid.*, Recommendation 5-1, 87-89.

⁹³ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years", 10., citing US Senate, "Recognizing the United States National Interest in Helping to Prevent and Mitigate Acts of Genocide and Other Mass Atrocities against Civilians."

In its response, the US military was able to build on several years of work by a partnership between Sarah Sewall, formerly a Pentagon official during the Clinton administration and then at Harvard University, and the US Army's Peacekeeping and Stability Operations Institute (PKSOI). Established during the Bush administration, their work on "mass atrocity response operations" (MAROs) was "based on the insight that the failure to act in the face of mass killings of civilians is not simply a function of political will or legal authority; the failure also reflects a lack of thinking about how military forces might respond. States and regional and international organizations must better understand and prepare for the unique operational and moral challenges that military forces would face in MARO."⁹⁴ Like Power in her research on US responses to genocide, Sewall found, during her time as the Pentagon official in charge of peacekeeping, that military planning was constrained by a limited range of well-understood conventional operational scenarios. Human rights activists, in turn, often lacked the military expertise to express their demands in realistic and feasible ways.⁹⁵

Sewall's working group of civilian and military experts developed planning assumptions and scenarios for the possibility of "a contingency operation to halt the widespread and systematic use of violence by state or non-state armed groups against non-combatants".⁹⁶ Such operations differ from conventional operational scenarios in three ways, according to the group. First, there will always be more than two parties to a conflict and it is not always easy to clearly differentiate between perpetrators, victims, and bystanders. Second, intervening forces regularly fall prey to an "illusion of impartiality." They might want to believe that they are fighting for a set of values and remain neutral, but in most cases the parties to the conflict will not perceive them as such. Third, these situations often escalate very rapidly, while political decision-making processes lag.

In a series of workshops and exercises with experienced military planners, the group developed the operational and political implications of MAROs and laid out possible military contributions. The resulting conclusions summarized how the US military could contribute to deterring perpetrators, document mass atrocities, protect civilians or directly engage and combat the perpetrators of mass atrocities. Some of these conclusions were directly at odds with conventional military planning principles. The results of the project were written up in a handbook for military planners which also included suggestions for exercises and war games.⁹⁷

The term and concept of a MARO arrived within the mainstream of US military doctrine when it was included in the "Army Operational Concept" in 2010, a document that sets out possible deployment scenarios for a twelve year period (in this case 2016-2028) and deduces requirements for doctrine, organization, training, material, and leadership skills. "Future Army forces must be prepared to conduct mass atrocity response operations," notes the Concept, referencing the MARO planning handbook.⁹⁸ During President Obama's second term, Sewall was appointed Under Secretary for Civilian Security, Democracy, and Human Rights at the State Department.

⁹⁴ Sarah Sewall and John Kardos, "Foreword," in *Mass Atrocity Response Operations: A Military Planning Handbook*, ed. Sarah Sewall, Dwight Raymond, and Sally Chin (Cambridge, MA: Harvard Kennedy School, 2010), 5. Emphasis in original.

⁹⁵ Nathan Hodge, "Making Plans to Stop Mass Murder," *The Wall Street Journal*, May 10, 2011, <http://online.wsj.com/article/SB10001424052748704681904576313133823427882.html>.

⁹⁶ Sarah Sewall, Dwight Raymond, and Sally Chin, *Mass Atrocity Response Operations: A Military Planning Handbook* (Cambridge, MA: Harvard Kennedy School, 2010), 17.

⁹⁷ *Ibid.*, 17-19.

⁹⁸ US Army, "The United States Army Operating Concept 2016-2028," (2010), 34.

Peace operations

Since 1945, mass atrocities have occurred in the context of armed conflict approximately two thirds of the time.⁹⁹ Peace operations of the UN or regional organizations are often present as mass atrocities occur, as blue helmets were in Rwanda 1994 and in Srebrenica 1995, or they are a major part of the international community's response, as in the CAR in 2014. Successive administrations have long supported UN and regional, particularly African, peace operations as an instrument of conflict management, establishing the United States as by far the largest provider of peacekeeping training globally but without any particular focus on preventing or responding to mass atrocities.¹⁰⁰ "Protection issues" were usually covered in training curricula only to the extent that soldiers were being educated in international humanitarian law and the lawful use of military force.¹⁰¹

In 2004, the Bush administration started the Global Peace Operations Initiative (GPOI) which today supports training, equipment, and logistical assistance to countries providing peacekeepers as well as the UN in terms of policy development. When it was developed, GPOI incorporated two previous programs that had been limited to Africa. It expanded that geographic scope in principle while retaining an overwhelming focus on African countries. By January 2009, according to State Department data, these programs had trained 54,245 "peacekeepers" and 3,350 local "trainers."¹⁰²

The Obama administration came into office promising significantly more active engagement with the UN and particularly in terms of support for peacekeeping and the effectiveness of peacekeepers in protecting civilians. Obama himself, following his first speech at the General Assembly in September 2009, presided over a meeting of the top UN troop contributing countries, which usually convenes at a less senior level.¹⁰³ At the Security Council, Rice demanded a regular implementation report of Resolution 1894 on the protection of civilians, as well as an annual account by the Secretariat on the capacity of all peacekeeping missions to ensure the protection of civilians. Moreover, the United States asked all relevant UN organizations to include threats for civilians and suitable counterstrategies in their reports for the Security Council.¹⁰⁴

The administration also ramped up its bilateral support for peacekeeping training, at least initially. Within its first several years, the Obama administration expanded GPOI's Africa budgets significantly while the overall allocation remained constant around \$100 million annually, as during the Bush administration.¹⁰⁵ By 2012, the administration claimed that GPOI and its component programs had trained more than 153,000 peacekeepers, tripling the 2009 figure in only three years.¹⁰⁶ In support of and partly funded through GPOI, the military's Africa Command (AFRICOM) maintains military assistance and capacity building programs directly with its counterparts in African countries. AFRICOM

⁹⁹ Alex Bellamy, "Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent," Policy Analysis Brief (The Stanley Foundation, 2011), 2, <http://www.stanleyfoundation.org/publications/pab/BellamyPAB22011.pdf>.

¹⁰⁰ Adam C. Smith, "United States of America," in *Providing Peacekeepers: The Politics, Challenges, and Future of United Nations Peacekeeping Contributions*, ed. Alex J. Bellamy and Paul D. Williams (Oxford: Oxford University Press, 2013), 77.

¹⁰¹ Nina M. Serafino, "The Global Peace Operations Initiative: Background and Issues for Congress," in *CRS Report for Congress* (2009).

¹⁰² *Ibid.*, 19.

¹⁰³ US Mission to the United Nations, "President Obama's September 23 Meeting with Top UN Troop Contributing Countries," *Wikileaks*, October 1, 2009, <http://cablegatesearch.net/cable.php?id=09USUNNEWYORK866&q=civilian%20obama%20peacekeeping%20us>.

¹⁰⁴ US Mission to the United Nations, "Remarks by Ambassador Susan E. Rice, US Permanent Representative, on the UN Security Council and the Responsibility to Protect," June 15, 2009, <http://usun.state.gov/briefing/statements/2009/125977.htm>.

¹⁰⁵ Paul D. Williams, "Enhancing US Support for Peace Operations in Africa," ed. Council on Foreign Relations Center for Preventive Action (CFR Special Report, 2015), Figure 5.

¹⁰⁶ Andrew J. Shapiro, "The Global Peace Operations Initiative (Remarks)," *US Department of State*, February 27, 2012, <http://www.state.gov/t/pm/rls/rm/184845.htm>.

and the co-located European Command were also the first operational commands to take an interest in the MARO initiative.¹⁰⁷

Inter-Agency Leadership by the White House: PSD-10 and a Comprehensive Strategy for Atrocity Prevention

Without decisive leadership from the White House, bottom-up initiatives could only achieve piecemeal and temporary progress. The GPTF recognized as much and prefaced its recommendations with a call to “presidential leadership” in developing “a government-wide policy on preventing genocide and mass atrocities.”¹⁰⁸ In the White House, it was mostly up to Power to integrate the prevention of mass atrocities into existing decision making processes and ensure that this priority would be taken into account in addition to all the other presidential priorities. She had some allies, but for large parts of the administration, Sewall’s observation about the military’s view on atrocity prevention applied as well: “[T]he military didn’t think of [the prevention of mass atrocities] as a responsibility, so they didn’t invest any time in trying to understand it. [...] But that’s what needed to be done in order to inform civilian decision makers.”¹⁰⁹

Using an informal circle of supporters across the different agencies, Power first concentrated on further developing stronger early warning systems and prevention tools.¹¹⁰ The integration of mass atrocity prevention into the key strategic documents (NSS, QDR, QDDR) over the first few months and years of the administration provided Power and her team with a growing body of documents to point to when trying to convince others within the administration of the necessity and feasibility of greater efforts at mass atrocity prevention. Power’s efforts required more than her personal advocacy and access to the president, however. “When the government takes something seriously, we create systems around it”, argued David Pressman, who would be tasked with developing these systems.¹¹¹

In April 2010, Pressman joined Power’s office as the first Director for War Crimes, Atrocities and Civilian Protection on the NSC.¹¹² It became Pressman’s task to lead the whole-of-government process the GPTF had advocated and to become the one person in the White House that Power had previously identified as missing—the person that “woke up every morning, and went to bed every night thinking about preventing, responding to, and punishing mass atrocity.”¹¹³

In late 2010 and early 2011, Pressman consulted widely and reportedly received at least two relatively specific suggestions on how to best institutionalize atrocity prevention across the US government; one from a group around Rosa Brooks, counselor to the Undersecretary of Defense for Policy, and another from the informal group at the State Department. Both groups recommended a “whole-of-government

¹⁰⁷ “In November 2011 the US European Command and US Africa Command (AFRICOM) co-hosted with MARO a conference at the NATO School in Oberammergau, Germany on how to improve the US government and US military’s capacities to prevent and respond to mass atrocities.” (Jentleson, “The Obama Administration and R2p: Progress, Problems and Prospects,” 412.)

¹⁰⁸ Genocide Prevention Task Force, “Preventing Genocide. A Blueprint for US Policymakers,” 111, Recommendation 1-2.

¹⁰⁹ Cited in Hodge, “Making Plans to Stop Mass Murder.”

¹¹⁰ Samantha Power, “Remarks at International Symposium on Preventing Genocide and Mass Atrocities,” *Goals and Challenges of International Cooperation* November 15, 2010, <http://www.usmm.org/genocide/analysis/details.php?content=2010-11-15>; Washington activist, interview, December 6, 2012.

¹¹¹ The White House, “Honoring the Pledge of Never Again: Introduction and Welcome,” April 23, 2012, <http://www.youtube.com/watch?gl=DE&hl=de&v=CHmVbIBHitg>.

¹¹² Sandra Elwaine, “Obama Hires a Clooney Confidant,” *The Daily Beast*, April 13, 2010, <http://www.thedailybeast.com/articles/2010/04/13/obama-hires-a-clooney-sidekick.html>; Finkel, “Atrocity Prevention at the Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years”, 10.

¹¹³ Power, “Remarks at International Symposium on Preventing Genocide and Mass Atrocities.”

look” or “comprehensive study” to inform a more systematic approach toward integrating atrocity prevention in strategy documents and putting the president’s authority behind it through a formal speech. Both memos also recommended “some sort of Interagency Policy Committee” (IPC), a type of decision-making body at the level of senior officials usually convened for a single country, but they appear to have differed about the authority envisaged for such a body.¹¹⁴

In August 2011, the White House finally unveiled the PSD-10. It declares:

*Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States. [...] Sixty six years since the Holocaust and 17 years after Rwanda, the United States still lacks a comprehensive policy framework and a corresponding interagency mechanism for preventing and responding to mass atrocities and genocide. This has left us ill prepared to engage early, proactively, and decisively to prevent threats from evolving into large scale civilian atrocities. [...] ensuring that the full range of options is available requires a level of governmental organization that matches the methodical organization characteristic of mass killings.*¹¹⁵

For this purpose, President Obama instructed his administration to establish a high-level APB within 120 days. The APB should “coordinate a whole-of-government approach to preventing mass atrocities and genocide.”¹¹⁶ Under the leadership of National Security Advisor James Jones, the Directive empowered David Pressman to coordinate an interagency study that would make recommendations on the “membership, mandate, operational protocols, authorities and support necessary” for the APB – based on the report of the GPTF.¹¹⁷

The announcement of PSD-10 was widely welcomed by civil society organizations¹¹⁸ and in the Senate: 29 senators of both parties supported the president’s directive in an open letter.¹¹⁹

Inside the bureaucracy, however, the reception was less enthusiastic. Power and her White House staff secluded themselves to give themselves the space to develop a comprehensive policy. But, in doing so, they kept many of their allies who would later be needed to disseminate and sell the policy throughout the bureaucracy in the dark about the structure, process, and timetable of the White House initiative. In the end, with the specifics of the strategy emerging only after months of silence from the White House and without an opportunity to influence the directive, most of the atrocity prevention experts throughout the administration felt blindsided. Participants of the process at the time suggested that the abrupt announcement driven by political appointees in the NSC was not the best strategy to institutionalize the agenda across the government—the administration’s ultimate aim. With many in the administration feeling that atrocity prevention fell outside the traditional conception of national security and suffered from a lack of natural support in the traditional power centers like the regional bureaus, they argued that it would have been better to get additional bureaucratic actors on board and mobilize allies in civil society before the roll-out.¹²⁰ As Finkel, himself an insider, put it in hindsight: “A more traditional rollout,

¹¹⁴ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years ", 11.

¹¹⁵ The White House, "Presidential Study Directive on Mass Atrocities," *Presidential Study Directive 10*, August 4, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities>.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Prevention and Protection Working Group, "Letter to President Obama," 2011, <http://globalsolutions.org/files/public/documents/FINAL%20PPWG%20PSD%2010%20Response.pdf>.

¹¹⁹ Christopher Coons, "Letter to President Obama," December 1, 2011, <http://www.coons.senate.gov/newsroom/releases/release/senators-support-improving-us-capacity-to-prevent-and-respond-to-mass-atrocities>.

¹²⁰ Former administration official, interview, March 19, 2015, Washington DC.

or at least a broader explanation of what was planned, would have allowed them to better socialize the new policy within their Departments and Agencies, especially with their Regional Office counterparts, and ultimately might have made it easier for the Atrocity Prevention Board to gain their cooperation.”¹²¹

The discussions that followed were, in Finkel's words as a participant at the time, “simultaneously grueling and exhilarating.”¹²² From the outside, they looked opaque and drawn out, leading to complaints from civil society advocates who felt excluded from the process—not least because the result ended up being classified in its entirety.¹²³ Internally, the experience was quite different. For bureaucratic standards, the president had imposed an extremely tight deadline, and the lack of preparation among the departments led to some friction along the way. The sudden announcement of PSD-10, sidestepping the atrocity prevention experts across different departments who could have otherwise prepared their seniors for the president's speech, amplified existing suspicions in some departments that the Obama NSC was out of touch with US interests. The lack of buy-in manifested itself in crucial ways, as in the example provided by a political appointee who was denied approval for any personnel working on atrocity prevention, despite the president's speech.

Steve Pomper, who took over Pressman's position in the NSC mid-way through this process, completed an internal draft that “called, among other things, for new legislation aimed at closing legal loopholes that might allow perpetrators of genocide, crimes against humanity, and war crimes to make their way into the US and preclude them from being prosecuted or deported; additional authorities and mechanisms for imposing sanctions against individual perpetrators and killer regimes; and steps to enhance early warning and policy discussion.”¹²⁴ The final study was accepted by the relevant heads of agencies and the president in late December 2011.¹²⁵

Four months later, on 23 April 2012, Obama gave a speech at the US Holocaust Memorial Museum, the first time a president had been seen to prominently “make the link between atrocity prevention and American values, national security interests and US legal requirements.”¹²⁶ In the speech, Obama announced the establishment of the APB and an encompassing strategy on the prevention of mass atrocity of his Administration, which included all the individual changes that had been made by his team so far.¹²⁷

The new Board was meant to guarantee that mass atrocity prevention became and remained a priority topic for all relevant agencies. Initially, Power chaired the Board, which ensured a direct connection to the president. To raise institutional awareness among the Departments of State, Defense, Treasury, Justice, and Homeland Security, the Joint Chiefs of Staff, USAID, the US Mission to the United Nations, the Office of the Director of National Intelligence, the CIA, and the Office of the Vice President, the Board was set-up to meet at least monthly with representatives of each. In addition, the Board was supposed to meet on the Deputies level twice a year and the level of the Principals once a year to make sure the topic retained visibility. The APB's work is prepared by a working-level body which was established and initially chaired by Pomper (and since, by his successors).

¹²¹ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years ", 12.

¹²² Ibid., 13.

¹²³ Washington activist, telephone interview, December 2012.

¹²⁴ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years ", 13.

¹²⁵ Ibid., 13. Former administration official, interview, March 19, 2015, Washington DC.

¹²⁶ Donald Steinberg, telephone interview, April 2015.

¹²⁷ Cf. The White House, "Factsheet: Comprehensive Strategy and New Tools to Prevent and Respond to Atrocities," April 23, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/04/23/fact-sheet-comprehensive-strategy-and-new-tools-prevent-and-respond-atro>.

In their meetings, the APB members were supposed to study and review laws, regulations, and practices—e.g., in applying sanctions—to make them more effective at preventing atrocities, and to focus attention on lower profile risks that would otherwise not trigger formal alert mechanisms in the National Security Council. As an institution, the Board was expected to provide a focal point for several groups of actors: for civil society groups to relay early warning information to the US government; for the intelligence community to have a formal, senior audience for atrocity risk assessments; and for any government agencies to give their individual atrocity prevention efforts greater traction. Finally, the fact that “at least four members” of the APB were simultaneously members of the NSC deputies committee was supposed to amplify the voice of atrocity prevention within the NSC decision-making process.¹²⁸

Reflecting Power’s background and a focus on quick results to generate momentum, the individual composition of the APB did not reflect a traditional bureaucratic approach with its strict respect for hierarchy and formal portfolios. Power and the respective heads of agencies specifically chose the members of the Board from among those senior officials—between Deputy Secretaries and Assistant Secretaries—who were personally committed to atrocity prevention, even if they were not the ones in charge of the most relevant portfolios.¹²⁹ The Justice Department, for example, initially appointed the Assistant Attorney General for the Criminal Division, Lanny A. Breuer, whose responsibilities were almost exclusively domestic. As the son of Holocaust survivors, Breuer brought a strong personal motivation to the table.¹³⁰

Since membership in inter-agency boards in big bureaucracies is usually a matter of picking whomever belongs to the respective box on the organigram at that time, the set-up of the APB was unique. Yet what Power’s team saw as innovative and special, others found plainly impractical and a sign of trouble to emerge later, because the reliance on personalities undermined the bureaucratic institutionalization of the APB. At the Pentagon, for example, Power chose Mike Sheehan, who was Assistant Secretary for Low Intensity Conflict at the time. While he cared about the issue of atrocity prevention, the focus on Al Qaeda in his role left him little time for working with the APB and institutionally, his role might not have been the best choice for a point person to the APB. According to Charles Brown, “Samantha’s decision to choose personalities rather than positions to represent agencies and departments gave the APB considerable throw-weight in the short term, but in the long run it has undermined the APB’s capacity to function as an institution that is bigger than any one person.”¹³¹

With the launch event at the US Holocaust Memorial Museum, the White House professionally marketed the APB in a way that is more typical for domestic than foreign policy issues. After Obama’s speech and the inaugural meeting of the APB, the White House organized a series of panel discussions with the Board’s members and activists. The event was streamed online—interested citizens could send in questions over Twitter and Facebook that Power put to the members of the APB on stage.¹³² The scale of the event demonstrated that the Administration’s work on mass atrocity prevention was also motivated by the domestic political interest of demonstrating to important parts of the democratic base that it was working on this issue.

In his speech, Obama set the bar high for future expectations of the work of the APB, not least by making a specific reference to the situation in Syria which would come to haunt the board in the years to come. He put the efforts of his administration into the context of the historical failure to prevent previous

¹²⁸ Donald Steinberg, telephone interview, April 2015.

¹²⁹ Finkel, "Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board after Two Years", 16.

¹³⁰ Washington activist, telephone interview, December 6, 2012; The White House, "Honoring the Pledge of Never Again: Introduction and Welcome."

¹³¹ Charles Brown, interview, March 2015, Washington DC.

¹³² The White House, "Honoring the Pledge of Never Again: Introduction and Welcome."

atrocities and defended the limited progress through his first term: “This is not an afterthought. This is not a sideline in our foreign policy.”¹³³

Four years later, the atrocity prevention community experienced a sense of déjà vu. Ever since PSD-10, civil society activists and Congressional supporters had been waiting for Obama to sign an Executive Order on atrocity prevention. Unlike a presidential study directive or the ad-hoc creation of the APB itself, an Executive Order would anchor the institutional scaffolding of atrocity prevention in a way that would normally not be rolled back by the next president, and would provide a much-needed additional signal of serious intent within the administration. After difficult inter-agency negotiations, Obama issued a bare-bones executive order in May 2016. It did little more than to reiterate key findings from PSD-10 and “continue in place” the APB.¹³⁴

¹³³ The White House, "Remarks by the President at the United States Holocaust Memorial Museum," April 23, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/04/23/remarks-president-united-states-holocaust-memorial-museum>.

¹³⁴ White House, "Executive Order 13729: A Comprehensive Approach to Atrocity Prevention and Response," May 18, 2016, <https://www.whitehouse.gov/the-press-office/2016/05/18/executive-order-comprehensive-approach-atrocity-prevention-and-response>.

Chapter 2. Atrocity Prevention Policy Tools and Policy Advances from 2012 to 2016

From analysts such as Power in *A Problem from Hell* to the bipartisan GPTF, experts have long identified the most glaring hole in the US government’s institutional capacity to prevent and respond to atrocities to be the lack of a wider range of policy options beyond the stark choice between inaction and armed military intervention.¹³⁵ In response to this analysis, strengthening existing tools and building new ones was among the core objectives of President Obama’s atrocity prevention agenda: it became half of the APB’s mandate. Building on previous advances discussed in chapter 1, this chapter briefly surveys the range of tools at the disposal of the US government regarding mass atrocity prevention, as well as the recent development and the (limited) academic evidence about the effectiveness of these tools.

Building on the categories of tools that the GPTF and ICISS reports highlighted,¹³⁶ the United States now uses a range of intelligence, diplomatic, economic, military, and legal tools in preventing and responding to atrocities. In this chapter, we examine these tools—how they are conceptualized and developed, how readily they are applied, and ultimately, how well they work. In addition to distinguishing tools by category, we also distinguish between positive incentive tools and negative inducement tools—the latter includes coercion. It is useful to make this distinction because in general, coercive measures should have a higher bar for implementation than positive incentives. There are a few measures that could be either assisting an existing regime or be hostile to its interests, such as peacekeeping and the double-edged sword of aid conditionality. We place such tools in both categories of the table.

	Intelligence	Diplomatic	Economic	Military	Legal
Positive Incentives		Diplomatic recognition, official visits from senior leaders, private or public praise, political engagement (by embassies, political missions)	Foreign aid tailored toward mass atrocity prevention, trade deals, offers of foreign aid	Military assistance (advisers, trainers, military materiel), peacekeepers providing security, protecting civilians with non-coercive means	Immunity, judicial assistance
Negative Inducements or coercive measures	Often combined with other tools, intelligence can help implement coercive means	Embassy closure, withdraw of diplomatic recognition, private or public censure (naming and shaming)	Sanctions (targeted and general), withdrawal of aid	Armed humanitarian intervention, peacekeepers able and willing to use force to protect civilians	International prosecution, deportation, seizing assets, arrests, extradition

¹³⁵ Samantha Power, *A Problem From Hell*, XVIII and passim; Genocide Prevention Task Force, ‘Preventing Genocide. A Blueprint for U.S. Policymakers,’ pp. 23-33.

¹³⁶ Madeleine Albright and William Cohen, “Preventing Genocide: A Blueprint for U.S. Policymakers” (United States Holocaust Memorial Museum, 2008), 61, <http://www.ushmm.org/m/pdfs/20081124-genocide-prevention-report.pdf>; Gareth Evans et al., *The Responsibility to Protect: The Report of the International Commission on Intervention and State Sovereignty* (Ontario, Canada: IDRC Books, 2001), 23–25.

As US policymakers have developed and sharpened their mass atrocity prevention tools, the literature about the causes of mass atrocities and the effectiveness of various policy options has developed as well. In order to effectively use tools, they must be properly synchronized to address the underlying causal elements of mass atrocity violence. Scholars have developed significant evidence that several structural factors increase the risk of mass atrocity violence—including major political instability, armed conflict, previous discrimination and atrocities against a specific group, and discriminatory ideology.¹³⁷ There is additional evidence to suggest that authoritarian regimes, long-standing animosities, concentrated government power, and poverty also may contribute to elevated risks of mass atrocity violence, but the correlations of the latter to mass atrocity violence are less well established.¹³⁸ The fundamental challenge in our collective understanding of mass atrocity violence remains that while structural conditions for increased risk are often present, mass atrocity violence remains relatively rare. The challenge is to identify with greater specificity the conditions under which certain types of triggering events occur and when, how, and why they lead to outbreaks in violence.¹³⁹ Furthermore, the scholarly evidence to date is somewhat limited with respect to our understanding of what policies are likely to decrease the chances of mass atrocities and which are less likely to do so.¹⁴⁰ Nonetheless, there is some important though still nascent research on the effects of various mass atrocity prevention tools, some of which is summarized in the subsequent sections.

Last, it is worth mentioning that the onset of atrocities and deaths of civilians are important dependent variable in studies of atrocities. But atrocities come in many forms. Although there has been some research and policy focus on the causes of mass rape and other forms of sexual violence,¹⁴¹ these forms of atrocities deserve more attention and specific tools should be further developed to decrease their incidence. Additional study is also merited with respect to other forms of potential non-lethal atrocities such as torture.¹⁴²

Training and Socialization

Training has been a major part of the APB's effort to "mainstream" atrocity prevention throughout the US government so that every relevant agency is equipped to make effective contributions to prevent and stop mass atrocities. There are currently a number of training programs at Department of State, Department of Defense, and USAID focused on mass atrocity prevention.¹⁴³ Furthermore, the regular meetings of the APB and the sub-APB are themselves a way of socializing people within the various bureaucracies because it requires individuals, departments, and agencies to develop and maintain expertise on the topic.

One problem in judging the impact of this training is that it is unclear how to make such assessments given the numerous policy priorities and the difficulty of ascertaining the causal impact of any training on policy processes. One means of assessment, however, is by measuring to what degree they have adhered to those laid out in the Obama administration's own documents. Finkel writes in a report

¹³⁷ Scott Straus, *Fundamentals of Genocide and Mass Atrocity Prevention* (United States Holocaust Memorial Museum, 2016), 56, <https://www.ushmm.org/m/pdfs/Fundamentals-of-Genocide-and-Mass-Atrocity-Prevention.pdf>.

¹³⁸ *Ibid.*, 63–68.

¹³⁹ *Ibid.*, chap. 3.

¹⁴⁰ *Ibid.*, 70.

¹⁴¹ Dara Kay Cohen, "Explaining Rape during Civil War: Cross-National Evidence (1980–2009)," *American Political Science Review* 107, no. 3 (2013): 461–477; Elisabeth Jean Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," *International Review of the Red Cross* 96, no. 894 (June 2014): 457–478; Dara Kay Cohen, *Rape during Civil War*, 1st edition (Cornell University Press, 2016).

¹⁴² Courtenay Conrad and Will Moore, "What Stops the Torture?," *American Journal of Political Science* 54, no. 2 (2010): 459–476.

¹⁴³ Charles Brown, "An Assessment of the USG Atrocity Prevention Training Programs" (United States Holocaust Memorial Museum, January 2016), <https://www.ushmm.org/m/pdfs/03282016-USG-Atrocity-Prevention-Training-Assessment.pdf>.

published in September 2014 that “the training requirements recommended in PSD-10 have largely gone unfulfilled.”¹⁴⁴ As might be expected given how relatively new some of the training is, some experts that we interviewed additionally suggested that the training in departments leading the way, such as the Department of State, could be improved.¹⁴⁵

Part of the institutionalization of socialization is “alert channels”, which are supposed to allow working level analysts to reach senior managers if the analyst judges the traditional chain of command to be blocked regarding mass atrocities. A more recent assessment is more positive. Charles Brown writes in a report published in 2016 that “the state of training and education on atrocity prevention is significantly better than it was at the time PSD-10 was issued.”¹⁴⁶ But he goes on to caution that the training can have a limited impact: “if senior officials—whether explicitly or implicitly—signal that atrocity prevention is not a priority, then all the training in the world will not change attitudes.”¹⁴⁷

Intelligence Tools

A necessary step in atrocity prevention and response is having relevant information on the risks and indicators of mass atrocities. Over the past decade, scholars and civil society organizations have developed a host of new early warning and forecasting mechanisms. The Global Center for the Responsibility to Protect produces a widely respected series of country assessments. The Early Warning Project, which is a joint initiative of the US Holocaust Memorial Museum and Dartmouth University, uses statistical and expert opinion pools to generate risk models. Furthermore, academic studies using statistical methods also predict risks.¹⁴⁸ The US government has also developed a formal and structured set of capabilities for early warning and forecasts. The United States has a National Intelligence Estimates that includes assessments of the risks of mass atrocities. Publicly available 2014 and 2015 threat assessments by James Clapper, include statements on mass atrocities.¹⁴⁹ In 2014, Clapper claimed that the risk of mass atrocities “will probably increase in 2014 and beyond”¹⁵⁰ and in 2015 he said that “the overall risk for mass atrocities...is growing.”¹⁵¹ Furthermore, Clapper estimated that—not including those states already experiencing major instability—about half of the states of the world are at least at a “significant” risk of major, violent instability.¹⁵² The intelligence community also regularly briefs the APB on the likely risks of mass atrocities in specific countries.¹⁵³ Despite such progress, Finkel argues that even more resources are needed to build a robust prevention assessment.¹⁵⁴

¹⁴⁴ James Finkel, “Atrocity Prevention at The Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years,” 4, <http://www.ushmm.org/m/pdfs/20140904-finkel-atrocity-prevention-report.pdf>.

¹⁴⁵ Civil society expert, interview, March 19, 2015.

¹⁴⁶ Brown, “An Assessment of the USG Atrocity Prevention Training Programs,” 6.

¹⁴⁷ *Ibid.*, 11.

¹⁴⁸ Benjamin E. Goldsmith et al., “Forecasting the Onset of Genocide and Politicide: Annual out-of-Sample Forecasts on a Global Dataset, 1988–2003,” *Journal of Peace Research*, 2013.

¹⁴⁹ James Clapper, “Worldwide Threat Assessment of the US Intelligence Community: Senate Select Committee on Intelligence,” January 29, 2014,

http://www.odni.gov/files/documents/Intelligence%20Reports/2014%20WWTA%20%20SFR_SSCI_29_Jan.pdf; James Clapper, “Worldwide Threat Assessment of the US Intelligence Community: Senate Armed Services Committee,” February 26, 2015, http://www.dni.gov/files/documents/Unclassified_2015_ATA_SFR_-_SASC_FINAL.pdf.

¹⁵⁰ Clapper, “Worldwide Threat Assessment of the US Intelligence Community: Senate Select Committee on Intelligence,” 12.

¹⁵¹ Clapper, “Worldwide Threat Assessment of the US Intelligence Community: Senate Armed Services Committee,” 10.

¹⁵² *Ibid.*, 12.

¹⁵³ Finkel, “Atrocity Prevention at The Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years”, 3, 7.

¹⁵⁴ *Ibid.*, 25.

Economic Tools

There is a wide array of economic tools that may contribute to atrocity prevention. Official Development Assistance (ODA) may influence the chances or severity of mass atrocities and can be disbursed by a wide array of means. Capacity building, electoral assistance, agriculture advice, and disaster preparedness and recovery, among others, all fall under this umbrella. ODA can also play an important role in the mitigation of, and response to, potential atrocities, when civilians are put at risk of severe harm and even death caused by lack of access to basic necessities such as clean and safe water, food, and shelter. In addition to ODA, direct and indirect aid is another means that the United States uses to prevent atrocities. For instance, the United States airdropped aid directly to Yezidis in Iraq who were stranded on a desolate and exposed mountain after ISIS drove them from their homes. The United States also provides aid through domestic and international organizations such as the UN and NGOs, such as in response to the needs of civilians in Syria.

In 2015, USAID released an important document that discusses how to integrate atrocity prevention into the development work they do. The document “is designed to provide USAID field staff with practical guidance on a range of issues related to preventing and responding to mass atrocities.”¹⁵⁵ The authors of the report note that preventing and mitigating mass atrocities are a key component to development,¹⁵⁶ while warning that misguided development policies can increase the chances of atrocities.¹⁵⁷ In addition, USAID personnel are encouraged to report information that is relevant for determining the risk of atrocity, and integrate atrocity prevention, reaction, and rebuilding into their work. USAID has also taken an important step by allowing the reporting of potential risks outside of normal channels to help guarantee that atrocity risk information reaches the relevant officials.¹⁵⁸

A negative economic inducement that the United States widely uses is sanctions. Sanctions can target individuals implicated in mass atrocities, or they can be broader and target sectors or potentially an entire population. The forms sanctions can take include asset freezes, travel bans, export prohibitions, import prohibitions (including arms embargos), and investment prohibitions. For instance, the United States has imposed a series of sanctions against individuals in Syria and Russia because of the abuses by both governments. With support from the United States, the Security Council’s DRC Sanctions Committee put the M23 and the FDLR rebel groups on the list for travel bans and asset freezes. Through its domestic immigration laws, the US can prohibit entry to those accused of mass atrocities,¹⁵⁹ and has expelled those accused of mass human rights violations.¹⁶⁰

There are also positive incentives, which are sometimes paired with sanctions. President Obama, for instance, signed legislation offering rewards for information that could lead to the arrest or conviction of individuals accused of international crimes.¹⁶¹ This law may have had its intended effect when the US assisted in bringing into ICC custody Bosco Ntaganda, a Congolese citizen accused of war crimes and

¹⁵⁵ USAID, “Field Guide: Helping Prevent Mass Atrocities,” April 2015, iii, <http://www.humanrights.gov/pdf/usaids-field-guide-to-help-prevent-mass-atrocities.pdf>.

¹⁵⁶ *Ibid.*, iii, 9.

¹⁵⁷ *Ibid.*, 12; see too Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda* (Kumarian Press, 1997).

¹⁵⁸ USAID, “Field Guide: Helping Prevent Mass Atrocities,” 16.

¹⁵⁹ Sarah Sewall, “Preventing Mass Atrocities: Progress in Addressing an Enduring Challenge,” March 30, 2015, <http://www.state.gov/j/remarks/239968.htm>.

¹⁶⁰ Eric Lichtblau, “US Seeks to Deport Bosnians Over War Crimes,” *The New York Times*, February 28, 2015, <http://www.nytimes.com/2015/03/01/world/us-seeks-to-deport-bosnians-over-war-crimes.html>.

¹⁶¹ The White House, “Fact Sheet: The Obama Administration’s Comprehensive Efforts to Prevent Mass Atrocities Over the Past Year,” May 1, 2013, https://obamawhitehouse.archives.gov/sites/default/files/docs/fact_sheet_-_administration_efforts_to_prevent_mass_atrocities5.pdf.

crimes against humanity.¹⁶² Ntaganda unexpectedly turned himself in at the US embassy in Kigali in 2013 after the US put a bounty on his head and his power base weakened.¹⁶³

Economic sanctions, in particular, are popular tools, widely—if erroneously—expected to be effective in influencing the behavior of states or elites. They are often thought to be less harmful to innocent civilians in the target country and less costly for the inducing country. But economic sanctions too can have negative effects, including disproportionately harming women and disadvantaged groups,¹⁶⁴ and are less effective than commonly expected.¹⁶⁵ Even targeted sanctions, which are often thought to be more humane and effective than broader sanctions, can decrease the fulfillment of human rights.¹⁶⁶ In what is perhaps a surprising finding for some, Matthew Krain has found that economic sanctions employed during ongoing genocides or politicides have no effect on their severity.¹⁶⁷

Diplomatic and Informational Tools

Diplomacy is one of the central means the United States has for working to avoid mass atrocities, and it makes regular use of these tools. In 2015 for instance, the US government released a number of important documents related to atrocity prevention. The State Department and USAID's 2015 QDDR identifies "Preventing and Mitigating Conflict and Violent Extremism," as one of four key areas and discusses the imperative of mass atrocity prevention and reaction for US policy. The authors of the QDDR reiterate a key point that Obama made in PSD-10 by stating that "[p]reventing mass atrocities is a core national security interest and moral responsibility of the United States."¹⁶⁸ The QDDR proposes a number of ways to integrate that statement into the State Department and USAID by creating a new framework for working to prevent atrocities and conflict in fragile states, relying more on early warning mechanisms, providing additional flexible funding to such initiatives, and countering violent extremism, including increasing pro-peace communications.¹⁶⁹

Bilateral diplomacy is often the most common form of US diplomatic engagement on atrocity prevention—and is present in every case we examine. For instance, Power met with CAR's transitional government officials to attempt to end the crisis there. The United States also plays a leading role on debates and discussions at the UN Security Council on issues related to mass atrocities. Under Obama, there have been at least 40 UN Security Council resolutions referencing the issues related to

¹⁶² Ibid.

¹⁶³ Marlise Simons, "War Crimes Trial Opens for Bosco Ntaganda, Congolese Rebel Leader," *The New York Times*, September 2, 2015, <http://www.nytimes.com/2015/09/03/world/africa/bosco-ntaganda-congo-international-criminal-court.html>.

¹⁶⁴ A. Cooper Drury and Dursun Peksen, "Women and Economic Statecraft: The Negative Impact International Economic Sanctions Visit on Women," *European Journal of International Relations* 20, no. 2 (2014): 463–90; Dursun Peksen, "Better or Worse? The Effect of Economic Sanctions on Human Rights," *Journal of Peace Research* 46, no. 1 (2009): 59–77.

¹⁶⁵ Lisa Hultman and Dursun Peksen, "Successful or Counterproductive Coercion? The Effect of International Sanctions on Conflict Intensity," *Journal of Conflict Resolution*, (September 7, 2015); A.U. Ang, Dursun Peksen, and others, "When Do Economic Sanctions Work?," *Political Research Quarterly* 60, no. 1 (2007): 135–145; Jon Hovi, Robert Huseby, and Detlef F. Sprinz, "When Do (Imposed) Economic Sanctions Work?," *World Politics* 57, no. 4 (2005): 479–99.

¹⁶⁶ Cristiane Lucena Carneiro and Laerte Apolinário, "Targeted Versus Conventional Economic Sanctions: What Is at Stake for Human Rights?," *International Interactions* 0, no. ja (October 15, 2015).

¹⁶⁷ Matthew Krain, "The Effect of Economic Sanctions on the Severity of Genocides or Politicides," Forthcoming.

¹⁶⁸ "Enduring Leadership in a Dynamic World: The Quadrennial Diplomacy and Development Review," 2015, 24, <http://www.state.gov/documents/organization/241429.pdf>.

¹⁶⁹ Ibid., 26–27.

R2P.¹⁷⁰ Of course, as a member of the P5, the United States must support or abstain from any resolution in order for it to pass.

The United States can also go public, naming and shaming alleged perpetrators or states that fail to adequately respond to crises. As common as such condemnation is now, it was by no means standard for the United States to speak out against the worst atrocities even just two decades ago. As Power writes, during a key period early in the Rwandan genocide, “the Clinton Administration was largely silent.”¹⁷¹ Public information is also an important tool in atrocity prevention work. Disseminating pro-peace information, naming and shaming repressive state and non-state actors, and blocking incitement are means that can contribute to preventing and mitigating mass atrocities. The United States has supported peaceful messaging leading up to the 2013 election in Kenya, as well as in the CAR in the aftermath of the violence between the Séléka and anti-balaka.¹⁷² In addition, an important part of the US strategy against ISIS entails “exposing ISIL’s True Nature” in order to decrease recruitment.¹⁷³ Informational campaigns can vary along the upstream and proximate prevention spectrum, as these examples indicate. In addition to the means already mentioned, the United States has supported a number of Commissions of Inquiry. These included Commissions of Inquiry on Kyrgyzstan, Syria, Sri Lanka, Libya, Cote d’Ivoire, and North Korea.¹⁷⁴

Negotiations can have a positive effect on civil wars and mass atrocities, such as in Kenya in 2007-8, and sometimes in combination with other actions such as economic sanctions or military intervention, as in Bosnia in 1995. However, one problem with testing the effectiveness of diplomacy and its impact on policy outcomes is that much of it occurs behind closed doors and therefore only haphazard data is publicly available and is often biased according to the political interests of those who release this information. This limits the validity of Krain’s finding that diplomatic engagement and diplomatic sanctions either have no effect on the severity of killing or can actually make it worse, in contrast to the expectations of policymakers.¹⁷⁵ Still, Krain’s study is an important reminder that there are no simple answers, and no strategy that works regardless of timing and circumstances.

Scholars have found different results for naming and shaming strategies. Emilie Hafner-Burton, for example, has found that naming and shaming can have a negative impact on human rights, but that the impact is conditioned on the capacity of states and the availability of substituting other means of obtaining the regime’s goals.¹⁷⁶ Krain and DeMerritt, however, in a more recent study that specifically examines the impact of naming and shaming on the effects of mass atrocities, found that naming and shaming campaigns can decrease their severity.¹⁷⁷ Hendrix and Wong have found that effects of

¹⁷⁰ Global Center for the Responsibility to Protect, “UN Security Council Resolutions Referencing R2P,” January 7, 2016, <http://www.globalr2p.org/resources/335>.

¹⁷¹ Power, *A Problem From Hell*, 370.

¹⁷² Larry Garber, Elizabeth Dallas, and Johanna Wilkie, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review” (USAID, February 2014), 14, <https://www.usaid.gov/sites/default/files/documents/1866/Kenya%2527s%25202013%2520Elections.pdf>.

¹⁷³ The White House, “FACT SHEET: The Administration’s Strategy to Counter the Islamic State of Iraq and the Levant (ISIL) and the Updated FY 2015 Overseas Contingency Operations Request,” November 7, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/11/07/fact-sheet-administration-s-strategy-counter-islamic-state-iraq-and-leva>.

¹⁷⁴ Steve Pomper, “A Comprehensive Approach to Atrocity Prevention, Three Years On,” Remarks, *The White House Blog*, April 30, 2015, <http://www.humanrights.gov/dyn/2015/04/a-comprehensive-approach-to-atrocity-prevention-three-years-on/>.

¹⁷⁵ Matthew Krain, “The Effects of Diplomatic Sanctions and Engagement on the Severity of Ongoing Genocides or Politicides,” *Journal of Genocide Research* 16, no. 1 (2014): 25–53.

¹⁷⁶ Emilie M. Hafner-Burton, “Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem,” *International Organization*, 2008, 689–716.

¹⁷⁷ Matthew Krain, “J’accuse! Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides?,” *International Studies Quarterly* 56, no. 3 (2012): 574-589; Jacqueline H. R. DeMerritt, “International

naming and shaming campaigns are conditioned on regime type: only with autocracies are they associated with improved human rights protection.¹⁷⁸ Naming and shaming campaigns may also have intended—or unintended—impacts. Murdie and Pesken find that naming and shaming campaigns increase the likelihood of armed intervention.¹⁷⁹

Military Tools

If all else fails or is likely to fail, military force is an option if it can contribute to the prevention, mitigation, or cessation of mass atrocities. Options include preventive deployment, sending military advisers and trainers, military aid, threats, and in the extreme, consensual or non-consensual armed intervention.

Military interventions purely to prevent or stop atrocities probably do not exist; both examples analyzed in this study—to protect civilians in Libya in 2011 and the Yazidi people in Iraq in 2014—show clear evidence that humanitarian motives came together with additional strategic considerations. Obama has sent advisers to Iraq, and used force with the consent of the Iraqi government in 2014 to protect innocent Yazidis and others at risk of atrocities. The United States has also contributed large amounts of military materiel to Iraq. One of the most prominent uses of the US military in partnership with NATO was the 2011 bombing of Libya that was non-consensual but did have Security Council approval. There are additional covert options, including drone strikes and raids, as used by the United States in Syria and elsewhere.¹⁸⁰

The murky politics surrounding military intervention makes the scientific evidence on their effectiveness as a strategy against atrocities particularly difficult to assess. Krain, for example, finds that armed interventions that target the perpetrators or aid the victims can reduce the severity of atrocities.¹⁸¹ Often, the most effective way of stopping atrocities in war is ending the war itself. So unsurprisingly, DeMeritt finds that interventions in support of governments before they begin committing atrocities—that is, helping a government to “win cleanly” —can decrease the risk of them resorting to such tactics.¹⁸² There is some evidence that killing or capturing rebel leaders increases the chance of a civil war ending,¹⁸³ and that killing insurgent leaders weakens the organization.¹⁸⁴ But there is also evidence that leadership deficits may increase attacks against civilians in terrorist organizations in some situations.¹⁸⁵ Once a government begins committing atrocities, intervention against them can be effective at decreasing the killing¹⁸⁶—but only if they quickly and decisively neutralize the ability of the killers to

Organizations and Government Killing: Does Naming and Shaming Save Lives?,” *International Interactions* 38, no. 5 (2012): 597-621.

¹⁷⁸ Cullen S. Hendrix and Wendy H. Wong, “When Is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses,” *British Journal of Political Science* FirstView (2012): 1-22.

¹⁷⁹ Amanda Murdie and Dursun Peksen, “The Impact of Human Rights INGO Shaming on Humanitarian Interventions,” *The Journal of Politics* 76, no. 1 (January 1, 2014): 215-28.

¹⁸⁰ Helene Cooper and Eric Schmitt, “ISIS Official Killed in US Raid in Syria, Pentagon Says,” *The New York Times*, May 16, 2015, <http://www.nytimes.com/2015/05/17/world/middleeast/abu-sayyaf-isis-commander-killed-by-us-forces-pentagon-says.html>.

¹⁸¹ Matthew Krain, “International Intervention and the Severity of Genocides and Politicides,” *International Studies Quarterly* 49, no. 3 (2005): 363-388.

¹⁸² Jacqueline H. R. DeMeritt, “Delegating Death Military Intervention and Government Killing,” *Journal of Conflict Resolution* 59, no. 3 (2015): 428-54.

¹⁸³ Michael Tiernay, “Killing Kony: Leadership Change and Civil War Termination,” *Journal of Conflict Resolution* 59, no. 2 (March 1, 2015): 175-206.

¹⁸⁴ Patrick B. Johnston, “Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns,” *International Security* 36, no. 4 (2012): 47-79.

¹⁸⁵ Max Abrahms and Philip B. K. Potter, “Explaining Terrorism: Leadership Deficits and Militant Group Tactics,” *International Organization* 69, no. 2 (April 2015): 311-42.

¹⁸⁶ DeMeritt, “Delegating Death Military Intervention and Government Killing.”

carry out atrocities: armed interventions can increase killing in the short term even while decreasing it over the long term.¹⁸⁷

International armed regime change, while in some cases successful in ending ongoing atrocities, has not been as successful as a political change from within. In a study of how past state-led mass atrocities have ended, Alex Bellamy finds a change of regime to be the second most frequent cause, following the voluntary cessation of violence by the government. Regime change by the domestic opposition, not necessarily through violent means, has more often been responsible for ending mass atrocities than international armed intervention.¹⁸⁸ When international armed regime change is undertaken, as in the case of Libya in 2011, its repercussions are severe and hardly controllable, as discussed in that case study.

Credibly threatening the use of force may also contribute to mass atrocity prevention. One of the most high profile threats of recent years was Obama's threat against Assad following a chemical weapons attack in 2013 that killed over 1,000 people.¹⁸⁹ Obama did not act militarily on his threat, but soon after Obama threatened Assad with military action, Assad joined the Chemical Weapons Convention, and agreed to give up his chemical weapons.¹⁹⁰ The UN and the Organisation for the Prohibition of Chemical Weapons (OPCW) were tasked with the removal of Assad's chemical weapons. By the close of their mandate in the fall of 2014, they had reportedly destroyed all but 4% of Assad's known chemical weapons.¹⁹¹ Despite this threat and the successful work of the joint UN-OPCW, Assad reportedly continued to use another chemical weapon, chlorine gas.¹⁹² Thus partially successful, Obama turned the threat into a means to achieve policy objectives even though the mass slaughter of civilians in Syria has continued. In addition, the removal of the chemical weapons did not address Assad's use of conventional weapons, which have killed far more innocent people in Syria than chemical weapons.

Working with and through multilateral organizations is an essential part of atrocity prevention for the United States. The United States is the leading financial contributor to UN peacekeeping, providing more than twice as much as the next country contributor, and more than 25% of the UN's total peacekeeping budget.¹⁹³ Additionally, the United States trains UN peacekeepers, and provides support in other ways such as constructing UN bases, providing airlift support, and goading other countries to contribute more to UN peace operations.¹⁹⁴ Power has also publicly encouraged allies to support UN peacekeeping further. Noting that only two countries have been meeting the NATO goal of spending 2% of GDP on defense while linking contributions to collective security to the importance of UN Peacekeeping, Power said in March 2015 in Brussels that an "imbalance [between European and US

¹⁸⁷ Jacob D. Kathman and Reed M. Wood, "Managing Threat, Cost, and Incentive to Kill The Short- and Long-Term Effects of Intervention in Mass Killings," *Journal of Conflict Resolution* 55, no. 5 (2011): 735–60.

¹⁸⁸ Alex J. Bellamy, "The Responsibility to Protect and The Problem of Regime Change," in *The Ethics of Armed Humanitarian Intervention*, ed. Don E. Scheid (Cambridge University Press, 2014), 166–86; Alex J. Bellamy, "When States Go Bad: The Termination of State Perpetrated Mass Killing," *Journal of Peace Research* 52, no. 5 (September 1, 2015): 565–76.

¹⁸⁹ Joby Warrick, "More than 1,400 Killed in Syrian Chemical Weapons Attack, US Says," *The Washington Post*, August 30, 2013, http://www.washingtonpost.com/world/national-security/nearly-1500-killed-in-syrian-chemical-weapons-attack-us-says/2013/08/30/b2864662-1196-11e3-85b6-d27422650fd5_story.html.

¹⁹⁰ Michael R. Gordon, "US and Russia Reach Deal to Destroy Syria's Chemical Arms," *The New York Times*, September 14, 2013, <http://www.nytimes.com/2013/09/15/world/middleeast/syria-talks.html>.

¹⁹¹ United Nations, "Ninety-Six Percent of Syria's Declared Chemical Weapons Destroyed – UN-OPCW Mission Chief," September 4, 2014, <http://opcw.unmissions.org/AboutOPCWUNJointMission/tabid/54/ctl/Details/mid/651/ItemID/341/Default.aspx>.

¹⁹² Human Rights Watch, "Syria: Chemicals Used in Idlib Attacks," April 14, 2015, <http://www.hrw.org/news/2015/04/13/syria-chemicals-used-idlib-attacks>.

¹⁹³ United Nations, "Financing Peacekeeping," <http://www.un.org/en/peacekeeping/operations/financing.shtml>.

¹⁹⁴ Samantha Power, "Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, on Peacekeeping," March 9, 2015, <http://useu.usmission.gov/sp-03092015.html>.

contributions] persists—an imbalance that will put our collective security at risk.”¹⁹⁵ In September 2015, President Obama convened a high level meeting at the UN where leaders from around the world renewed their support for UN Peacekeepers by providing the UN more than 30,000 additional troops and police officers.¹⁹⁶ He additionally advocated for the wider application of best practices on civilian protection, and modernizing peacekeeping in other ways.¹⁹⁷

Academic studies find that UN peacekeepers generally reduce violence. Hultman finds that the UN, especially since 1999, has actually deployed UN peacekeepers to situations where they are most likely to be needed¹⁹⁸ while others find that peacekeepers are deployed strategically to support groups that Security Council members favor.¹⁹⁹ Nonetheless, UN peacekeepers on average decrease the severity of harm to civilians during conflicts.²⁰⁰ Much²⁰¹ although not all²⁰² of the evidence suggests that peacekeepers deployed after civil wars end also decrease the chance of civil war recurrence. Kathman and Wood find that peacekeepers also decrease civilian victimization after war.²⁰³

There is some evidence that implicitly suggests strategic nonviolent movements may be more successful at preventing atrocities than violent revolutions, even while armed intervention remains an important tool in stopping atrocities. Nonviolent protests are more likely than violent means to successfully overthrow autocratic governments.²⁰⁴ After the successful overthrow of autocratic governments, nonviolent opposition movements are more likely than violent rebellions to achieve democracy and avoid a reoccurrence of civil war.²⁰⁵ To the extent that autocracy is a risk factor for atrocities,²⁰⁶ such nonviolent movements are important mechanisms for mass atrocity prevention, and given that about two thirds of atrocities occur during war,²⁰⁷ preventing war is an important means for preventing atrocities.

¹⁹⁵ Ibid.

¹⁹⁶ Somini Sengupta, “Rallying Global Support, Obama Pledges Larger US Role in Peacekeeping Missions,” *The New York Times*, September 28, 2015, <http://www.nytimes.com/2015/09/29/world/americas/rallying-global-support-obama-pledges-larger-us-role-in-peacekeeping-missions.html>; Barack Obama, “Remarks by President Obama at U.N. Peacekeeping Summit,” September 28, 2015, <https://obamawhitehouse.archives.gov/the-press-office/2015/09/28/remarks-president-obama-un-peacekeeping-summit>.

¹⁹⁷ Obama, “Remarks by President Obama at UN Peacekeeping Summit.”

¹⁹⁸ Lisa Hultman, “UN Peace Operations and Protection of Civilians Cheap Talk or Norm Implementation?,” *Journal of Peace Research* 50, no. 1 (2013): 59–73.

¹⁹⁹ Michelle Benson and Jacob D. Kathman, “United Nations Bias and Force Commitments in Civil Conflicts,” *The Journal of Politics* 76, no. 2 (2014): 350–63.

²⁰⁰ Lisa Hultman, Jacob Kathman, and Megan Shannon, “United Nations Peacekeeping and Civilian Protection in Civil War,” *American Journal of Political Science* 57, no. 4 (2013): 875–891; Lisa Hultman, Jacob Kathman, and Megan Shannon, “Beyond Keeping Peace: United Nations Effectiveness in the Midst of Fighting,” *American Political Science Review* 108, no. 4 (2014): 737–753.

²⁰¹ Lisa Hultman, Jacob D. Kathman, and Megan Shannon, “United Nations Peacekeeping Dynamics and the Duration of Post-Civil Conflict Peace,” *Conflict Management and Peace Science*, (March 25, 2015); Paul Collier, Anke Hoefler, and Måns Söderbom, “Post-Conflict Risks,” *Journal of Peace Research* 45, no. 4 (2008): 461–78; Virginia Page Fortna, “Does Peacekeeping Keep Peace? International Intervention and the Duration of Peace After Civil War,” *International Studies Quarterly* 48, no. 2 (2004): 269–292; Virginia Page Fortna, *Does Peacekeeping Work?: Shaping Belligerents’ Choices after Civil War* (Princeton University Press, 2008).

²⁰² Barbara F. Walter, “Why Bad Governance Leads to Repeat Civil War,” *Journal of Conflict Resolution* 59, no. 7 (2015): 1242–72.

²⁰³ Jacob D. Kathman and Reed M. Wood, “Stopping the Killing During the ‘Peace’: Peacekeeping and the Severity of Postconflict Civilian Victimization,” *Foreign Policy Analysis* 12, no. 2 (April 1, 2016): 149–69.

²⁰⁴ Erica Chenoweth and Maria Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict* (Columbia University Press, 2011), 66–67, 73.

²⁰⁵ Ibid., chap. 8.

²⁰⁶ Barbara Harff, “No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955,” *American Political Science Review* 97, no. 1 (2003): 57–73.

²⁰⁷ Bellamy, “Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent,” 2.

Legal Tools

Holding perpetrators accountable for their crimes and putting an end to impunity may contribute to the prevention or mitigation of international crimes and is itself an important goal. The United States uses a number of different domestic and international legal instruments to pursue this goal. One tool the Justice Department uses are immigration rules that allow officials to convict or deport some alleged international criminals.²⁰⁸ The United States has convicted some accused of participating in atrocities on charges related to immigration,²⁰⁹ and it has moved to deport over 100 Bosnians allegedly involved in atrocities during the war in the 1990s.²¹⁰

Despite not ratifying the Rome Statute, the United States has supported the ICC in some ways. For the first time ever, in 2005 the Security Council referred a situation to the ICC. By abstaining from this vote, the United States permitted the referral.²¹¹ The indictment of Omar al-Bashir, Sudan's president, was also the first ever of a sitting head of government by the ICC. In 2011, there was another milestone: the Security Council unanimously referred the situation of Libya to the ICC because of the risk of mass atrocities from Gaddafi's violent repression against civilians in response to Arab Spring uprisings.²¹² In some cases, the United States also assisted in "facilitating witness interviews and providing in-kind assistance."²¹³

The United States has additionally worked to document atrocities while they are ongoing. In an innovative approach for attempting to collect evidence in order to build cases against high level state and non-state actors who are most responsible for horrific violations of international law in Syria while a high intensity conflict is ongoing, the United States has contributed to funding a private organization, the Commission for International Justice and Accountability (CIJA), to meet this goal.²¹⁴ CIJA collects evidence for potential future prosecutions of alleged war crimes, crimes against humanity, and genocide, despite not having an obvious venue in which to try alleged perpetrators.²¹⁵ In a country devoid of governmental or intergovernmental actors able or willing to collect evidence against all individuals most responsible for international crimes, the CIJA executes this delicate and important task.

Some have been skeptical that the ICC and other international tribunals can deter powerful leaders from committing atrocities and human rights abuses. In an article published in 2004, Snyder and Vinjamuri found that international criminal tribunals have not had a deterrent effect, but amnesties may be useful for ending atrocities.²¹⁶ However, there is some emerging and contested statistical evidence that criminal prosecutions can decrease harm to civilians after political transitions.²¹⁷ Jo and Simmons present evidence that supports the claim that the ICC can deter violence against civilians,²¹⁸ and others

²⁰⁸ Lichtblau, "US Seeks to Deport Bosnians Over War Crimes."

²⁰⁹ The White House, "Fact Sheet: The Obama Administration's Comprehensive Efforts to Prevent Mass Atrocities Over the Past Year," 3.

²¹⁰ Lichtblau, "US Seeks to Deport Bosnians Over War Crimes."

²¹¹ David Bosco, *Rough Justice: The International Criminal Court in a World of Power Politics* (New York, N.Y.: Oxford University Press, 2014), 112.

²¹² Alex Bellamy, *The Responsibility to Protect: A Defence*, 1st edition (Oxford: Oxford University Press, 2015), 9.

²¹³ Bosco, *Rough Justice*, 155.

²¹⁴ Ben Taub, "The Assad Files," *The New Yorker*, April 18, 2016, <http://www.newyorker.com/magazine/2016/04/18/bashar-al-assads-war-crimes-exposed>.

²¹⁵ Marlise Simons, "Spurred by ISIS Violence, Nations Mull How to Press for Justice in Conflicts," *The New York Times*, September 21, 2014, <http://www.nytimes.com/2014/09/22/world/spurred-by-isis-violence-nations-mull-how-to-press-for-justice-in-conflicts.html>.

²¹⁶ Jack Snyder and Leslie Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice," *International Security* 28, no. 3 (2004): 5–44.

²¹⁷ Hunjoon Kim and Kathryn Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries," *International Studies Quarterly* 54, no. 4 (December 1, 2010): 939–63.

²¹⁸ Hyeran Jo and Beth A. Simmons, "Can the International Criminal Court Deter Atrocity?," *International Organization* 70, no. 3 (July 2016): 443–75.

have found that the ICC encourages leaders to commit fewer human rights violations than states that have not ratified the Rome Statute, controlling for selection bias and other factors.²¹⁹

Conclusion

There are a wide array of tools at the disposal of the United States and other governments to prevent and stop mass atrocities, which the United States has both refined and used in recent years. Some important progress has been made in these tools, and policymakers have at least in some ways incorporated mass atrocity prevention into their goals. As will become clearer throughout the case study chapters below, the United States has used a variety of these economic, political, diplomatic, and legal policy tools in every case of mass atrocity prevention. In every country case we discuss in the following chapters, the United States used a variety of non-military options, only rarely in combination with military action.

More needs to be done to understand what tools and combinations of tools are likely to be effective under what circumstances, so that the tools that the United States and others have developed can be used in the most effective ways. Furthermore, more research should be done to understand the causes of, and potential remedies to, types of atrocities other than killing, especially sexual violence and torture. While there has been some important recent progress, such nonlethal atrocities remain too small a focus. There should also be a concerted effort to integrate important findings from the latest research into the policy process. While difficult, given the sometimes murky or even competing findings, it is better to use some systematic evidence in the policymaking process, when it is reliable, than none.

²¹⁹ Benjamin J. Appel, "In the Shadow of the International Criminal Court Does the ICC Deter Human Rights Violations?," *Journal of Conflict Resolution*, (April 25, 2016).

Chapter 3. Country Cases

Burundi

At the introductory event for the APB in April 2012, Power argued that the APB was not needed to deal with crises such as Syria or Sudan, as the administration did already have functioning processes for reacting to crises and atrocities that had already escalated.²²⁰ Where the Board should create added value, according to its supporters, was in identifying countries at risk early—before mass atrocities had begun—and triggering changes in US policy to act preventively.

US efforts on Burundi in the run up to the 2015 election cycle provide a case study in which the administration did just that. Reacting to a number of warning signs, including ethnic polarization and growing political tensions, the APB, the US embassy in Bujumbura, senior officials, and several government agencies made a concerted effort over two years before the 2015 presidential election to prevent the outbreak of renewed ethnic violence. Since the outbreak of violence in the country following the announcement in April 2015 that the Burundian president was to run for a third term, the US administration's regular inter-agency policy process continued to generate action to reduce the risk of mass atrocities in the country, even as APB attention to the country seems to have decreased.

In an article on Burundi in July 2015, the New York Times quoted an expert at the Center for Security Policy, Nicholas Hanlon, as saying that the "atrocities prevention panel seems to me to be the type of thing done for appearances [...] Burundi tells us that the administration was clearly not engaged."²²¹ Such statements are easy to come by in the face of an overall worsening situation in Burundi. But a closer look at US policy both before and during the violence shows that they are neither fair nor are they particularly helpful in drawing the right lessons from US policy in Burundi.

After briefly summarizing the background to the crisis in the country, this chapter will focus on the role of the APB in mobilizing resources and political attention in the run up to the 2015 elections in Burundi. We will then briefly review US policy on Burundi since the start of the protests and their violent suppression by the Burundian government since April 2015. We will argue that the case of Burundi shows the potential and added value of the APB. There are elements of US policy in Burundi that could have been improved, including the earlier appointment of a new special envoy for the Great Lakes region in the first half of 2015 in addition to earlier and higher funding for programming on prevention. Yet it is difficult to identify realistic options that would have seen the United States significantly more engaged to prevent atrocities in Burundi—or how such engagement would have changed the calculus of key Burundian policymakers. Ultimately, the case also helps to begin the reflection on US diplomatic strategy, the role of military assistance, the limits of US influence, and the ambiguity of what constitutes "success" when it comes to mass atrocity prevention.

Background on the Crisis in Burundi

Ethnic polarization in Burundi has its origins in Belgian colonial rule between 1916 and 1962. Similarly to neighboring Rwanda, the Belgians gave preferential treatment to the country's minority Tutsi population over the majority Hutu ethnic group, giving the former all leadership positions and

²²⁰ The White House, "Honoring the Pledge of Never Again: Introduction and Welcome," April 23, 2012 <http://www.youtube.com/watch?gl=DE&hl=de&v=CHmVblBHtg>.

²²¹ Marc Santora, "In Burundi, President Pierre Nkurunziza's Push for Power Is Marked by Bloodshed," *The New York Times*, July 20, 2015, http://www.nytimes.com/2015/07/21/world/africa/burundi-president-pierre-nkurunziza-push-for-power-is-marked-by-bloodshed.html?_r=1.

administrative posts in the country.²²² Since independence in 1962, the country has been plagued by tensions between the two ethnic groups, resulting in massacres that cost hundreds of thousands of lives. In 1972, an estimated 120,000 Hutus were massacred by the Tutsi led government forces.²²³ In October 1993, Tutsi extremists assassinated Burundi's first democratically elected president, the Hutu Melchior Ndadaye, triggering a 12-year long civil war that left more than 300,000 people dead.²²⁴

Efforts to end the conflict produced the 2000 Arusha Peace and Reconciliation Agreement for Burundi.²²⁵ The United States actively supported the agreement and President Bill Clinton participated in the final stages of the negotiations and attended the signing ceremonies of the agreement. It would be another five years before the formal end of hostilities, and today, more than a decade after the formal end of the civil war, the country's challenges remain enormous. In 2014, Burundi's GDP growth rate was 4%, a low growth rate for a development country and a rate that was significantly below the Sub-Saharan average.²²⁶ Almost 90% of Burundians live off subsistence farming,²²⁷ but land is scarce and growing scarcer.²²⁸ the country has a population growth rate of 2.5% per year, which exasperates the scarcity of land. More than 700,000 civil war refugees were gradually returning from abroad before the most recent crisis. Disputes over land ownership are the main source of conflict, often—but not exclusively—along ethnic lines.²²⁹ According to the UN, in 2014, cases of arson and attempted murder related to land conflict rose by 19% and 36%, respectively.²³⁰

The largest rebel movement during Burundi's civil war, the "National Council for the Defense of Democracy—Forces for the Defense of Democracy" (CNDD-FDD), won the elections in 2005 and 2010. Despite progress on democratic reforms, Human Rights Watch's Lewis Mudge summarized in early 2015 that "many political and military actors in Burundi continue to speak and act as if violence were the only avenue for gaining political power".²³¹ In the years leading up to the most recent crisis, a growing number of opposition politicians, human rights activists, and critical journalists have been imprisoned or killed.²³² Legislation restricting media reporting²³³ and other steps taken by the ruling party severely limited the political space. At the same time, in the run up to the 2015 elections, the CNDD-FDD was reported to have armed and trained its youth wing, the "Imbonerakure," which has caused violence across the country.²³⁴

²²² Jillian Keenan, "The Blood Cries Out," *Foreign Policy*, March 27, 2015, <http://foreignpolicy.com/2015/03/27/the-blood-cries-out-burundi-land-conflict/>.

²²³ "Burundi Profile - Timeline," *BBC News*, December 14, 2016, <http://www.bbc.com/news/world-africa-13087604>.

²²⁴ Keenan, "The Blood Cries Out." *ibid.*

²²⁵ "Arusha Peace and Reconciliation Agreement for Burundi" August 28, 2000, [http://www.ucd.ie/ibis/filestore/Arusha%20\(Burundi\)%20.pdf](http://www.ucd.ie/ibis/filestore/Arusha%20(Burundi)%20.pdf).

²²⁶ World Bank, "World Development Indicators - Burundi," 2015, http://data.worldbank.org/country/burundi#cp_wdi.

²²⁷ International Food Policy Research Institute, "2013 Global Hunger Index," ed. International Food Policy Research Institute (Washington, DC, 2014).

²²⁸ Keenan, "The Blood Cries Out."

²²⁹ International Crisis Group, "Fields of Bitterness (I): Land Reform in Burundi" (12 February 2014), <https://www.crisisgroup.org/africa/central-africa/burundi/fields-bitterness-i-land-reform-burundi>; International Crisis Group, "Fields of Bitterness (II): Restitution and Reconciliation in Burundi," February 17, 2014, <https://www.crisisgroup.org/africa/central-africa/burundi/fields-bitterness-ii-restitution-and-reconciliation-burundi>.

²³⁰ Keenan, "The Blood Cries Out."

²³¹ Lewis Mudge, "The Executioners' Bill," *Foreign Policy*, March 26, 2015, <http://foreignpolicy.com/2015/03/26/the-executioners-bill/>.

²³² Yolande Bouka, "Status and Dynamics of the Political Situation in Burundi," in *Central Africa Report*, ed. Institute for Security Studies (2014), 4; Philipp Sandner, "Climate of Fear in Burundi's Election Year," *Deutsche Welle* (March 12, 2015), <http://www.dw.de/climate-of-fear-in-burundis-election-year/a-18312993>.

²³³ Peter Noorlander, "In the Run-up to Elections, Court Declares Burundi's Press Gag Law Undemocratic," *Open Society Foundations*, May 28, 2015, <https://www.opensocietyfoundations.org/voices/run-elections-burundi-s-press-told-not-report>.

²³⁴ Bouka, "Status and Dynamics of the Political Situation in Burundi."

According to the Burundian constitution, the president “is elected by universal direct suffrage for a mandate of five years renewable one time.”²³⁵ After a failed attempt to change the constitution, President Nkurunziza argued that that he was appointed by the National Assembly—not elected by a popular vote—in 2005 and could therefore legally run for a third term,²³⁶ despite the unequivocal phrase in the Arusha accords that “no one may serve more than two presidential terms.”²³⁷ On 25 April 2015, President Nkurunziza announced his intention to run for a third term in violation of the Arusha Accords. His announcement was followed by protests which were met with violence by the police forces.

US Policy in Burundi Before April 2015: A Case of Early and Preventive Action

Since the Arusha Accords, the United States has been involved in a range of peacebuilding efforts in the Burundi,²³⁸ including USAID projects aimed at national reconciliation. Between 2009 and 2012 alone, the agency spent a total of \$87 million in aid,²³⁹ supporting several projects aimed at reducing the risk of new violence.²⁴⁰

Yet, since mid-2013, as several US officials highlighted in interviews,²⁴¹ the involvement of the APB served to significantly expand and focus US efforts on the prevention of mass atrocities in Burundi around the 2015 elections. The country became a pilot case for the APB’s work on “upstream” prevention: those situations in which risks are identified in the medium or long term, but where atrocities are not yet taking place.²⁴²

Given the APB’s still-nascent process of selecting early warning cases, the selection of Burundi was not the result of a scientific process. The proximity to and similarities in ethnic make-up to Rwanda might have been a factor in the selection, given that many of the administration’s genocide prevention advocates had been socialized into this role through the failure of preventing the genocide in Rwanda in the mid-1990s (see also chapter 2). A factor that might also have supported the Board’s search for a potential upstream case in the first half of 2013 was the experience of peaceful elections in Kenya in March 2013 . In the context of the election preparations, USAID had given large grants on youth engagement and peace messaging. US diplomatic outreach had consistently emphasized the need to refrain from violence before the elections. That the voting was conducted peacefully “created a momentum for atrocity prevention,” as one civil society advocate in Washington remembers: “There was a bit of interagency coordination and then the sense of ‘Ok, what’s next?’”²⁴³

²³⁵ “Burundi’s Constitution of 2005, English Translation,” *Constitute Project* 15 July, 2016, https://www.constituteproject.org/constitution/Burundi_2005.pdf, Article 96.

²³⁶ George Grow, “Burundi President May Seek a Third Term,” *Voice of America*, March 9, 2015, <http://learningenglish.voanews.com/content/burundi-elections-nkurunziza-third-term/2667564.html>.

²³⁷ “Arusha Peace and Reconciliation Agreement for Burundi, August 28, 2000”, Article 7, 3.

²³⁸ For USAID funded programs on reforming the electoral law in 2012, see for example USAID, “Usaid Supports Preparations for Free and Fair 2015 Elections in Burundi,” June 28, 2012, <http://www.usaid.gov/east-africa/press-releases/usaid-supports-preparations-free-and-fair-2015-elections-burundi>.

²³⁹ ForeignAssistance.gov, “Burundi - Spent Stage,” 2015, http://www.foreignassistance.gov/web/OU.aspx?OUID=231&FY=2007&AgencyID=3&budTab=tab_Bud_Spent.

²⁴⁰ USAID, “Burundi - Democracy, Human Rights and Governance,” June 25, 2014, <http://www.usaid.gov/burundi/democracy-human-rights-and-governance>. For USAID funded programs on reforming the electoral law in 2012, see for example USAID, “Usaid Supports Preparations for Free and Fair 2015 Elections in Burundi.”

²⁴¹ Former Administration official, interview, March 19, 2015, Washington DC; White House officials, interview, March 19, 2015, Washington DC; Civil society advocate, interview, March 19, 2015 Washington DC State Department official, interview, March 20, 2015, Washington DC (AL); State Department officials, interview, (AB), March 20, 2015, Washington DC.

²⁴² Civil society advocate, phone interview, April 14, 2015.

²⁴³ Civil society advocate, interview, March 19, 2015, Washington DC.

Another factor for the selection of Burundi might have also been related to the personalities involved. Adam Keith, at that point Director for War Crimes and Atrocities Prevention and the point person for APB issues at the NSC, had worked on the Great Lakes region in the State Department's Africa Bureau before coming to the White House.²⁴⁴ In addition, according to the US officials and civil society experts that were interviewed for this study, there were two other circumstances that contributed to making Burundi a case in which the APB could engage more deeply. First, Burundi was a case in which no other significant other US interests were concerned, even though the country's contribution to the African Union (AU)'s counterterrorism mission in Somalia (AMISOM) is an important part of US interests in the broader region. Since the country did not get a lot of attention in Washington, there were "no obstacles for the APB to get involved" as was the case, for example, in Syria (see chapter 12).²⁴⁵ Second, the ambassador played an important role. In contrast to some other ambassadors who objected to having "their" country on an atrocity watch list, Ambassador Dawn Liberi, according to those people interviewed, embraced the APB's efforts.²⁴⁶ "The ambassador to Burundi was not afraid to say: 'I am really worried of the country that I am in charge of,'" noted one civil society advocate.²⁴⁷

In a speech on the impact of US reforms on atrocity prevention, Sewall, summarized the start of the APB's involvement on Burundi as follows: "[In mid-2013] the Department's atrocities watchers grew very concerned about escalating tensions in Burundi, this initiated the APB process, elevating the focus on the threat. State and USAID put together an interagency team from both the regional and functional components of the agencies to conduct a thorough analysis of potential risks for violence in Burundi."²⁴⁸

The team Sewall referenced in the speech was led by CSO at State and USAID. The group also included a number of other representatives, including from AFRICOM,²⁴⁹ and it stayed in the country for several weeks.²⁵⁰ In August 2013, it completed a report with a list of recommendations for the embassy and other departments in Washington.²⁵¹

The trip and the report resulted in additional resources being allocated for atrocity prevention in Burundi as well as diplomatic and political efforts over the next year and a half to pressure Burundian leaders to ensure peaceful elections. It also raised the situation to a higher political level than it would most likely have reached without the APB's initiative.²⁵²

Funding for prevention programming

One of the main recommendations of the team's report was the mobilization of funds from USAID's Complex Crisis Fund (CCF).²⁵³ Overall, more than \$7 million in funds in the State Department and USAID were allocated specifically to fund measures to address risk factors for atrocities in Burundi.²⁵⁴ A program that resulted from these additional funds was the USAID funded program "Youth for Peacebuilding in Burundi," which aimed to work with Burundian youth-led organizations to support

²⁴⁴ Civil society advocate, phone interview, April 14, 2015.

²⁴⁵ Civil society advocate, interview, March 19, 2015, Washington DC.

²⁴⁶ State Department official, interview, March 20, 2015, Washington DC.

²⁴⁷ Civil society advocate, interview, March 19, 2015, Washington DC.

²⁴⁸ Council on Foreign Relations, "Charting the US Atrocities Prevention Board's Progress - a Conversation with Undersecretary for Civilian Security, Democracy, and Human Rights Sarah Sewall," March 30, 2015, <http://www.cfr.org/human-rights/charting-us-atrocities-prevention-boards-progress/p36332>.

²⁴⁹ Civil society advocate, phone interview, April 14, 2015.

²⁵⁰ Civil society advocate, interview, March 19, 2015, Washington DC.

²⁵¹ US Department of State and the Broadcasting Board of Governors, "Inspection of Embassy Bujumbura, Burundi," ed. Office of Inspector General (2014), 24-27.

²⁵² White House officials, interview, March 19, 2015, Washington DC; Civil society advocate, interview, March 19, 2015, Washington DC.

²⁵³ Civil society advocate, phone interview, April 14, 2015.

²⁵⁴ Council on Foreign Relations, "Charting the US Atrocities Prevention Board's Progress - a Conversation with Undersecretary for Civilian Security, Democracy, and Human Rights Sarah Sewall."

“constructive opportunities for Burundian youth as an alternative to violence” and support “youth-led peace-building and violence prevention efforts during the pre- and post-2015 election period.”²⁵⁵ According to one interviewee familiar with the program, it was the result of the APB team’s examination of which communities could be “on potential pathways to atrocities.” In contrast to the regular funds on reconciliation by USAID, the program was “designed as a short term stop-gap measure to prevent atrocities around the elections.”²⁵⁶

In addition, as part of its regular programming, USAID implemented several programs aimed at reducing the risks of renewed ethnic violence between 2013 and 2015. A program with the National Independent Electoral Commission on Burundi aimed to improve the electoral law, for example, and to create dispute resolution mechanisms around the elections.²⁵⁷ Among other initiatives, the United States funded billboards to provide voters with basic information on the voting process.²⁵⁸ Together with Search for a Common Ground, USAID implemented a program aimed at engaging youth in Burundi for peaceful elections. The \$1.2 million program aimed to encourage dialogue between youth leaders in civil society and politics, and sought to strengthen capacities for peaceful conflict resolution by young people.²⁵⁹ The stated purpose of such programs was to make youth leaders “resist manipulation and violence related to elections.”²⁶⁰ Another USAID program supported greater societal participation in the elections by assisting a local organization in getting identity cards for over 8000 members.²⁶¹

From the State Department side, CSO financed a \$1 million youth program called “Engaging Youth Leaders to Prevent Conflict in Burundi” (Bumbatira Amahoro in Kirundi) which began in April 2015. The project was expected to work for 15 months “through the electoral and post electoral period” and work with 1,800 political parties’ youth leaders and ex-combatants in 20 communes in order to reduce their willingness to engage in violence.²⁶² While this kind of funding was welcomed, a civil society representative from the region criticized the project for starting too late, four months after the call for proposals on the project had ended and only weeks before the original election date in May.²⁶³

Overall, according to information provided to the Congressional Research Service, the State Department and USAID used a total of \$14 million in “regionally and centrally managed funds.”²⁶⁴ While this may not seem to be a substantial sum in comparison to other US budget lines, it represented an increase of almost 50% in US bilateral aid to the country, which amounted to \$30 million in 2014.²⁶⁵ According to Sewall, the APB process on Burundi also triggered the deployment of a dedicated “prevention advisor” to the embassy to help support peaceful elections. The adviser, Sewall argued in a

²⁵⁵ Counterpart International, phone interview; “Burundi: Grants - Compliance Manager - Youth for Peacebuilding (Job Advert),” *Aid Jobs* September 17, 2014.

²⁵⁶ Civil society advocate, phone interview, April 14, 2015.

²⁵⁷ Embassy of the United States Bujumbura, “Usaid Supports Elections and Political Processes in Burundi,” June 28, 2013, <http://burundi.usembassy.gov/pr-06282013.html>.

²⁵⁸ Embassy of the United States Bujumbura, “United States Government’s Support for Voter Education in Burundi,” December 23, 2014, http://burundi.usembassy.gov/pr_122314.html

²⁵⁹ Embassy of the United States Bujumbura, “Speech by US Ambassador Dawn Liberi on the Occasion of the Inauguration of Usaid’s Assistance to Burundi in Support of Youth Mobilization for Peaceful Elections in 2015,” July 5, 2013, <http://photos.state.gov/libraries/burundi/323250/english/7-5sfcg-eng.pdf>.

²⁶⁰ USAID, “Burundi Program Overview,” April 3, 2014, <http://www.usaid.gov/sites/default/files/documents/1860/f.%20Burundi%20-LPC.pdf>.

²⁶¹ Ibid.

²⁶² Centre d’Encadrement et de Developpement des Anciens Combattants, “Bumbatira Amahoro Project “Engaging Youth Leaders to Prevent Conflict in Burundi””, April 10, 2015, <http://www.cedac.org.bi/index.php/en/news/97-assou-tpv-violence>; US Embassy Bujumbura Burundi, “Facebook Post of April 10, 2015, at 04:09 Cet,” April 10, 2015, <https://www.facebook.com/usembassy.bujumbura>.

²⁶³ Civil society representative from the region, phone interview, August 22, 2015.

²⁶⁴ Alexis Arieff, “Burundi’s Electoral Crisis: In Brief,” *Congressional Research Service*, May 14, 2015, <https://fas.org/sgp/crs/row/R44018.pdf>, 8.

²⁶⁵ Ibid., summary.

speech in March 2015, “enhanced the US government's monitoring of early warning signals of violence to complement the execution of a set of de-escalation programs that were specifically targeted against potential perpetrators and messengers of violence.”²⁶⁶

Increased diplomatic engagement

In addition to the USAID and State Department programs, Burundi was “consistently elevated in terms of attention.”²⁶⁷ The United States took a political decision to be outspoken about the constitutional limit to a third term of the Burundian president. Ambassador Liberi repeatedly emphasized the need for fair and non-violent elections and supported dialogue on their preparation within Burundi. In September 2013, for example, the embassy co-hosted an event on the elections together with the Pentagon-funded Africa Center for Strategic Studies, bringing together 70 stakeholders from across Burundian society. At the event, Ambassador Liberi underlined her “confidence” that Burundi would “show the [East African Community] and the rest of the continent that post-conflict elections, with the participation of the opposition, can be conducted fairly and without violence.”²⁶⁸

In April 2014, after attending the 20th commemoration of the Rwandan genocide in Kigali, Ambassador Power visited Burundi. As the first US cabinet official ever to visit the country, she made clear that the reason for her trip was the “alarming signs” for the potential of violence.²⁶⁹ She met with President Nkurunziza for two hours, highlighting the importance for “all institutions to preach a message of non-violence.”²⁷⁰ A few days after her trip, she explained to reporters in New York: “If you take a political crisis on the one hand and combine it with armaments on the other [...] – those are precisely the ingredients for the kind of violence that Burundi has managed to avoid now for a good few years.”²⁷¹

At the UN, Power and her team had already been engaged on Burundi from 2013 onwards, working toward maintaining the UN’s political mission in the country.²⁷² The Burundian government eventually agreed only to an ultimately ineffectual election observer role for the UN, effectively expelling the previous political mission. The United States also advocated for keeping the situation in Burundi on the agenda at the UN. The Security Council had met “more on Burundi in recent months than probably in any other analogous period”, Power argued in September 2014.²⁷³

Power, as well as “other Administration officials”, also addressed the potential for violence around the elections with the Burundian president when he attended the Obama Administration’s Africa Summit in the summer of 2014.²⁷⁴ Until he left office in February 2015, Feingold, the US Special Envoy for the

²⁶⁶ Council on Foreign Relations, “Charting the US Atrocities Prevention Board's Progress - a Conversation with Undersecretary for Civilian Security, Democracy, and Human Rights Sarah Sewall.”

²⁶⁷ Civil society advocate, interview, March 19, 2015, Washington DC.

²⁶⁸ Africa Center for Strategic Studies, “Africa Center Co-Hosts Elections Symposium in Burundi,” *United States Africa Command*, September 17, 2013, <http://www.africom.mil/newsroom/article/11254/africa-center-co-hosts-elections-symposium-in-burundi>.

²⁶⁹ Samantha Power, “Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, at a Security Council Stakeout on the Central African Republic, April 10, 2014,” *United States Mission to the United Nations*, April 10, 2014, <http://usun.state.gov/briefing/statements/224642.htm>.

²⁷⁰ Agence de Presse Africaine Apanews, “Burundi Visite De Samantha,” April 10, 2014, <https://www.youtube.com/watch?v=cT-NZpcmmPI&spfreload=10>.

²⁷¹ Power, “Remarks by Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, at a Security Council Stakeout on the Central African Republic, April 10, 2014.”

²⁷² White House officials, interview, March 19, 2015, Washington DC.

²⁷³ Samantha Power, “Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, at a Press Conference on the September Program of Work for the UN Security Council,” *United States Mission to the United Nations*, September 3, 2014, <http://usun.state.gov/briefing/statements/231259.htm>; What’s In Blue, “Burundi Consultations,” April 15, 2015, <http://m.whatsinblue.org/479808/show/25eaff1627e0cb3f47671d69ae0e1c62/?>.

²⁷⁴ Power, “Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, at a Press Conference on the September Program of Work for the UN Security Council.”

Great Lakes region also became “more active” on Burundi²⁷⁵ and AFRICOM Commander General David Rodriguez raised the importance of peaceful elections in a meeting with the president in Bujumbura in October 2014.²⁷⁶ In March 2015, Power visited Burundi a second time as part of a Security Council delegation to the country.²⁷⁷

US Response to the Violence in Burundi Since April 2015

In early May 2015, amid reports of threats against the judges, the Constitutional Court confirmed that Nkurunziza could run for a third term. A coup attempt led by a prominent general failed and despite calls by the AU, the East African Community (EAC) and donor countries for a postponement of the elections, Nkurunziza and his supporters went on to hold both parliamentary and presidential elections in June and July respectively. The security situation increasingly deteriorated with police violence against protestors, a crackdown on media reporting and civil society organizations, and political assassinations of politicians.

At the time of writing, in late 2016, Burundi was led by a hardline regime, in which politicians opposed to the Arusha institutional system had gained prominence since the reelection of Nkurunziza.²⁷⁸ While there has not been a return to large-scale violence, the situation remains critical. According to the Armed Conflict Location & Event Data Project, more than 1000 people have been killed since the beginning of the crisis,²⁷⁹ while a UN independent investigation released in September 2016 reported at least 564 summary executions. The same UN report found that “gross violations are systematic and patterned and impunity is pervasive” and that a decline in overt violence was accompanied by an increase in regime oppression of society, “manifested by arbitrary deprivations of life, enforced disappearances [...] in addition to cases of torture, other forms of ill-treatment and arbitrary detention on a massive scale.”²⁸⁰ Throughout the crisis, some government politicians linked the protest movement to the Tutsi population, bringing the ethnic dimensions of the violence back into play.²⁸¹ “This type of narrative risks stirring up ethnic antagonisms the Arusha accords had managed to calm,” warned the International Crisis Group at the end of May 2015.²⁸²

According to one US official, the APB was still doing regular “check-ins” on Burundi in April 2015 when President Nkurunziza announced his intention to run for a third term.²⁸³ Yet when the crisis continued, Washington activists noted that the APB might have lost focus once it had brought Burundi to the attention of the regular inter-agency process and moved on to other cases.²⁸⁴ Through the normal inter-agency channels, however, the administration was closely involved in trying to keep the crisis from escalating.

²⁷⁵ White House officials, interview, March 19, 2015, Washington DC.

²⁷⁶ Embassy of the United States Bujumbura, “US Africom Commander Visits Burundi,” October 28, 2014, <http://burundi.usembassy.gov/pr-103014.html>. Though the main reason for the meeting was likely the Burundian participation in the AMISOM mission in Somalia and the peacekeeping mission in the CAR.

²⁷⁷ Arieff, “Burundi’s Electoral Crisis: In Brief.”

²⁷⁸ International Crisis Group, “Burundi: A Dangerous Third Term,” *Crisis Group Africa Report N°235*, May 20, 2016, <https://d2071andvip0wj.cloudfront.net/235-burundi-a-dangerous-third-term.pdf>.

²⁷⁹ Armed Conflict Location & Event Data Project, “Update — Burundi Local Data on Recent Unrest,” August 26, 2016, <http://www.crisis.acleddata.com/category/burundi/>.

²⁸⁰ A/HRC/33/37, September 20, 2016, Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1.

²⁸¹ International Crisis Group, “Burundi: Peace Sacrificed?,” *Crisis Group Africa Briefing N°111* May 29, 2015, <https://d2071andvip0wj.cloudfront.net/b111-burundi-peace-sacrificed.pdf>.

²⁸² Ibid.

²⁸³ State Department official, interview, March 20, 2015, Washington DC.

²⁸⁴ Former administration official, interview, November 4, 2015.

From the start of the violence, Washington clearly stated and frequently reiterated its position that it was “deeply disappointed” by Nkurunziza’s decision to run for a third term.²⁸⁵ Again and again, the State Department and the embassy in Bujumbura emphasized the right of citizens to protest peacefully, condemned the violence by the police forces and the suppression of media and civil society and emphasized the importance of fair and peaceful elections.²⁸⁶ On the day of Nkurunziza’s announcement, US statements warned that the government was prepared to “take targeted measures, where appropriate, to hold accountable those responsible for violence against the civilian population.”²⁸⁷ The statements clearly warned of the risks of atrocities and threatened to impose visa bans for travel to the United States on everyone that would be inciting violence.²⁸⁸ Between April and August 2015, President Obama, Secretary Kerry, and Special Envoy Tom Perriello, among others, emphasized publicly that the elections would not be fair under the prevailing circumstances.²⁸⁹ “If we could have drafted these statements, they would have looked similar” said one atrocity prevention activist in Washington.

From mid-2015, the administration called for negotiations and supported regional initiatives for mediation by EAC, the AU, the International Conference on the Great Lakes Region, the efforts of a newly appointed UN Special Envoy, and later the mediation attempts by Uganda’s president Museveni. The administration also supported efforts to deploy AU peacekeepers to Burundi. These were ultimately not deployed, however, because the AU did not want to send troops without the consent of the Burundian government.

In November 2015, President Obama recorded a video message in which he urged political leaders in Burundi “to put aside the language of hate and division” and asked the Burundian military to “keep peace at home, by staying out of political conflicts and protecting the people of Burundi.”²⁹⁰ A few days after his message, the administration issued an executive order that enabled Washington to impose sanctions against those that “threaten peace and security in Burundi, undermine democratic processes, or who are responsible for or complicit in human rights abuses.”²⁹¹ It has since added both selected government and opposition leaders to the sanctions list.²⁹²

²⁸⁵ US Embassy Bujumbura Burundi, “US Deeply Regrets Burundi’s Disregard for the Arusha Agreement,” April 25, 2015, <https://burundi.usembassy.gov/pr-042515.html>.

²⁸⁶ US Embassy Bujumbura Burundi, “US Embassy Greatly Concerned About the Events Occurred in Bujumbura on April 26,” April 27, 2015, <https://burundi.usembassy.gov/pr-042715.html>; May: US Embassy Bujumbura Burundi, “Political Dialogue between the International Community (US/European Union/Switzerland) and the Government,” May 12, 2015, <https://burundi.usembassy.gov/pr-051215.html>; US Embassy Bujumbura Burundi, “United States Calls for Calm and Restraint in Burundi,” May 13, 2015, <http://burundi.usembassy.gov/pr051315.html>; US Embassy Bujumbura Burundi, “United States Warns against Violence in Burundi,” May 15, 2015, <http://burundi.usembassy.gov/pr-051515.html>; June: US Embassy Bujumbura Burundi, “Embassy Statement on Third Election Term,” (June 1, 2015), http://burundi.usembassy.gov/pr_060115.html; July: US Department of State, “The United States Urges Dialogue, Announces Additional Suspension of Assistance,” July 2, 2015, <http://www.state.gov/r/pa/prs/ps/2015/07/244595.htm>.

²⁸⁷ US Embassy Bujumbura Burundi, “US Deeply Regrets Burundi’s Disregard for the Arusha Agreement.”

²⁸⁸ Ibid.

²⁸⁹ US Department of State, “Elections in Burundi Will Lack Credibility,” July 21, 2015, <http://www.state.gov/r/pa/prs/ps/2015/07/245104.htm>; US Embassy Bujumbura Burundi, “Burundi’s Elections Process, Press Statement John Kerry,” July 24, 2015, <https://burundi.usembassy.gov/pr-072415.html>.

²⁹⁰ “Transcript of President Barack Obama’s Audio/Video Message,” November 13, 2015, <http://photos.state.gov/libraries/burundi/323250/english/potus-burundi-message-transcript-english.pdf>.

²⁹¹ “Executive Order -- Blocking Property of Certain Persons Contributing to the Situation in Burundi,” November 23, 2015, <https://obamawhitehouse.archives.gov/the-press-office/2015/11/23/executive-order-blocking-property-certain-persons-contributing-situation>.

²⁹² US Department of the Treasury, “Treasury Sanctions Three Individuals for Contributing to the Ongoing Violence in Burundi,” June 2, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0473.aspx>; Jeffrey Gettleman, “US Imposes Sanctions on 4 in Burundi Violence,” *The New York Times* November 23, 2015, http://www.nytimes.com/2015/11/24/world/africa/us-imposes-sanctions-on-4-in-burundi-violence.html?_r=0.

Yet, as of late 2016, the situation remained tense. In his last speech in office—as the Obama administration neared its end—special envoy Perriello credited the efforts of the international community and “its partners in Burundi and the region” for having prevented large-scale atrocities. Yet he also highlighted the persistent danger of mass atrocities in Burundi: “While the international community and its partners in Burundi and the region have prevented the worst case scenarios, it is possible that we have only delayed them. And I want to be clear: despite our intensive efforts, the risk for mass atrocities and civil war in Burundi remains disconcertingly high.”²⁹³

Criticism and the Policy Dilemmas of Mass Atrocity Prevention

Given the ongoing danger that Perriello highlights, what could the administration have done better since the violence began in April 2015? The most direct criticism of US diplomatic efforts during the months immediately before and after the April 2015 announcement concerned the vacant position of the US special envoy for the Great Lakes region. After Senator Feingold had stepped down in the end of February 2015, it took the administration until early July to announce Perriello as his successor. The lack of a US special envoy in the crucial moment before and during the outbreak of the crisis in Burundi “really limited the US ability to play a bigger role together with other diplomatic actors,” argued one Washington civil society advocate. Given the lack of a senior US person in charge for coordinating diplomatic efforts, the United States might have missed opportunities for pushing for better coordination between major donor countries such as the European Union, Belgium, and the United States. As it was, the messaging of donor countries before and during the crisis were “just different enough to dilute the message,” said the Washington activist.²⁹⁴

In addition to the lack of a special envoy at a key moment—a problem that had occurred before, e.g., with the vacant special envoy position for South Sudan in crucial months in 2013 —there were several policy dilemmas that the administration faced in the reaction to the Burundi crisis that might provide lessons for US efforts on mass atrocity prevention.

First, as in Libya, the CAR and South Sudan before, after the outbreak of protests and police violence, the administration once again debated whether to close its embassy. Apparently due to the strong advocacy of Ambassador Liberi, as well as civil society pressure in Washington, the embassy ultimately evacuated non-essential personnel and family members in mid-May 2015, but remained open.²⁹⁵ This came to the relief of many Burundians who had feared that the United States would leave the country. From the end of April to the end of June, for example, around 600 university students sought shelter on embassy grounds when the Burundian government closed their university campus.²⁹⁶

Second, the administration faced a dilemma regarding its assistance to the Burundian security forces. Wanting to exert pressure on political drivers of violence, the United States warned of reviewing trade preference provisions on Burundi²⁹⁷ and announced visa bans for selected individuals to travel to the United States. The great majority of US funding to the country, however, went into assisting the military in support of peace operations. In mid-May, the administration also threatened to end its support for military units and Burundian deployments to the AMISOM mission, a major source of income for both the Burundian military and political elites. Yet, the administration ultimately only halted its training for

²⁹³ Thomas Perriello, “Final Speech as US Special Envoy,” (15 December 2016), <http://www.einpresswire.com/article/358397018/democracy-human-rights-and-labor-final-speech-as-u-s-special-envoy>.

²⁹⁴ Civil society advocate, phone interview, August 13, 2015.

²⁹⁵ US Embassy Bujumbura Burundi, “US Embassy Has Ordered the Departure of Family and Non-Emergency Personnel,” May 15, 2015, <http://burundi.usembassy.gov/pr-051615.html>.

²⁹⁶ “Burundi Students of Closed University Camp out at US Embassy,” *BBC News*, May 1, 2015, <http://www.bbc.com/news/world-africa-32548350>, last accessed on December 20, 2016.

²⁹⁷ US Department of State, “The United States Urges Dialogue, Announces Additional Suspension of Assistance.”

peacekeeping forces within the country due to security concerns and suspended assistance and training programs for the Burundian police.²⁹⁸ It did not suspend or reduce its support to the Burundian military forces for several reasons. First, the United States has a strong interest in troop contributions to AMISOM and Burundian contributions to UN peacekeeping missions such as in the CAR.²⁹⁹ Second, throughout the beginning of the crisis, the Burundian army had acted as a buffer between protesters and the police and had “generally acted professionally in protecting civilians during protests,” as a US statement in early July 2015 summarized.³⁰⁰ In other words, by cutting military aid, the administration might have incentivized some politicians to act in a way that would bring more stability to Burundi, but such a move might have simultaneously changed incentive structures within the military in a way that could have caused more instability.³⁰¹

Third, the US response to the crisis showed the limits of US influence on local political dynamics in Burundi. The administration had started to publicly warn Nkurunziza not to run for a third term more than a year before the elections. As one civil society advocate highlighted, this might not have been the best diplomatic strategy available: South African diplomats in New York, for example, complained that the early and forceful US statements on the third term restricted their own government’s political space to say the same—given the significant anti-US sentiment within the ruling party and public opinion, political leaders in Pretoria did not want to be seen as following a US lead. While impossible to prove in retrospect, it may be the case that the US government could have achieved more by waiting for Africans to take the lead in public while advocating against a third term in concert with African countries behind closed doors.

Ultimately, however, Nkurunziza seems to have been set on running for office, no matter what US politicians said or did not say. One episode from the spring of 2015 illustrates both the concerted efforts of the administration and the limits of US power: in March 2015, when the administration had run out of options to influence Nkurunziza not to run for a third term, somebody remembered that Bill Clinton had been present at the signing of the Arusha Accords and seemed to have built a good rapport with the Burundian president personally. When the White House asked Clinton to call Nkurunziza, Clinton agreed but Nkurunziza did not take the call.³⁰²

Conclusion

The APB, as summarized by Sewall in March 2015, “seeks to identify atrocity risks in their early stages, and then develop coordinated, whole-of-government responses to prevent or mitigate them.”³⁰³ In the case of Burundi, as Sewall pointed out on several occasions before the violence started in April,³⁰⁴ the Board worked in the way it was envisioned. “The APB [...] was able to elevate the attention that regional actors and posts played to some of the underlying drivers of potential for mass atrocities. It was able to harness resources into programming to help to do some of that peacebuilding and conflict prevention work that was needed in the country at the time very much welcomed by the Ambassador.”³⁰⁵

²⁹⁸ Ibid.

²⁹⁹ Arieff, “Burundi’s Electoral Crisis: In Brief.” 10.

³⁰⁰ US Department of State, “The United States Urges Dialogue, Announces Additional Suspension of Assistance.”

³⁰¹ Arieff, “Burundi’s Electoral Crisis: In Brief.” 10.

³⁰² DC civil society advocate, phone interview, August 14, 2015.

³⁰³ Council on Foreign Relations, “Charting the US Atrocities Prevention Board’s Progress - a Conversation with Undersecretary for Civilian Security, Democracy, and Human Rights Sarah Sewall.”

³⁰⁴ Ibid; Ustream, “Au Sis: Dean’s Disc. W/Undersecretary Sarah Sewall,” *AU SIS: Dean’s Office Events* April 7, 2015, <http://www.ustream.tv/recorded/60846132>.

³⁰⁵ Ustream, “Au Sis: Dean’s Disc. W/Undersecretary Sarah Sewall.”

It seems fair to conclude that Burundi has indeed been a case in which the efforts of the US government would not have been the same without the APB's involvement. It mobilized a variety of government departments on a country at risk earlier than usual and triggered the allocation of resources that would otherwise not have been spent on Burundi.

Burundi was a pilot case for the APB and as such was also a case in which those involved were "learning while they were doing it."³⁰⁶ It also demonstrated some of the challenges for the APB's work. In the beginning, for example, according to one person involved in the initial process, the APB did not have a good process of ensuring that it had a solid overview of what each government agency was already doing on Burundi. When the APB's team went to Burundi in the summer of 2013, for example, it only linked up by chance with a group that evaluated a ten-year USAID program on reconciliation. The Board had not engaged with the evaluation team before the trip.

There are several questions arising from US policy efforts in Burundi that are worth reviewing for future atrocity prevention efforts. Some are more straightforward than others. The State Department could work toward decreasing the gap between senior diplomatic appointments and both the State Department and USAID can work on mobilizing funding for prevention earlier and on higher levels. While the bureaucratic and political hurdles that have to be overcome to do so are real and substantial, tackling this kind of challenge is easier to address than the more ambiguous policy dilemmas highlighted in this chapter. To what extent early pronouncements by the United States on constitutional term limits might have counterproductive side effects, is a question that needs further examination. This continues to be an important question for other countries in the region, including the DRC and Rwanda. Balancing the stabilizing and destabilizing effects of military assistance will also remain a constant challenge for the administration beyond the case of Burundi.

Lastly, the case of US policy in Burundi raises the difficult question of what success looks like in the prevention of mass atrocities. After more than two years of focusing on Burundi in advance of the 2015 elections, does the current situation—continuously tense and with severe human rights abuses but without mass atrocities—constitute a success of the APB? If there is no wide spread escalation of atrocities in the coming months, did US engagement contribute to that and, if yes, to what extent? Even if the current levels of suppression and violence increase, would it have been worse without the youth engagement and voter education programming, without the continued US and international pressure to negotiate a solution to the crisis? Would incitements to violence have been louder without the stern warnings of US diplomats and high-level visits?

At the time of writing this chapter, we would argue that US policy in Burundi, despite the increasingly volatile situation in the country, was reasonably successful in light of the limited influence of the United States in the country, and to a large degree this was a result of the early and sustained engagement by the APB. But it will always be impossible to prove a counterfactual.

³⁰⁶ DC civil society advocate, phone interview, August 14, 2015.

Central African Republic

Since the CAR gained independence from France in 1960, the country has endured armed rebellion, military coups, authoritarian rulers, and foreign interventions in spite of different peace agreements.³⁰⁷ The beginning of the crisis can be traced back to the insurgency of the Séléka³⁰⁸ launched in December 2012 in order to depose President Francois Bozizé.³⁰⁹ A peace agreement negotiated by the Economic Community of Central African States in January 2013 did not last long. In March 2013, the Séléka toppled Bozizé and installed their leader, Michel Djotodia, as new president.³¹⁰ Séléka abuses continued.³¹¹ The International Federation for Human Rights (FIDH) reported that over 306 people had been killed and more than 1,000 people had been injured by 20 April 2013.³¹² In September that year, Djotodia dissolved the Séléka as a group³¹³ but this still did not stop (former) Séléka members from engaging in violence.³¹⁴

The humanitarian situation worsened when, in the fall of 2013, predominantly Christian militias known as the anti-balaka (“anti-machete”), which were established already in 2009 to provide protection at the local level,³¹⁵ organized counterattacks against the Séléka and Muslim communities to avenge abuses committed by the Séléka.³¹⁶ This marked the beginning of an armed conflict with religious dynamics.³¹⁷

³⁰⁷ Human Rights Watch, *Background: The Varied Causes of Conflict in CAR* (Human Rights Watch, 2007), <http://www.hrw.org/reports/2007/car0907/4.htm>; Enough, “Central African Republic,” <http://www.enoughproject.org/conflicts/car/>; United States Holocaust Memorial Museum, “Central African Republic: The Path to Mass Atrocities,” United States Holocaust Memorial Museum, January 13, 2014, http://www.ushmm.org/mobile/blog_entry/central-african-republic-the-path-to-mass-atrocities; Evan Cinq-Mars, “Too Little, Too Late: Failing to Prevent Atrocities in the Central African Republic” (Global Centre for the Responsibility to Protect, September 2015), 3.

³⁰⁸ Séléka is a loose alliance of different predominantly Muslim rebel groups from northern CAR (as well as from Chad and Sudan) consisting of the Convention of Patriots for Justice and Peace, the Patriotic Convention for the Salvation of Kodro, the Union of Democratic Forces for Unity, the Union of Republican Forces, and the Alliance for the Rebirth and Rebuilding; Human Rights Watch, “‘I Can Still Smell the Dead’ The Forgotten Human Rights Crisis in the Central African Republic,” September 2013, 29, http://www.hrw.org/sites/default/files/reports/car0913_ForUploadWInsert_0.pdf; Mouhamadou Kane, “Interreligious Violence in the Central African Republic,” *African Security Review*, September 22, 2014, 313.

³⁰⁹ Human Rights Watch, “‘I Can Still Smell the Dead’ The Forgotten Human Rights Crisis in the Central African Republic,” 5; Alexis Arief and Tomas F. Husted, “Crisis in the Central African Republic” (Congressional Research Service, August 17, 2015), 1.

³¹⁰ Human Rights Watch, “‘I Can Still Smell the Dead’ The Forgotten Human Rights Crisis in the Central African Republic,” 5, 76, 78; US Department of State, “Country Reports on Human Rights Practices for 2013,” 2013, <http://www.state.gov/documents/organization/220305.pdf>; United States Holocaust Memorial Museum, “Central African Republic: The Path to Mass Atrocities.”

³¹¹ Cinq-Mars, “Too Little, Too Late: Failing to Prevent Atrocities in the Central African Republic,” 8.

³¹² FIDH, “Central African Republic: A Country in the Hands of Seleka War Criminals,” September 2013, 22–23, <https://www.fidh.org/IMG/pdf/rca616a2013basdef.pdf>; Cinq-Mars, “Too Little, Too Late: Failing to Prevent Atrocities in the Central African Republic,” 8.

³¹³ “CAR President Djotodia Bans Former Seleka Rebel Backers,” *BBC News*, September 13, 2013, <http://www.bbc.com/news/world-africa-24088995>.

³¹⁴ Human Rights Watch, “They Came To Kill,” December 19, 2013, 6, 11, <https://www.hrw.org/node/121434/section/2>.

³¹⁵ Amnesty International, “Central African Republic: Time for Accountability,” 2014, 16, https://www.amnesty.org.uk/sites/default/files/car_-_amnesty_international_report_-_time_for_accountability_july_2014.pdf; United States Holocaust Memorial Museum, “Central African Republic: The Path to Mass Atrocities,” United States Holocaust Memorial Museum, January 13, 2014, http://www.ushmm.org/mobile/blog_entry/central-african-republic-the-path-to-mass-atrocities.

³¹⁶ Human Rights Watch, “They Came To Kill,” December 19, 2013, <https://www.hrw.org/node/121434/section/2>; FIDH, “Central African Republic: ‘They Must All Leave or Die,’” June 2014, 3.

³¹⁷ United States Holocaust Memorial Museum, “Central African Republic: The Path to Mass Atrocities”; “Testimony of Principal Deputy Assistant Secretary Robert Jackson,” 2; Kane, “Interreligious Violence in the Central African Republic,” 313.

The UN Office of the High Commissioner for Human Rights concluded that during the armed conflict between December 10, 2012 and March 23, 2013, both the Bozizé government and the Séléka “engaged in summary executions and extrajudicial killings, enforced disappearances, torture and looting of private and public property”.³¹⁸ In addition, the UN Commission of Inquiry for the CAR noted that estimates of the number of people killed since January 1, 2013 (until November 1, 2014) range from 3,000 to 6,000, but that “such estimates fail to capture the full magnitude of the killings that occurred.”³¹⁹

By the end of 2013, the violence was spiraling out of control. Based on reports and testimonies from victims and witnesses retrieved during his visit to the country in December 2013, the Special Adviser on the Prevention of Genocide, Adama Dieng, concluded that attacks against civilians for reasons of religion or ethnicity revealed a high risk of atrocities.³²⁰ The conflict has since displaced around 25% of the population within the country which, as reported by UNHCR, “has divided the country along ethno-religious lines.”³²¹ The crisis in the CAR also impacted the wider region. Over 190,000 CAR refugees fled to neighboring countries.³²²

Whereas the CAR has experienced continuous instability, the latest crisis, with the level of violence at an unprecedented scale, marks one of the darkest episodes in the nation’s turbulent history.³²³ This chapter will highlight a significant shift of the US policy toward the CAR: from a limited and passive engagement to reportedly the “most comprehensive effort at atrocity prevention in its history” as part of the commitment of the US government to prevent mass atrocities.³²⁴ We will examine the role of the APB in prompting the crisis and of the US government in addressing atrocities in the CAR. We will argue that despite early attention to the crisis, the US response was slow, and one of reaction rather than prevention.

US Policy on the CAR: Limited Engagement Transforms into a Comprehensive Atrocity Prevention Effort

Prior to the outbreak of violence in late 2012, the US engagement with the CAR did not go beyond a small embassy without a bilateral USAID mission. From Washington’s perspective, there were no US interests at stake in the poor and badly governed Central African country. Past atrocity prevention efforts of the United States in the CAR primarily focused on the fight against the Lord’s Resistance Army which was active in the region.³²⁵ This rather detached approach continued when the Séléka advanced to the capital and Bozizé requested among others the United States to help halt Séléka’s forces. Also, France ruled out any military intervention in its former colony. However, it did increase its

³¹⁸ United Nations High Commissioner for Human Rights, “Situation of Human Rights in the Central African Republic,” September 12, 2013, 2, http://reliefweb.int/sites/reliefweb.int/files/resources/A-HRC-24-59_en.pdf.

³¹⁹ United Nations, “The International Commission of Inquiry on the Central African Republic,” December 19, 2014, 8, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_928.pdf.

³²⁰ Dieng, “The Statement of Under Secretary-General/Special Adviser on the Prevention of Genocide Mr. Adama Dieng on the Human Rights and Humanitarian Dimensions of the Crisis in the Central African Republic,” January 22, 2014, <http://www.un.org/en/preventgenocide/adviser/pdf/SAPG%20Statement%20at%20UNSC%20on%20the%20situation%20in%20CAR-%2022%20Jan%202014.pdf>.

³²¹ UNHCR Global Appeal 2015 Update, “Central African Republic,” 2015, <http://www.unhcr.org/5461e5fd.pdf>.

³²² Ibid.

³²³ Kane, “Interreligious Violence in the Central African Republic,” 312; Medecins Sans Frontieres, “Central African Republic: Fighting Reaches Unprecedented Levels of Violence,” October 16, 2013, <http://www.msf.org/article/central-african-republic-fighting-reaches-unprecedented-levels-violence>; “‘Unprecedented’ Violence Rocks Central African Republic,” *Al Jazeera*, January 31, 2014, <http://america.aljazeera.com/articles/2014/1/31/central-african-republicannewdeaths.html>.

³²⁴ Rebecca Hamilton, “Samantha Power in Practice,” *Foreign Affairs*, February 3, 2014, <https://www.foreignaffairs.com/articles/united-states/2014-02-03/samantha-power-practice>.

³²⁵ Alexis Arieff, “Crisis in the Central African Republic” (Congressional Research Service, May 14, 2014), 9.

deployment of 250 troops that were already in the CAR to 600 troops “to protect its nationals and interests”.³²⁶

The initial US response was to express “deep concern” and to urge its citizens to vacate the country “until the security situation improved”.³²⁷ On December 28, 2012, the US embassy suspended its operations and evacuated its staff.³²⁸ In a statement, the State Department noted that this had “no relation to our continuing and long-standing diplomatic relations with the CAR.”³²⁹ The decision followed a controversial debate within the administration. The proponents of evacuation cited concerns for the safety of the embassy staff, which had become a political issue after the attack on the US embassy in Benghazi a few months earlier. In light of the ferocious political attacks on the administration after the killing of US embassy personnel in Benghazi, the possibility of additional casualties in Bangui loomed large in Washington. The opponents of evacuation, including the APB, argued that unlike in Libya, CAR belligerents were extremely unlikely to target US personnel, and the closing of the embassy would severely curtail the US government’s ability to monitor the crisis. As a result, through the height of the crisis, the administration had barely any information about events in CAR.³³⁰ Neighboring countries of the CAR reinforced the Central African Multinational Force (FOMAC) which has been in the CAR since 2008 to assist in stabilizing the country.³³¹ Eventually FOMAC could not stop the offensive of the Séléka.³³²

Shortly after the start of the violence in December 2012, US intelligence officials informed the APB about the situation in the CAR and warned of deteriorating conditions and increased potential for an escalation of mass atrocity violence. These briefings continued throughout 2013 as APB discussions at the State Department, the Department of Justice, Treasury, USAID, and other departments or agencies sought to identify different avenues to help prevent mass atrocities in the country.³³³ By the end of 2013, these discussions were beginning to result in several policy responses. “The APB has been particularly focused [...] on developing communications strategies”, noted Thomas-Greenfield, “to ensure that messages that relate to interreligious tolerance from the United States as well as from voices in CAR [...] and religious leaders are widely disseminated in CAR, especially by radio.”³³⁴ Since the closing of

³²⁶ “Central African Republic Rebels Advance on Bangui,” *BBC News* December 29, 2012, <http://www.bbc.com/news/world-africa-20865884>; Security Council Report, “April 2013 Monthly Forecast. Central African Republic,” March 28, 2013, http://www.securitycouncilreport.org/monthly-forecast/2013-04/2013_04_central_african_republic.php?print=true; Arieff, “Crisis in the Central African Republic,” May 14, 2014, 7. “Central African Republic’s Bozize in US-France Appeal,” *BBC News* December 27, 2012, <http://www.bbc.com/news/world-africa-20845887>.

³²⁷ “UN and US Raise Alerts in Central African Republic,” December 26, 2012, http://www.nytimes.com/2012/12/27/world/africa/un-and-us-raise-alerts-in-central-african-republic.html?_r=0.

³²⁸ US Department of State, “Temporary Suspension of U.S. Embassy Bangui Operations,” December 27, 2012, <http://www.state.gov/r/pa/prs/ps/2012/12/202399.htm>; Senate Foreign Relations Committee Subcommittee on Africa, “Testimony by United States Agency for International Development Assistant Administrator for Africa Earl Gast,” December 17, 2013, http://www.foreign.senate.gov/imo/media/doc/Gast_Testimony3.pdf.

³²⁹ US Department of State, “Temporary Suspension of US Embassy Bangui Operations.”

³³⁰ Charles J. Brown, “The Obama Administration and the Struggle to Prevent Atrocities in the Central African Republic December 2012 – September 2014” (United States Holocaust Memorial Museum, November 2016), <https://www.ushmm.org/m/pdfs/20161116-Charlie-Brown-CAR-Report.pdf>.

³³¹ “Central African Republic Rebels Halt Advance on Bangui,” *BBC News*, January 2, 2013, <http://www.bbc.com/news/world-africa-20889136>; Human Rights Watch, “‘I Can Still Smell the Dead’. The Forgotten Human Rights Crisis in the Central African Republic,” 76.

³³² France 24, “CAR Rebels Defeat African Forces on March to Capital,” March 22, 2013, <http://www.france24.com/en/20130322-rebels-fomac-forces-bagui-capital-central-african-republic/>; Human Rights Watch, “‘I Can Still Smell the Dead’. The Forgotten Human Rights Crisis in the Central African Republic,” 76; International Coalition for the Responsibility to Protect, “Crisis in the Central African Republic,” <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-the-central-african-republic>.

³³³ Hamilton, “Samantha Power in Practice.”

³³⁴ Committee on Foreign Relations, “Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign

the US embassy in the CAR, the APB also pushed for the re-opening of the embassy.³³⁵ This, however, did not happen until September 2014.

US Scales Up Engagement

In April 2013, the US government suspended “direct assistance” to the government of the CAR “as a matter of policy”³³⁶. Yet it continued supporting programs run by NGOs.³³⁷ It remained the only change to US programming in the CAR until September 2013, when the State Department announced \$11.5 million in humanitarian support for refugees.³³⁸ This was nine months after the first warnings about the imminent crisis, and five months since the FIDH report that documented hundreds killed by Séléka forces until April.³³⁹

In the following month, the United States and the other members of the Security Council convened to update the mandate of BINUCA, a UN field office in the CAR tasked to help “to consolidate peace, foster national reconciliation, and strengthen democratic institutions, as well as [strengthen] the promotion and protection of human rights”.³⁴⁰ The meeting resulted in Resolution 2121, which involved the reinforcement of the mandate of the mission and announced the “intention to consider options” for the African-led International Support Mission/MISCA.³⁴¹

As the situation deteriorated it became clear that crimes committed by both sides could amount to war crimes and crimes against humanity, as indicated by Dieng in his statement to the Security Council on November 1, 2013.³⁴² A few weeks later, a group of civil society organizations urged the US government in a public statement to work together with other members of the international community toward ending the violence in the CAR and protecting civilians against mass atrocities.³⁴³

Only in early December 2013, when the United States received “credible information” about atrocities being committed in the CAR, did the US government scale up its engagement and reportedly begin “the most comprehensive effort at atrocity prevention in its history”.³⁴⁴ On December 5, the United States co-sponsored the Chapter VII Security Council Resolution 2127 which provided for an arms embargo, a Sanctions Committee, a Panel of Experts, and a Commission of Inquiry.³⁴⁵ The Council also unanimously authorized the deployment of MISCA and “the French forces in the CAR, within the limits

Relations United States Senate One Hundred Thirteenth Congress First Session,” December 17, 2013, <http://www.gpo.gov/fdsys/pkg/CHRG-113shrg86778/html/CHRG-113shrg86778.htm>.

³³⁵ Former US official, interview.

³³⁶ “Testimony of Principal Deputy Assistant Secretary Robert Jackson”, 2.

³³⁷ Ibid.

³³⁸ US Department of State, “US Announces Additional Humanitarian Assistance in Response to the Darfur and Central African Republic Crises,” September 27, 2013; Hamilton, “Samantha Power in Practice.”

³³⁹ Cinq-Mars, “Too Little, Too Late: Failing to Prevent Atrocities in the Central African Republic,” 8; Hamilton, “Samantha Power in Practice.”

³⁴⁰ United Nations Department of Political Affairs, “Central Africa,” 2014, <http://www.un.org/undpa/africa/central-africa>.

³⁴¹ Security Council, “Resolution 2121 (2013). Adopted by the Security Council at Its 7042nd Meeting, on 10 October 2013,” October 10, 2013, <http://www.globalr2p.org/media/files/resolution-2121-car-1.pdf>.

³⁴² Adam Dieng, “The Statement of Under Secretary-General/Special Adviser on the Prevention of Genocide, Mr. Adama Dieng, on the Human Rights and Humanitarian Situation in the Central African Republic,” November 1, 2013, [http://responsibilitytoprotect.org/2013-11-01%20Statement%20on%20CAR%20at%20Aria%20Meeting%20of%20the%20UNSC%20\(EN\).pdf](http://responsibilitytoprotect.org/2013-11-01%20Statement%20on%20CAR%20at%20Aria%20Meeting%20of%20the%20UNSC%20(EN).pdf).

³⁴³ Enough Project et al., “Urging a Comprehensive US Government Strategy to Halt Violence, Protect Civilians and Transform Conflict in the Central African Republic,” November 2013.

³⁴⁴ Hamilton, “Samantha Power in Practice.”

³⁴⁵ Committee on Foreign Relations, “Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session.”; Security Council, “Resolution 2127 (2013) Adopted by the Security Council at Its 7072nd Meeting, on 5 December 2013,” December 5, 2013.

of their capacities and areas of deployment, and for a temporary period, to take all necessary measures to support MISCA".³⁴⁶ The US government committed \$40 million to assist MISCA.³⁴⁷ Power called Djotodia to urge the transitional authorities to stop the violence and warned that those people who are "responsible for fueling and engaging in violence and human rights violations will be held accountable."³⁴⁸ On December 10, the United States increased its support to France, AU, and MISCA troops contributors, and Obama authorized John Kerry to direct the drawdown of up to \$60 million in "defense articles and services" from the Defense Department.³⁴⁹ These funds would cover airlift support from Burundi into the CAR, non-lethal equipment, and training, as well as operational support.³⁵⁰ The APB reportedly played a key role in realizing the airlift support.³⁵¹ The US government not only increased its security assistance. By the end of 2013 the United States had also provided over \$24 million in humanitarian assistance to the CAR.³⁵²

Late 2013 through 2014, the United States also pursued several public diplomacy initiatives. In December 2013 and April 2014, Power visited the country several times to demonstrate the US commitment to address the crisis, to assess the situation in the CAR first-hand and to reiterate US support for the French and AU forces as well as for the transitional government in the CAR.³⁵³ As part of the APB's communication strategies aimed at disseminating messages of peace, the United States worked with local radio stations and other outlets.³⁵⁴ The State Department and the Voice of America developed a radio program in which religious leaders from the United States and the CAR sent peace messages.³⁵⁵ An example of the communication strategies that resulted from the APB discussions was the recorded statement of Obama on December 9, 2013 to the people of the CAR calling on the "transitional government to join these voices and to arrest those who are committing crimes" and urging

³⁴⁶ Security Council, "Resolution 2127 (2013) Adopted by the Security Council at Its 7072nd Meeting, on 5 December 2013".

³⁴⁷ Committee on Foreign Relations, "Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session."; John Kerry, "Support for the African Union International Support Mission in the Central African Republic," November 20, 2013, <http://www.state.gov/secretary/remarks/2013/11/217822.htm>.

³⁴⁸ Committee on Foreign Relations, "Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session."

³⁴⁹ The White House Office of the Press Secretary, "Presidential Memorandum – Central African Republic Drawdown," December 10, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/12/10/presidential-memorandum-central-african-republic-drawdown> ; Committee on Foreign Relations, "Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session."

³⁵⁰ Committee on Foreign Relations, "Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session."

³⁵¹ Former US official, interview.

³⁵² The White House Office of the Press Secretary, "FACT SHEET: U.S. Assistance to the Central African Republic," December 19, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/12/19/fact-sheet-us-assistance-central-african-republic>.

³⁵³ United States Mission to the United Nations, "Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, At a Press Conference in Bangui, Central African Republic," December 19, 2013, <http://usun.state.gov/briefing/statements/219078.htm>; United States Mission to the United Nations, "Remarks by Ambassador Samantha Power, US Permanent Representative to the United Nations, at a Security Council Stakeout on the Central African Republic, April 10, 2014," <http://usun.state.gov/remarks/6023>.

³⁵⁴ Committee on Foreign Relations, "Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session."

³⁵⁵ *Ibid.*

the people to refrain from using violence and to embrace a future of security and peace.³⁵⁶ In April 2014 a delegation of religious leaders from the United States, led by the US Special Envoy to the Organization of Islamic Cooperation Rashad Hussain and former Senior Advisor for the CAR, David Brown, visited the country.³⁵⁷ The delegation met with several religious leaders in the CAR who have contributed to promoting interfaith cooperation, including Archbishop Dieudonne Nzapalainga, Imam Omar Kobine Layama, and Reverend Nicolas Guerekoyame Gbangou.³⁵⁸

In 2014, the United States more than doubled the amount spent on humanitarian assistance in 2013 by making available nearly \$67 million to fund food programs as well as programs to protect and provide assistance to internally displaced persons, refugees, and others affected by the conflict.³⁵⁹ With US support, the April 2014 Security Council Resolution deployed the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) which would replace MISCA.³⁶⁰ Earlier, however, US officials were hesitant to support a UN mission, arguing that the transition from MISCA to MINUSCA would be slow, while MISCA would be the “most immediate mechanism” for halting the violence and could be more effective than UN peacekeepers.³⁶¹

In May 2014, the Sanctions Committee on the CAR, established by Security Council Resolution 2127, listed three individuals—Bozizé, Adam³⁶², and Yakite³⁶³—to be subjected to sanctions imposed by Security Council Resolution 2134.³⁶⁴ A few days later, President Obama signed an Executive Order ordering unilateral sanctions against five individuals: the three individuals listed by the Sanctions

³⁵⁶ Committee on Foreign Relations, “Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session”; The White House, “President Obama’s Message to the People of the Central African Republic,” *Whitehouse.gov*, December 9, 2013, <https://obamawhitehouse.archives.gov/blog/2013/12/09/president-obamas-message-people-central-african-republic>.

³⁵⁷ Committee on Foreign Affairs, “The Central African Republic: From ‘Pre-Genocide’ to Genocide?,” Serial No. 113-180 (Committee on Foreign Affairs, May 1, 2014), <http://docs.house.gov/meetings/FA/FA16/20140501/102176/HHRG-113-FA16-Transcript-20140501.pdf>; Alexis Arieff, *Crisis in the Central African Republic* (Congressional Research Service, May 14, 2014), <http://fpc.state.gov/documents/organization/228739.pdf>; United States Mission to the United Nations, “FACT SHEET: U.S. Support for the Central African Republic,” April 9, 2014.

³⁵⁸ Bureau of Public Affairs Department Of State. The Office of Website Management, “US Delegation Supports Peace and Interreligious Cooperation in the Central African Republic,” Press Release|Media Note, *U.S. Department of State*, April 9, 2014, <http://www.state.gov/r/pa/prs/ps/2014/04/224615.htm>.

³⁵⁹ “The White House Office of the Press Secretary, FACT SHEET: US Assistance to the Central African Republic,” December 19, 2013, <https://www.whitehouse.gov/the-press-office/2013/12/19/fact-sheet-us-assistance-central-african-republic>; United States Mission to the United Nations, “FACT SHEET: U.S. Support for the Central African Republic.”

³⁶⁰ Security Council, “Resolution 2149 (2014) Adopted by the Security Council at Its 7153rd Meeting, on 10 April 2014,” April 10, 2014, [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2149\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2149(2014)); United Nations, MINUSCA, “Mandated to Protect Civilians and Support Transition Processes in the Central African Republic,” 2014, <http://www.un.org/en/peacekeeping/missions/minusca/>.

³⁶¹ Arieff, “Crisis in the Central African Republic,” May 14, 2014, 11; Cinq-Mars, “Too Little, Too Late: Failing to Prevent Atrocities in the Central African Republic,” 14; Committee on Foreign Relations, “Responding to the Humanitarian, Security and Governance Crisis in the Central African Republic. Hearing Before the Subcommittee on African Affairs of the Committee on Foreign Relations United States Senate One Hundred Thirteenth Congress First Session”.

³⁶² Nouredine Adam is associated with the Séléka; United Nations, “Security Council Committee Concerning Central African Republic Lists Three Individuals Subject to Measures Imposed by Resolution 2134 (2014),” May 9, 2014, <http://www.un.org/press/en/2014/sc11389.doc.htm>.

³⁶³ Levy Yakite is associated with anti-Balaka; *Ibid*.

³⁶⁴ United Nations, “Security Council Committee Concerning Central African Republic Lists Three Individuals Subject to Measures Imposed by Resolution 2134 (2014),” May 9, 2014, <http://www.un.org/press/en/2014/sc11389.doc.htm>; Arieff, “Crisis in the Central African Republic,” May 14, 2014.

Committee as well as Djotodia and Abdoulaye Miskine.³⁶⁵ The Security Council renewed the sanctions regime and extended the mandate of the Panel of Experts several times.³⁶⁶ Two individuals, Haroun Gaye³⁶⁷ and Eugène Ngaikosset,³⁶⁸ were later added to the sanctions regime.³⁶⁹

In May 2015, hundreds of Central Africans representing various groups within CAR's society came together in the Bangui Forum for National Reconciliation to identify recommendations for the CAR authorities and the international community to address the crisis. Among others, the recommendations covered a new disarmament, demobilization and rehabilitation agreement, and justice and reconciliation efforts.³⁷⁰

Nevertheless, the security situation further deteriorated after a clash in September 2015 between the Séléka and anti-Balaka which was triggered by the death of a young Muslim motorcycle taxi driver. Human Rights Watch documented at least 31 people killed between September 25 and October 1, 2015.³⁷¹ Following this episode of violence, presidential and parliamentary elections that were initially scheduled for October 18 were postponed. In the meantime, the UN peacekeeping was heavily criticized for failing to adequately address reports about abuse and exploitation incidents involving international peacekeeping troops that emerged in spring 2014.³⁷² The most recent reports of Human Rights Watch revealed at least 18 killings committed by peacekeepers between December 2013 and June 2015. Up until now, Human Rights Watch did not receive any indication that those responsible for these killings were held accountable.³⁷³

In spring 2016, the national election body announced Faustin Archange Touadera, a former prime minister under Bozizé, the winner of the largely peaceful elections held on February 14, 2016.³⁷⁴ The new president faces significant challenges such as implementing disarmament, demobilization, and reintegration programs.³⁷⁵ The situation in the CAR continues to be unstable. Armed groups still control

³⁶⁵ Abdoulaye Miskine is associated with the Séléka. United Nations, "Security Council Committee Concerning Central African Republic Lists Three Individuals Subject to Measures Imposed by Resolution 2134 (2014)," May 9, 2014, <http://www.un.org/press/en/2014/sc11389.doc.htm>; Ibid.

³⁶⁶ In January 2015 and in January 2016. Security Council, "Resolution 2196 (2015) Adopted by the Security Council at Its 7366th meeting, on 22 January 2015," January 22, 2015, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2196.pdf; Security Council, "Resolution 2262 (2016) Adopted by the Security Council at Its 7611th Meeting, on 27 January 2016," January 27, 2016, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2262.pdf.

³⁶⁷ Haroun Gaye is associated with the Séléka. Security Council, "Security Council Committee Concerning Central African Republic Lists Two Individuals Subject to Measures Imposed by Resolution 2196 (2015)," December 17, 2015, <http://www.un.org/press/en/2015/sc12169.doc.htm>.

³⁶⁸ Eugène Ngaikosset is associated with anti-Balaka. Ibid.

³⁶⁹ Ibid.

³⁷⁰ Amy Copley and Amadou Sy, "Five Takeaways from the Bangui Forum for National Reconciliation in the Central African Republic" (Brookings, May 15, 2015), <https://www.brookings.edu/blog/africa-in-focus/2015/05/15/five-takeaways-from-the-bangui-forum-for-national-reconciliation-in-the-central-african-republic/>.

³⁷¹ Human Rights Watch, "Central African Republic: New Spate of Senseless Deaths," October 22, 2015.

³⁷² Marie Deschamps, Hassan B. Jallow, and Yasmin Sooka, "Taking Action on Sexual Exploitation and Abuse by Peacekeepers: Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic" (United Nations, December 17, 2015), <http://www.un.org/News/dh/infocus/cenafrepublic/Independent-Review-Report.pdf>.

³⁷³ Human Rights Watch, "Central African Republic: Murder by Peacekeepers," June 7, 2016, <https://www.hrw.org/news/2016/06/07/central-african-republic-murder-peacekeepers>.

³⁷⁴ "Central African Republic: Touadera Wins Election," *Al Jazeera*, February 21, 2016, <http://www.aljazeera.com/news/2016/02/central-african-republic-touadera-wins-election-160221044730048.html>.

³⁷⁵ USIP, "The Current Situation in the Central African Republic", September 26, 2016, <http://www.usip.org/publications/the-current-situation-in-central-african-republic>.

vast parts of the country and citizens remain at risk of mass atrocities.³⁷⁶ In the meantime, the Lord's Resistance Army has increased its activities in eastern and southern CAR.³⁷⁷

Since it scaled up its engagement with the CAR, the United States “has remained heavily engaged.”³⁷⁸ In June, the US government expressed its deep concern about the recurrence of violence, condemned attacks against humanitarian organizations and stressed “the fundamental need for all actors to work together to promote peace and prosperity” in the CAR.³⁷⁹ It further reiterated its commitment to the CAR government, MINUSCA, and the people of the CAR to help restore order.³⁸⁰ A few months later the Assistant Secretary for CSO, David Robinson, travelled to the CAR to assess the work of local and international actors aimed at reducing the probability of atrocity violence and operationalizing a “complex demobilization and reintegration plan”.³⁸¹

Conclusion

After Obama's statement that the prevention of mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States, the situation of the CAR presented one of the first real test cases for his administration and the APB to demonstrate such a commitment. This brief analysis highlighted a shift of the US policy toward the CAR. After a slow start in late 2012 and throughout 2013, the United States made a comprehensive effort starting at the end of 2013 to respond to atrocities in the CAR. The APB played an important and constructive role in elevating the crisis and designing the various strategies. The shift toward a swift response can also in part be attributed to Power who used her position to bring the issues to the attention of the UN.³⁸²

Nevertheless, the APB “hasn't been a silver bullet to end the crisis in the CAR” as noted by ThinkProgress.³⁸³ Despite clear warning signs of a looming crisis and early involvement of the APB, major efforts only began as of December 2013, one year after the launch of Séléka's insurgency. In his report on the work of the APB, Finkel suggested that the absence of a diplomatic mission on the ground between late December 2012 and September 2014, and the understanding that France, as CAR's former colonial power, “takes the lead”, may have played a role in US' late response.³⁸⁴ The latter point was reiterated by Charles Brown who noted that the “CAR was not viewed as part of the US sphere of influence, it was viewed as a French area of influence.”³⁸⁵ Furthermore, the APB seemed to be unable to bring the CAR to the attention of those within the US government working on African affairs.³⁸⁶

³⁷⁶ Global Centre For the Responsibility to Protect, “Central African Republic,” October 19, 2016, http://www.globalr2p.org/regions/central_african_republic.

³⁷⁷ Ibid.

³⁷⁸ Brown, “The Obama Administration and the Struggle to Prevent Atrocities in the Central African Republic December 2012 – September 2014,” 57.

³⁷⁹ US Department of State, “Outbreak of Violence in the Central African Republic,” June 21, 2016, <http://www.state.gov/r/pa/prs/ps/2016/06/258962.htm>.

³⁸⁰ Ibid.

³⁸¹ US Department of State, “Central African Republic, Djibouti, Somalia, and Uganda,” October 14, 2016, <http://www.state.gov/r/pa/prs/ps/2016/10/263157.htm>.

³⁸² Charles J. Brown, interview, published on the website The Hague Institute for Global Justice, October 14 2015, <http://www.thehagueinstituteforglobaljustice.org/latest-insights/latest-insights/news-brief/qa-with-charles-j-brown-on-atrocity-prevention/>.

³⁸³ Hayes Brown, “The Inside Story Of How The US Acted To Prevent Another Rwanda,” *ThinkProgress*, December, 2013, <http://thinkprogress.org/security/2013/12/20/3054321/inside-story-acted-prevent-rwanda/>.

³⁸⁴ James P. Finkel, “Atrocity Prevention at the Crossroads: Assessing the President's Atrocity Prevention Board After Two Years,” 6.

³⁸⁵ Charles J. Brown, interview, published on the website The Hague Institute for Global Justice; Brown, “The Obama Administration and the Struggle to Prevent Atrocities in the Central African Republic December 2012 – September 2014.”

³⁸⁶ Ibid.

In addition, US efforts were primarily focused on imminent concerns: alleviating the suffering caused by the Séléka and anti-balaka, and mitigating religious tensions. Less attention was given to the country's internal dysfunction and drivers of the conflict. The latest crisis was regarded as a sectarian conflict as the warring parties were respectively targeting Christians and Muslims. However, both the Séléka and anti-balaka were reportedly not so much driven by religion. Rather, they were motivated either by long-term grievances against, and frustrations with, the government, or else revenge, as well as economic opportunities.³⁸⁷ Thus, the skewed distribution of resources and grievances of marginalized groups appear to be the drivers of the latest crisis, rather than religion.³⁸⁸ A better understanding of the local realities in the CAR may have prompted a more upstream conflict prevention approach and long-term engagement, rather than a short-term reactive response through emergency relief.³⁸⁹

If not addressed appropriately, internal dynamics and drivers can quickly escalate into large scale violence again. This in turn could also have far-reaching implications for the wider region, in particular for those countries that are themselves struggling with conflict and instability.³⁹⁰

³⁸⁷ Kasper Agger, "Behind the Headlines: Drivers of Violence in the Central African Republic" (Enough Project, May 2014), 6, <http://www.enoughproject.org/files/CAR%20Report%20-%20Behind%20the%20Headlines%205.1.14.pdf>.

³⁸⁸ Genta Akasaki, Emilie Ballestraz, and Matel Sow, "What Went Wrong in the Central African Republic? International Engagement and the Failure to Think Conflict Prevention" (Geneva Peacebuilding Platform, 2015), 4-5.

³⁸⁹ Akasaki, Ballestraz, and Sow, "What Went Wrong in the Central African Republic? International Engagement and the Failure to Think Conflict Prevention," 7-8; Saferworld, "Employing 'prevention' to Prevent Mass Atrocities," February 2014, <http://www.saferworld.org.uk/news-and-views/comment/123-employing-apreventiona-to-prevent-mass-atrocities>.

³⁹⁰ Arieff, "Crisis in the Central African Republic," May 14, 2014, 13.

Democratic Republic of the Congo

Conflict and mass atrocities have taken place in the DRC since long before the Obama administration took office. While casualty numbers of the conflict are disputed, media organizations and NGOs count between 3 and up to 5 million deaths over the past 15 years.³⁹¹ Hundreds of thousands of civilians have been displaced, abducted or tortured.³⁹² Peace agreements have been broken repeatedly. A UN peacekeeping mission (initially MONUC, since 2010 MONUSCO) has been stationed in the country since 1999. Since 2008, one of the mission's main tasks has been the protection of civilians. It has struggled, however, to reliably protect civilians from atrocity crimes in an area almost twice the size of France.³⁹³

Similar to the crises in Sudan and South Sudan, the DRC has not suffered from a lack of attention in the United States. Since the mid-2000s, a growing group of advocacy organizations, student chapters, and Hollywood actors has put pressure on the US government to do more to prevent atrocities in the country.³⁹⁴ Key figures in both Obama administrations, including Susan Rice and Gayle Smith, have been familiar with the conflict. President Obama himself had worked on the DRC while he was in the Senate. He advocated for a 2006 law that called for the appointment of a US special envoy for the Great Lakes Region, among other measures.³⁹⁵

For the first three years after Obama took office, it is hard to identify a dramatic change in US policy toward the DRC compared to previous administrations. Since late 2012, the Obama administration made the prevention of atrocities in the country a priority that was pursued largely if not exclusively through the existing inter-agency policy-making apparatus, with no evidence of a particular role of the APB. It did so by supporting an overall regional strategy that was agreed upon with the DRC, its neighboring countries, and the UN. After a brief overview of US policy during the first three years of the Obama administration, the main part of this chapter will therefore examine US efforts on the DRC since 2012. We will argue that within the realistic limits and possibilities of exerting influence, the DRC is a case in which US policymakers made a strong effort to improve the situation for civilians in the country. The impact of these policies has been limited, however, with the DRC heading toward an escalation of violence around President Kabila's plans to run for a third term in office. The crisis in the DRC, in the end, illustrates the limits of US influence on complex conflicts and situations of mass atrocities.

³⁹¹ Mortality numbers from the DRC conflict are heavily debated. Human Security Report Project, "Report Reveals That Human Costs of War Have Shrank Dramatically," (January 20, 2010), http://hsrproject.org/press-room/latest-news/latest-news-view/10-01-20/Report_Reveals_that_Human_Costs_of_War_Have_Shrank_Dramatically.aspx, 2015; Geoffrey York, "Study of War's Human Cost Sparks Conflict of Its Own," *The Globe and Mail*, February 9, 2010, <http://www.theglobeandmail.com/news/world/study-of-wars-human-cost-sparks-a-conflict-of-its-own/article4262585/>.

³⁹² Cf. Benjamin Coghlan et al., "Mortality in the Democratic Republic of the Congo: An Ongoing Crisis," ed. International Rescue Committee (New York, 2008).

³⁹³ Louise Arbour, "Open Letter to the United Nations Security Council on the Situation in the Democratic Republic of Congo," *International Crisis Group* (June 11 2012), <http://www.crisisgroup.org/en/publication-type/media-releases/2012/africa/dr-congo-open-letter-to-unscc.aspx>; Robyn Dixon, "UN Force in Congo, Monusco, Criticized as Ineffective," *Los Angeles Times*, December 22, 2012), <http://articles.latimes.com/2012/dec/22/world/la-fg-un-congo-20121223>.

³⁹⁴ Some of the largest advocacy organizations focusing on the DRC include Global Witness, the Enough Project and Resolve. Congress and an array of NGOs on the DRC are at times also criticized for overly simplifying the conflict.

³⁹⁵ 109th Congress, "Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006," (Washington, DC, 2006).

Background on the Crisis in the DRC and US Policy Before 2012

Since colonial times, civilians have borne the brunt of conflict in the Congo.³⁹⁶ Disputes on land distribution, migration, and civil rights are key causes of the ongoing violence.³⁹⁷ In addition, the events in the aftermath of the Rwandan genocide in 1994 are important in understanding the current situation in the Great Lakes region.

When Tutsi rebels—led by today’s President of Rwanda, Paul Kagame—ended the genocide with their advance in the summer of 1994, almost two million members of the Hutu ethnic group fled to eastern Congo, including many of the key perpetrators of the mass killings. The presence of the “genocidaires” and attacks on Tutsis in eastern Congo has repeatedly served as grounds for Rwandan and Ugandan military excursions into the region. At the same time, since the mid-1990s, various Congolese rebel groups have made military attempts to take over the government in Kinshasa. Dozens of armed groups from the DRC, Rwanda and Uganda operate in eastern Congo today. Trading in rare minerals such as cobalt, coltan and gold has fueled such groups, though others finance themselves through exploiting charcoal, illegal taxation or other methods.³⁹⁸

Since the DRC’s independence in 1960, the US has been actively involved in the Congo. For decades, it supported the authoritarian and corrupt regime of President Mobuto, who was ousted in 1997.³⁹⁹ During and after the devastating regional “Congo Wars” between 1996 and 2003, the engagement of the US advocacy community grew steadily. By the time the Obama administration took office, expectations by advocacy groups for a significantly different and more effective US engagement toward the DRC were high.

During the first three years of the Obama administration, some of these expectations were met: at the end of 2011, the Enough Project, one of the biggest lobby groups on the DRC, praised the “unprecedented [...] attention” on the country including that given by the Secretary of State.⁴⁰⁰ In August 2009, Secretary Clinton became the most senior US official to visit the DRC.⁴⁰¹ US Ambassador-at-Large for War Crimes Issues Stephen Rapp followed her trip three months later to press leading Congolese politicians to hold to account army generals accused of war crimes.⁴⁰² Other new US initiatives under the first Obama administration included Clinton’s \$17 million program against sexual violence, training for justice sector reforms in eastern Congo and the development of a strategy on the

³⁹⁶ For a general introduction on the conflicts, see for example Gerard Prunier, *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe* (Oxford: Oxford University Press, 2011); Jason Stearns, *Dancing in the Glory of Monsters: The Collapse of the Congo and the Great War of Africa* (New York: Perseus Books Group, 2011).

³⁹⁷ See Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton: Princeton University Press, 2002), 185-233.

³⁹⁸ International Crisis Group, "DR Congo Conflict History," (February, 2010), <http://www.crisisgroup.org/fr/publication-type/key-issues/Research%20Resources/Conflict%20Histories/DR%20Congo%20Conflict%20History.aspx>.

³⁹⁹ Ibid. For a detailed overview on US history in the DRC see Pierre Englebert, "Life Support or Assisted Suicide? Dilemmas of US Policy Towards the Democratic Republic of Congo," in *Short of the Goal: US Policy and Poorly Performing States*, ed. Nancy Birdsall, Milan Vaishnav, and Robert L. Ayres (Washington, DC: Brookings Institution Press, 2006).

⁴⁰⁰ Aaron Hall and Sasha Lezhnev, "US Congo Policy: Matching Deeds to Words to End the World’s Deadliest War," *The Enough Project*, November 4, 2011, <http://www.enoughproject.org/files/US-Congo-Policy.pdf>, last accessed on January 4, 2013.

⁴⁰¹ Ibid., 1.

⁴⁰² US Embassy Kinshasa, "War Crimes Ambassador Rapp Visits DRC; Emphasizes Need for Accountability," *Wikileaks*, November 30, 2009, <http://cablegatesearch.net/cable.php?id=09KINSHASA1042&q=abuses%20drc%20kabila%20leaders%20military>, last accessed on January 17, 2013.

connection between conflict minerals and human rights violations in March 2011.⁴⁰³ At the UN, Susan Rice advocated for stronger language in MONUSCO's mandate on the protection of civilians.⁴⁰⁴ NGOs like the Enough Project also praised the administration for supporting section 1502 of the Dodd-Frank financial reform act in mid-2010, which required US companies to report on due diligence producers regarding minerals that originated from the Congo.⁴⁰⁵

In other areas, however, the Obama administration fell short. It took Obama until June 2013 to appoint a high level special envoy for the Great Lakes region, even though the President himself had advocated for such an appointment in Congress in 2006. More significantly, representatives from 15 NGOs, including the Enough Project and the Global Centre for the Responsibility to Protect, criticized the administration's efforts for not seeming to follow a coherent strategy. One of their main concerns was the continued US support for Rwanda whose influence undermined many US and UN attempts to stabilize the Eastern DRC and protect civilians there.⁴⁰⁶ Since April 2012, the "M23" rebel group had made gains in eastern Congo and was reported to have committed atrocities. In June 2012, a report by the "UN Group of Experts on the DRC" presented evidence that the Rwandan government supported the M23 by providing financial help and weapons.⁴⁰⁷ Human rights organizations such as Global Witness, the Open Society Foundation or Human Rights Watch sharply criticized the administration for not putting enough pressure on the Rwandan government to stop its support to the M23.⁴⁰⁸ In particular, Susan Rice came under pressure for protecting the government of Paul Kagame at the UN.⁴⁰⁹

⁴⁰³ Nicolas Cook, "Conflict Minerals in Central Africa: US And International Responses," ed. Congressional Research Service (Congressional Research Service, 2012), 1.

⁴⁰⁴ US Mission to the United Nations, "Rice and Kouchner Discuss Afghanistan, Guinea, Eritrea and DRC," *Wikileaks*, December 23, 2009, <http://cablegatesearch.net/cable.php?id=09USUNNEWYORK1153&q=civilian%20monuc%20protection>; Hall and Lezhnev, "US Congo Policy: Matching Deeds to Words to End the World's Deadliest War."

⁴⁰⁵ The Enough Project, "Understanding Conflict Minerals Provisions," (2010), <http://www.enoughproject.org/special-topics/understanding-conflict-minerals-provisions>, last accessed on June 10, 2015. The effects of the Dodd-Frank legislation have been debated, however, with some scholars and Congo-experts arguing that the legislation has led to a worsening situation for mining in the DRC. See e.g. Sudarsan Raghavan, "How a Well-Intentioned US Law Left Congolese Miners Jobless," *The Washington Post*, November 30, 2014, http://www.washingtonpost.com/world/africa/how-a-well-intentioned-us-law-left-congolese-miners-jobless/2014/11/30/14b5924e-69d3-11e4-9fb4-a622dae742a2_story.html; Lauren Wolfe, "How Dodd-Frank Is Failing Congo," *Foreign Policy*, February 2, 2015, <http://foreignpolicy.com/2015/02/02/how-dodd-frank-is-failing-congo-mining-conflict-minerals/>.

⁴⁰⁶ The Enough Project, "Joint NGO Letter on Congo Crisis to President Obama," December 10, 2012, <http://www.enoughproject.org/reports/joint-ngo-letter-congo-crisis-president-obama>.

⁴⁰⁷ UN Security Council, "Letter Dated 26 June 2012 from the Chair of the Security Council Committee Established Pursuant to Resolution 1533 (2004) Concerning the Democratic Republic of the Congo Addressed to the President of the Security Council," (New York, 2012); Colum Lynch, "High-Level Rwandan Military Officers Tied to Congo Mutiny," *Foreign Policy*, June 27, 2012, http://turtlebay.foreignpolicy.com/posts/2012/06/27/exclusive_high_level_rwandan_military_officers_tied_congo_mutiny.

⁴⁰⁸ Chris McGreal, "Obama Accused of Failed Policy over Rwanda's Support of Rebel Group," *The Guardian* December 11, 2012, <http://www.guardian.co.uk/world/2012/dec/11/obama-rwanda-sanctions-congo>.

⁴⁰⁹ Colum Lynch, "How Rice Dialed Down the Pressure on Rwanda," *Foreign Policy*, December 3, 2012, http://turtlebay.foreignpolicy.com/posts/2012/12/03/susan_rice_dialed_down_the_pressure_on_rwanda; Human Rights Watch, "DR Congo: US Should Urge Rwanda to End M23 Support," November 20, 2012, <http://www.hrw.org/news/2012/11/20/dr-congo-us-should-urge-rwanda-end-m23-support>. For a critical perspective on the expert report, see Phil Clark, "Why the Congo Experts Need More Scrutiny," *The Huffington Post*, February 1, 2013, http://www.huffingtonpost.co.uk/dr-phil-clark/congo-experts-need-more-scrutiny_b_2391470.html; Helene Cooper, "UN Ambassador Questioned on US Role in Congo Violence," *The New York Times*, December 9, 2012, <http://www.nytimes.com/2012/12/10/world/un-envoy-rice-faulted-for-rwanda-tie-in-congo-conflict.html?pagewanted=all>; UN Security Council, "Resolution 2076 " (2012).

US Policy Since the End of 2012

Toward the end of 2012, US policy began to change. The rapid advance of the M23 and the take-over of Goma by the rebel group in November 2012 provided the final impulse for a change in the international community's strategy on the DRC.⁴¹⁰ After three months of negotiations that involved the International Conference on the Great Lakes Region, the Southern African Development Community (SADC), AU and the UN, the DRC, Rwanda, Uganda, and eight other countries in the region signed the "Peace, Security and Cooperation Framework for the Democratic Republic of Congo."⁴¹¹ The Framework Agreement called for political reforms in the Congo, an end to external interference by neighboring countries, and a "renewed commitment" by the international community to help establish peace in the DRC.⁴¹² In March 2013, the Security Council mandated a "Force Intervention Brigade" as part of MONUSCO which was tasked with "neutralizing" armed groups in eastern Congo. South Africa, Tanzania, and Malawi contributed 3000 troops to the brigade.⁴¹³ In the fall of 2013, the concerted regional effort supported by the UN force resulted in the defeat of the M23 rebel group.

The United States played an important role in supporting the passing of the Framework Agreement. Since the end of 2012, it increased its diplomatic engagement, pressured Rwanda and other regional stakeholders to implement the agreement, and strongly advocated for the intervention brigade at the UN.⁴¹⁴

According to a state department official, US engagement was instrumental in ensuring that the intervention brigade would be part of the MONUSCO. Initially, SADC countries wanted to create a separate "neutral intervention force" made up of soldiers from the region. SADC looked to the United States, among others, to fund the operation. The Obama administration welcomed the idea of more offensively targeting armed groups, but US officials were convinced that human rights oversight, pre-deployment training, and standards of behavior of military personnel could be better ensured if the forces were part of the UN mission. Using the regional initiative to convince skeptical troop contributing countries, the United States went on to push for Security Council Resolution 2098 that included the mandate for the intervention brigade.⁴¹⁵

At the same time, in late 2012 and early 2013, the United States increased its diplomatic engagement in the region. Starting cautiously at first in mid-2012, the administration cut a small part of its military assistance to Rwanda, thereby also emboldening European donors to suspend budgetary support to the Kagame government.⁴¹⁶ In December 2012, President Obama called Paul Kagame to emphasize that Rwanda needed to stop supporting the M23.⁴¹⁷ Jason Stearns, a leading Congo expert, suggests that US pressure on Rwanda was an important factor in defeating the M23: "In the end, with a stern phone call from US President Barack Obama in December 2012 perhaps forming the proverbial last

⁴¹⁰ UN News Centre, "UN Relief Agencies Working 'around the Clock' to Assist Displaced in DR Congo," November 27, 2012, <http://www.un.org/apps/news/story.asp?NewsID=43609#.UPkshXkXX6Q>.

⁴¹¹ AGO et al., "Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region," (Addis Ababa, 2013).

⁴¹² *Ibid.*, 3.

⁴¹³ UN Security Council, "Resolution 2098," ed. United Nations (New York, 2013).

⁴¹⁴ Before the Senate Foreign Relations Committee, Special Envoy Feingold said: "We strongly supported this more explicit Chapter VII mandate in an effort to increase MONUSCO's capability to protect civilians by more robustly targeting armed groups." Russell D. Feingold, "Prospects for Peace in the Democratic Republic of Congo and Great Lakes Region," *US Department of State, Testimony before the Senate Foreign Relations Committee* (February 26 2014), http://www.state.gov/s/greatlakes_drc/releases/2014/222630.htm, last accessed on April 13, 2015.

⁴¹⁵ US official, interview, March 19, 2015, Washington DC.

⁴¹⁶ Alexis Arieff, "Democratic Republic of the Congo: Background and US Policy," ed. Congressional Research Service (Washington, DC, 2014), 14.

⁴¹⁷ The White House, "Readout of the President's Call with President Kagame," (December 18, 2012), <https://obamawhitehouse.archives.gov/the-press-office/2012/12/18/readout-president-s-call-president-kagame>.

straw, security officials in Kigali saw the writing on the wall; in 2013, they pulled their support from the M23 rebellion, forcing the insurgency to collapse.”⁴¹⁸

With US support, the Security Council’s DRC Sanctions Committee added both the M23 and the Forces Démocratiques de Libération du Rwanda (FDLR) rebel groups to its list for travel bans and asset freezes on December 31, 2012. Three days later the Treasury Department announced its designation of both groups for sanctions, including asset freezes.⁴¹⁹

In June 2013, President Obama appointed Feingold, long-term former US senator from Wisconsin, as his Special Envoy to the Great Lakes region. In close coordination with the UN Special Envoy for the Great Lakes, the African Union, MONUSCO’s leadership, and other partners, Feingold worked on pressuring DRC leaders and regional powers to comply with the Regional Framework Agreement. Feingold’s appointment was seen as an important indicator that the situation in the DRC was a priority for the US government: “From a bureaucratic point of view, such an appointment is a key thing,” argued a US official.⁴²⁰ Similarly, Kerry demonstrated the attention being given to the region by key leaders of the administration when he chaired a meeting of the Security Council on the Great Lakes region in July 2013. Peace in the region was a “high level priority” for him and President Obama, Kerry emphasized in the meeting.⁴²¹

Throughout 2013, the United States played a “key role in facilitating the peace process with the M23,”⁴²² according to the Congressional Research Service, including by supporting the Kampala Dialogue between the DRC government and the M23 on their disarmament, demobilization, and reintegration. According to Feingold, the US role was crucial in ensuring that the agreement did not include a blanket amnesty for mass atrocities, but initiated the creation of mixed courts in the DRC to try war crimes and crimes against humanity. The courts were supposed to consist of several chambers in selected provincial appeals courts staffed with international and national staff.⁴²³

Both the secretary of state and Stephen Rapp were involved in person or on the phone to support the Kampala dialogue which concluded with an agreement between the DRC and the M23 in December 2013.⁴²⁴ Since early 2014, the US diplomatic strategy has focused on calling for the implementation of the agreed measures, in particular the demobilization of the M23 and the continued adherence to the Framework Agreement.⁴²⁵ The United States pressured Kinshasa and MONUSCO to go after other rebel groups, in particular the FDLR and the Allied Democratic Forces (ADF), but with limited success.⁴²⁶

In addition to and in support of its diplomatic engagement with the DRC, over the last few years, the United States has also invested a significant amount of money in the country. Between 2010 and 2014 alone, the administration annually provided between \$200 and \$300 million in bilateral aid for health,

⁴¹⁸ Jason Stearns, "From Bullets to Ballots: The Next Battle for Congo's Future," *World Politics Review*, February 10, 2015, <http://www.worldpoliticsreview.com/articles/15053/from-bullets-to-ballots-the-next-battle-for-congo-s-future>.

⁴¹⁹ US Department of the Treasury, "Treasury Department Designates Militant Groups in the DRC," (March, 2013), <http://www.treasury.gov/press-center/press-releases/Pages/tg1815.aspx>.

⁴²⁰ US official, interview, March 19, 2015, Washington DC.

⁴²¹ UN Security Council, "Meeting Records, 7011th Meeting," ed. UN Security Council (New York, 2013), 3.

⁴²² Arieff, "Democratic Republic of the Congo: Background and US Policy.", Summary.

⁴²³ Global Policy Forum, "DR Congo: Pass Mixed Court Law," April 17, 2011, <https://www.globalpolicy.org/international-justice/the-international-criminal-court/icc-investigations/50579-dr-congo-pass-mixed-court-law.html>.

⁴²⁴ Feingold, "Prospects for Peace in the Democratic Republic of Congo and Great Lakes Region."

⁴²⁵ Ibid.

⁴²⁶ International Crisis Group, "Congo: Ending the Status Quo," in *Africa Briefing N°107*, ed. International Crisis Group (Nairobi/Brussels, 2014), 12.

democracy promotion, good governance, stabilization, and conflict resolution efforts in the east, and funds to “encoura[ge] military professionalism,” among other measures.⁴²⁷ Through its regular peacekeeping contributions, the United States pays between \$400 and \$600 million in support to MONUSCO every year.⁴²⁸ While the United States bears a significant part of the costs of the mission, it has provided only between one and four US military personnel to MONUSCO at any given time over the past few years.⁴²⁹ From 2010 to 2013, AFRICOM used State Department funding to train parts of the DRC military and police forces:⁴³⁰ a special “model” battalion received training, nonlethal equipment, and advice, including on human rights and the prevention of gender-based violence. The assistance was stopped, however, in March 2013, when it became clear that members of the Congolese battalion had been involved in abuses of civilians near Goma in 2012.⁴³¹

Diplomatically, since 2014, US diplomats were focused on advocating for governance reforms and credible regional elections in 2015 and presidential elections in 2016. Kerry travelled to Kinshasa in May 2014 to personally discuss the elections with Kabila and his foreign minister. He also pressured Kabila to defeat the FDLR.⁴³² From mid-2015, Perriello and other high-level administration officials were engaged in pushing for a transfer of power that involved Kabila stepping down in 2016 as constitutionally mandated. While the United States supported mediation efforts between Kabila, his party, and opposition parties it also, according to Congo expert Jason Stearns, “played a ringleader role among donors in pushing for sanctions and applying pressure on the president.”⁴³³

In September 2016, 50 people were killed in clashes between government security forces and protesters,⁴³⁴ following which the administration imposed personal sanctions on two generals that had been involved in suppressing protests against Kabila.⁴³⁵ Three months before, it had already sanctioned the police commissioner of Kinshasa.⁴³⁶

By late 2016, however, the United States and its partners had failed in their attempts to pressure Kabila into stepping down. African leaders had endorsed a 16-month delay for the presidential election to gain more time for negotiations, but more violent clashes between the ruling parties supporters and the opposition were increasingly likely.⁴³⁷ “If this gets settled in the streets, we think that would be a disaster”, Perriello told Congress in November 2016,⁴³⁸ referring to the risk of a new large scale regional crisis like the Congo wars.

⁴²⁷ Arieff, "Democratic Republic of the Congo: Background and Us Policy," 15.

⁴²⁸ Ibid.

⁴²⁹ The statistics for each year are available at the websites of the Department of Peacekeeping Operations (DPKO), which lists country contributions per mission per month:
<http://www.un.org/en/peacekeeping/resources/statistics/contributors.shtml>.

⁴³⁰ Cheryl Pellerin, "Official: Dod Aid to Congolese Army Bolsters US Security," *US Department of Defense*, December 19, 2012, <http://www.defense.gov/News/NewsArticle.aspx?ID=118839>.

⁴³¹ Arieff, "Democratic Republic of the Congo: Background and US Policy," 16.

⁴³² Russell D. Feingold, "Briefing on the DRC," *US Department of State, Special Briefing*, May 4, 2014, http://www.state.gov/s/greatlakes_drc/releases/2014/225588.htm.

⁴³³ Robbie Gramer, "Defusing a Ticking Time Bomb in Kinshasa," *Foreign Policy* November 30, 2016, <http://foreignpolicy.com/2016/11/30/can-a-ticking-time-bomb-in-kinshasa-be-defused-democratic-republic-of-congo-joseph-kabila-moise-katumbi-election/>; William Clowes, "Kabila's Trump Card," *Foreign Policy* November 17, 2016, <http://foreignpolicy.com/2016/11/17/kabilas-trump-card-what-donald-trump-means-for-africa-congo/>.

⁴³⁴ Gramer, "Defusing a Ticking Time Bomb in Kinshasa."

⁴³⁵ Clowes, "Kabila's Trump Card."

⁴³⁶ Jason Burke, "US Imposes Sanctions on Top DRC Officials after Election Delay," *The Guardian*, September 28, 2016, <https://www.theguardian.com/world/2016/sep/28/us-sanctions-drc-officials-democratic-republic-congo>.

⁴³⁷ Richard Moncrieff, "African Powers Must Support Democracy in DR Congo," *International Crisis Group*, October 28, 2016, <https://www.crisisgroup.org/africa/central-africa/democratic-republic-congo/african-powers-must-support-democracy-dr-congo>.

⁴³⁸ Gramer, "Defusing a Ticking Time Bomb in Kinshasa."

Conclusion: the Limits of US Influence

On December 10, 2012, 14 advocacy organizations sent a letter to President Obama asking him to step up his administration's efforts in the DRC. What was needed for progress, they argued, was the appointment of a Presidential Envoy, US support for UN sanctions, and more pressure on Rwanda to stop its support to the M23.⁴³⁹ A month earlier, the International Crisis Group had also called for "coordinated and unequivocal pressure on the Congolese government and the M23 rebel movement, as well as the latter's external supporters."⁴⁴⁰

One year later, the United States had taken all these measures. It had been central in bringing about the regional Framework Agreement. The United States advocated for its implementation, imposed additional sanctions, worked on strengthening MONUSCO's mandate and pressured Rwanda into reducing its interference in eastern Congo. A US special envoy, the secretary of state and the president himself worked to end the conflict and atrocities. Throughout these efforts, the APB did not play a significant role in influencing US policy. But according to a US official working on the DRC, PSD-10 and the related high-level attention to the topic of mass atrocity prevention in the administration "ma[de] things easier, particularly inside the State Department bureaucracy."⁴⁴¹

Had this chapter been written in 2012, the assessment of US policy would have lamented a lack of US political will to really engage in the DRC.⁴⁴² In late 2016, however, it is hard to criticize the administration for a lack of trying. It did make the prevention of atrocities a priority of the administration and employed plausible measures to address the ongoing violence. Experts like Jason Stearns attested to "real progress" for the constellation of US and UN special envoys and the regional peace strategy, in particular in decreasing Rwandan interference.⁴⁴³ Stearns also praised the appointment of Feingold as "particularly important."⁴⁴⁴

Almost four years after the signing of the Framework Agreement and despite the success in the fight against the M23, however, the situation for civilians in eastern Congo has not significantly improved. US (like other international) influence in the DRC is constrained by a variety of factors including the lack of capacity and commitment to reform within the country's leadership, and the challenges of coordinating the wide range of other players in the country from key African neighbors and the AU to China and the European Union.⁴⁴⁵ Particularly with regard to the potential for violence around the elections, the reform of the security sector, and decentralization, there is simply a limit to any outside influence on Congolese elites. As Stearns argues, "it appears that the real battle over Kabila's future, and the future of Congolese democracy, lies largely in the hands of local elites and the protesters who have to brave barrages of bullets to assert their rights."⁴⁴⁶ Other factors influencing the situation of civilians in the DRC include the effectiveness of UN peacekeepers and the willingness of troop contributing countries to follow through on fighting armed groups, the political will of neighboring countries to adhere to the Framework Agreement, and the developments of the conflicts in the CAR and South Sudan, among others.⁴⁴⁷ The United States is trying to address these factors. Between 2014 and 2016 there might

⁴³⁹ The Enough Project, "Joint Ngo Letter on Congo Crisis to President Obama."

⁴⁴⁰ International Crisis Group, "DR Congo's Goma: Avoiding a New Regional War," November 20, 2012, <http://www.crisisgroup.org/en/publication-type/alerts/2012/dr-congo-s-goma-avoiding-a-new-regional-war.aspx>.

⁴⁴¹ US official, interview, March 19, 2015, Washington DC.

⁴⁴² In fact, in a study on the Obama Administration's atrocity prevention agenda written in late 2012, Philipp Rotmann and Sarah Brockmeier wrote just that. See Sarah Brockmeier, Gerrit Kurtz, and Philipp Rotmann, "Schutz Und Verantwortung: Über Die Us-Außenpolitik Zur Verhinderung Von Gräueltaten," (2013), 84f.

⁴⁴³ Stearns, "From Bullets to Ballots: The Next Battle for Congo's Future."

⁴⁴⁴ Ibid.

⁴⁴⁵ Arieff, "Democratic Republic of the Congo: Background and US Policy," 17.

⁴⁴⁶ Stearns, "From Bullets to Ballots: The Next Battle for Congo's Future."

⁴⁴⁷ Arieff, "Democratic Republic of the Congo: Background and US Policy."

have been more that the United States could have done. For example, advocacy organizations highlighted that one factor that may have hindered diplomatic engagement with the DRC government was the lack of a special envoy for the Great Lakes region between February and July 2015, when Perriello replaced Feingold.⁴⁴⁸ Others such as the Enough Project argued the United States should have imposed sanctions earlier and on more people.⁴⁴⁹

But even if the administration had installed a special envoy in place earlier or had sanctioned a few more generals, it is doubtful that developments in the DRC would have played out very differently. None of the efforts by the United States and the wider international community have significantly improved the security of Congolese civilians so far.⁴⁵⁰ As of late 2016, President Kabila has not budged on his intention to run for a third term, with violent clashes in Kinshasa on the rise. At best, a strong US policy on the DRC and high-level attention might have contributed to reducing the risks posed to civilians by the M23 in its particular area in 2013. Overall, however, the case of the DRC shows that even a sincere and robust effort by the United States to address mass atrocities can be very limited in the degree of change it can affect.

⁴⁴⁸ John Kerry, "On the Appointment of Thomas Perriello as Special Envoy for the Great Lakes Region of Africa," *Department of State*, July 6, 2015, <http://www.state.gov/secretary/remarks/2015/07/244620.htm>; The Enough Project Team, "Congolese Members of Parliament to Obama: Appoint a Senior-Level US Envoy to Congo Now," *Enough Project*, June 1, 2015, <http://www.enoughproject.org/blogs/congolese-members-parliament-obama-appoint-senior-level-us-envoy-congo-now>.

⁴⁴⁹ Tom O'Bryan, "Too Little, Too Late," *Foreign Policy*, November 29, 2016, <http://foreignpolicy.com/2016/11/29/too-little-too-late-drc-congo-kabila/>; "Sanctions are Starting to Work in the DRC and Must be Expanded," August 8, 2016, <http://africademocraticfuture.org/sanctions-starting-work-drc-must-expanded/>; Brad Brooks-Rubin, Holly Dranginis, and Sasha Lezhnev, "Targeted Sanctions and Beyond: Financial and Judicial Tools for the US And Europe to Help Enable Timely Elections in the Democratic Republic of the Congo," *The Enough Project*, September 7, 2016, <http://www.enoughproject.org/reports/targeted-sanctions-and-beyond-financial-and-judicial-tools-us-and-europe-help-enable-timely->

⁴⁵⁰ Oxfam, "'Secure Insecurity'- the Continuing Abuse of Civilians in Eastern DRC as the State Extends Its Control," (Oxford: Oxfam, 2015).

Iraq

In 2014, three years after the United States withdrew active combat troops from Iraq, the United States initiated a series of airstrikes against ISIS (variously known as ISIS, ISIL, IS, or Daesh), a non-state group, that was threatening a minority group with genocide and other atrocities. With consent from the Iraqi government, the United States responded militarily to the killing and displacing of thousands of Yezidi civilians onto Mt. Sinjar by ISIS, where they were at risk from both continued ISIS attacks and exposure to natural elements. Dropping life preserving aid where the Yezidis could reach it and bombing ISIS militia who threatened the Yezidis, the US action was an atrocity response operation aimed at protecting innocent civilians. The US-led coalition bombing of ISIS continues as of late 2016, even as the conflicts in Iraq and Syria have become more complicated with the involvement of Russia, Iran, Hezbollah, and other actors.

There have been few, if any, countries in which the United States has been more involved militarily, diplomatically, and humanitarily than Iraq in recent years. This case study focuses on actions the United States has taken to avoid and end mass atrocities committed by ISIS while also discussing the abuses committed by the Iraqi government, which the United States supported, and affiliated militia. We briefly discuss the US policy from 2009 to 2013, and then focus on the rise of ISIS and the response to them in 2014. During the first eight months of 2014 leading up to the US military intervention, as ISIS swept into and across Iraq from Syria, the UN reports that more than 8,000 civilians were killed in Iraq and approximated that twice that number were injured.⁴⁵¹ In the whole of 2014, the UN reports that there were more than 35,000 civilian casualties, of whom more than one third was killed.⁴⁵² We argue that while the United States enacted important policies to counter ISIS and avoid atrocities, they have been only partially effective, since the United States may have unwittingly or as a lesser evil supported Iraqi forces who in turn used associated militias who committed human rights violations and could have done more to ensure civilians were not abused. But had the United States not intervened militarily and by other means against ISIS, the atrocities could have been much worse.

Background

After leading the coalition that expelled Saddam Hussein's troops from Kuwait in 1990-1991, the United States conducted a number of bombing campaigns against Iraq in the 1990s. These included operations Desert Strike in 1996 and Desert Fox in 1998, and no-fly zones that were aimed at protecting Iraqi minorities from a repeat of the genocidal Anfal campaign of the late 1980s against the Kurds. Furthermore, the United States orchestrated an international coalition to apply sanctions against Iraq, which may have harmed and killed many innocent civilians.⁴⁵³ In 2003, the United States led an invasion of Iraq that toppled Hussein and occupied the country for nearly a decade until most US combat troops departed in 2011.⁴⁵⁴ But the United States has continued to be deeply involved in Iraq since then. In August 2014, the United States resumed aerial bombing in Iraq against ISIS with the

⁴⁵¹ United Nations, "Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July – 10 September 2014," 2014, 1,

http://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_POC_Report_FINAL_6July_10September2014.pdf

⁴⁵² "UN Casualty Figures for December; 2014 Deadliest since 2008 in Iraq,"

http://www.uniraq.org/index.php?option=com_k2&view=item&id=3141:un-casualty-figures-for-december-2014-deadliest-since-2008-in-iraq&Itemid=633&lang=en.

⁴⁵³ Joy Gordon, *Invisible War: The United States and the Iraq Sanctions* (Cambridge, MA: Harvard University Press, 2010); cf. Michael Spagat, "Truth and Death in Iraq under Sanctions," *Significance* 7, no. 3 (2010): 116–20.

⁴⁵⁴ Tim Arango and Michael S. Schmidt, "Last Convoy of American Troops Leaves Iraq," *The New York Times*, December 18, 2011, <http://www.nytimes.com/2011/12/19/world/middleeast/last-convoy-of-american-troops-leaves-iraq.html>.

consent of the Iraqi government.⁴⁵⁵ As of late 2015, large parts of Iraq's territory are still controlled by ISIS, whose members regularly commit mass atrocities.

When President Obama assumed office in 2009, he inherited the most intense counterinsurgency campaign since the Vietnam War. The level of insurgent violence in Iraq was down from its peak after an increase in US troops in 2007-2008 (known as the surge). President George W. Bush had already signed an agreement with Iraqi Prime Minister Nuri al-Maliki to withdraw US combat troops by the end of 2011.⁴⁵⁶ One of President Obama's two main goals, according to former US ambassador to Iraq Christopher Hill, was to not lose the gains of recent years; the other was to end US involvement in the war, which was one of his major election promises.⁴⁵⁷

During the first years of the first Obama administration, President Obama worked with and praised al-Maliki, who led the government of Iraq from 2006 to 2014, even though he ruled in ways that worsened sectarian tensions. Maliki, for example, arrested political challengers, including ordering an arrest warrant for Vice President Tariq al-Hashemi less than a day after the United States withdrew in 2011.⁴⁵⁸ He also crushed protests in 2011 that were part of a series of major upheavals known as the Arab Spring. In putting down a protest in February 2011, security forces killed nearly 20 people and injured more.⁴⁵⁹ Emma Sky, a former senior adviser from 2007-2010 to the Commanding General of US Forces in Iraq, is quoted as saying that the United States supported Maliki too much: "The whole point of these places—of Iraq especially—is that the leaders need to do political deals. We make them so strong that they no longer need to do political deals. So we undermine any chance at stability. It's destroying Iraq. We're strengthening the guy who is creating the problem."⁴⁶⁰ Maliki even allegedly ordered the shelling of major cities.⁴⁶¹ Eventually, many within the Obama administration came to similar conclusions and began to withdraw their support for Maliki. Maliki left office in 2014.⁴⁶²

The Rise of ISIS

ISIS took advantage of the combined power vacuums in both Iraq and Syria.⁴⁶³ In Iraq, the rise of ISIS has its initial roots in the political fall-out and power vacuums created by the 2003 US-led invasion of Iraq. The removal of Saddam Hussein also led to the end of the reign of the minority Sunni-dominated Baath party. The United States dissolved the Sunni-led Iraq military and used lustration to "de-baathify" the government of former members of Hussein's ruling political party.⁴⁶⁴ In both instances, Sunni minority populations found themselves out of power and also with limited opportunities in the newly empowered Shia-dominated post-Saddam transition. Larry Diamond, a Stanford University professor

⁴⁵⁵ Alissa J. Rubin Arango Tim and Helene Cooper, "US Jets and Drones Attack Militants in Iraq, Hoping to Stop Advance," *The New York Times*, August 8, 2014, <http://www.nytimes.com/2014/08/09/world/middleeast/iraq.html>.

⁴⁵⁶ Fred Kaplan, *The Insurgents: David Petraeus and the Plot to Change the American Way of War* (Simon and Schuster, 2014), 294.

⁴⁵⁷ Christopher R. Hill, *Outpost: Life on the Frontlines of American Diplomacy: A Memoir* (New York: Simon & Schuster, 2014), 342.

⁴⁵⁸ Dexter Filkins, "What We Left Behind," *The New Yorker*, April 28, 2014, <http://www.newyorker.com/magazine/2014/04/28/what-we-left-behind>.

⁴⁵⁹ Zaid Al-Ali, *The Struggle for Iraq's Future: How Corruption, Incompetence and Sectarianism Have Undermined Democracy* (New Haven: Yale University Press, 2014), 136.

⁴⁶⁰ Filkins, "What We Left Behind."

⁴⁶¹ Ibid.

⁴⁶² Evan Osnos, "In The Land of The Possible," *The New Yorker*, December 22, 2014, <http://www.newyorker.com/magazine/2014/12/22/land-possible>.

⁴⁶³ Charles Lister, "Profiling the Islamic State," Brookings Doha Center Analysis Paper (Brookings Doha Center, November 2014), 6–16, http://www.brookings.edu/~media/Research/Files/Reports/2014/11/profiling-islamic-state-lister/en_web_liste.pdf?la=en.

⁴⁶⁴ Larry Diamond, "What Went Wrong in Iraq," *Foreign Affairs* 83, no. 5 (September 1, 2004): 43–44, doi:10.2307/20034066.

and adviser to the US Coalition Provisional Authority in Iraq, concluded that these policies “created a context in which former Baathists, mainly Sunnis, not only faced the loss of their previous dominance but were excluded from any real share of power and resources.”⁴⁶⁵ This created conditions for an insurgency by rendering numerous militarily trained and armed men unemployed and disenfranchised.⁴⁶⁶

The Islamic State of Iraq (ISI) evolved from one of the principal insurgency groups—Al-Qaeda in Iraq (AQI) —that was formed in the aftermath of the 2003 US-led invasion of Iraq. Abu Bakr al-Baghdadi, a reported religious scholar, emerged as the head of ISI in 2010 and led a wave of attacks against the Shia-dominated government in Iraq and against moderate Sunni politicians seeking to normalize relations between Sunni and Shia communities. At the start of the Syrian civil war in 2011 and 2012, al-Baghdadi sent forces into Syria and led the rise of a Sunni-dominated rebel movement against the Syrian government of Bashir al-Assad. Baghdadi’s forces quickly gained control of large areas of eastern Syria.

ISIS reportedly consists of both former Iraqi military personnel and radical Sunni Islamists.⁴⁶⁷ Its initial motivation appeared to be inspired by the heavy Shia power hold in Baghdad under Prime Minister Maliki. But under al-Baghdadi’s leadership, the movement has become much more explicitly religious and in June 2014 it announced the creation of a worldwide caliphate.

In 2014, ISIS made unexpected territorial gains and committed widespread atrocities through much of north-west Iraq and eastern Syria. ISIS had a string of military victories in 2014 despite being outnumbered by Iraqi forces. Although estimates vary, Emma Sky approximates that in 2014 the ratio of Iraqi security forces to ISIS fighters was 100 to 1.⁴⁶⁸ Yet in just over 100 days, ISIS took over large swaths of Iraqi territory.⁴⁶⁹ As of late 2015, ISIS still held much of the territory they had gained, even as the military campaign against ISIS weakened them and forced them to retreat from some areas.

The central reason ISIS has drawn condemnation around the world is that they have committed genocide, crimes against humanity, and war crimes as they carried out their major territorial advances in 2014 and 2015, according to the UN.⁴⁷⁰ In 2015, the US Holocaust Memorial Museum also classified some of ISIS’s attacks as genocide.⁴⁷¹ Through witness interviews, the UN documented many types of abuses in a report, including “clear patterns of sexual and gender-based violence against Yezidi women.”⁴⁷² Human rights organizations have also documented mass atrocities committed by ISIS.

⁴⁶⁵ Ibid., 44.

⁴⁶⁶ Ibid.

⁴⁶⁷ Liz Sly, “The Hidden Hand behind the Islamic State Militants? Saddam Hussein’s.,” *The Washington Post*, April 4, 2015, http://www.washingtonpost.com/world/middle_east/the-hidden-hand-behind-the-islamic-state-militants-saddam-husseins/2015/04/04/aa97676c-cc32-11e4-8730-4f473416e759_story.html.

⁴⁶⁸ Emma Sky, “Who Lost Iraq?,” *Foreign Affairs*, June 24, 2014,

<http://www.foreignaffairs.com/articles/141594/emma-sky/who-lost-iraq>.

⁴⁶⁹ Patrick Cockburn, *The Rise of Islamic State: ISIS and the New Sunni Revolution*, Reprint edition (London: Verso, 2015), chap. Preface.

⁴⁷⁰ United Nations, “Report of the Office of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Iraq in the Light of Abuses Committed by the so-Called Islamic State in Iraq and the Levant and Associated Groups. A/HRC/28/18 (Advance Unedited Version),” March 13, 2015, 15, para. 76, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_18_AUV.doc.

⁴⁷¹ Naomi Kikoler, “‘Our Generation Is Gone’: The Islamic State’s Targeting of Iraqi Minorities in Ninewa,” Bearing Witness Trip Report (United States Holocaust Memorial Museum, 2015), <http://www.ushmm.org/m/pdfs/Iraq-Bearing-Witness-Report-111215.pdf>.

⁴⁷² United Nations, “Report of the Office of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Iraq in the Light of Abuses Committed by the so-Called Islamic State in Iraq and the Levant and Associated Groups. A/HRC/28/18 (Advance Unedited Version),” 9, para. 35.

Human Rights Watch found that ISIS tortured children,⁴⁷³ kidnapped, killed, and expelled religious minorities,⁴⁷⁴ and enslaved individuals including for sexual purposes.⁴⁷⁵ Amnesty International found that ISIS committed sexual abuse and these acts are crimes against humanity.⁴⁷⁶

The US Response to ISIS and the Yezidi Crisis in 2014

The rise of ISIS created significant problems for the Obama administration's policies in both Iraq and Syria. President Obama came to office pledging to end the war in Iraq and to abide by President Bush's Status of Forces Agreement negotiated with the Iraqi government that called for the withdrawal of American combat forces from Iraq by the end of 2011. The Obama administration relied on diplomatic pressure and various incentives to encourage Prime Minister al-Maliki to become more inclusive of Sunni minority concerns. Meanwhile, in Syria, the Obama administration signaled from the start of the civil war that its primary objective was the removal of Syrian President Bashar al-Assad from power (see the chapter on Syria). In short, in its policies with respect to both Iraq and Syria, the United States did not have a coherent or focused policy on ISIS and by most accounts, was caught largely off-guard by the rapid ISIS gains across eastern Syria and western Iraq in 2013 and 2014. In an article published in January 2014, after ISIS affiliated groups overran Falluja, Obama is quoted as describing ISIS in an analogy as a "jayvee team," the less skilled of two scholastic teams.⁴⁷⁷ Obama went on to say that "how we think about terrorism has to be defined and specific enough that it doesn't lead us to think that any horrible actions that take place around the world that are motivated in part by an extremist Islamic ideology are a direct threat to us or something that we have to wade into."⁴⁷⁸ It appears that it was not until the end of 2014 that the Obama administration developed a comprehensive nine part strategy to "degrade and ultimately destroy" ISIS that included political, military, humanitarian, and communication strategies.⁴⁷⁹

Yet, even before the Obama administration likely settled on a containment strategy against ISIS, it responded to ISIS's mass atrocity violence against the small Yezidi religious community in north-western Iraq. ISIS forces targeted the Yezidis in Sinjar and forced nearly 40,000 onto a desolate mountain in August 2014.⁴⁸⁰ Without assistance, a UNICEF representative said in a statement on August 5, 2014 that many more would almost certainly die from exposure.⁴⁸¹

In response, the United States launched airstrikes against ISIS forces surrounding the civilian populations and dropped humanitarian supplies to the Yezidis. US Assistant Secretary of State for Democracy, Human Rights, and Labor, Tom Malinowski, said that the reason why President Obama

⁴⁷³ Human Rights Watch, "Syria: ISIS Tortured Kobani Child Hostages," November 4, 2014, <http://www.hrw.org/news/2014/11/04/syria-isis-tortured-kobani-child-hostages>.

⁴⁷⁴ Human Rights Watch, "Iraq: ISIS Abducting, Killing, Expelling Minorities," July 19, 2014, <http://www.hrw.org/news/2014/07/19/iraq-isis-abducting-killing-expelling-minorities>.

⁴⁷⁵ Human Rights Watch, "Iraq: Forced Marriage, Conversion for Yezidis," October 12, 2014, <http://www.hrw.org/news/2014/10/11/iraq-forced-marriage-conversion-yezidis>.

⁴⁷⁶ Amnesty International, "Escape from Hell: Torture, Sexual Slavery in Islamic State Captivity in Iraq" (Amnesty International, December 2014), 15, http://www.amnesty.org.uk/sites/default/files/escape_from_hell_-_torture_and_sexual_slavery_in_islamic_state_captivity_in_iraq_-_english_2.pdf.

⁴⁷⁷ David Remnick, "Going The Distance: On and Off the Road with Barack Obama," *The New Yorker*, January 27, 2014, <http://www.newyorker.com/magazine/2014/01/27/going-the-distance-david-remnick>.

⁴⁷⁸ Ibid.

⁴⁷⁹ "FACT SHEET: The Administration's Strategy to Counter the Islamic State of Iraq and the Levant (ISIL) and the Updated FY 2015 Overseas Contingency Operations Request," The White House, November 7, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/11/07/fact-sheet-administration-s-strategy-counter-islamic-state-iraq-and-leva>.

⁴⁸⁰ Alissa J. Rubin, "For Refugees on Mountain, 'No Water, Nothing,'" *The New York Times*, August 9, 2014, <http://www.nytimes.com/2014/08/10/world/middleeast/chased-onto-iraqi-mountain-there-is-no-water-nothing.html>.

⁴⁸¹ UNICEF, "Statement on Child Deaths in Iraq; Attributable to Marzio Babilie, UNICEF Representative," August 5, 2014, https://www.unicef.org/media/media_74676.html.

decided to use force against ISIS in the Yezidi case “was a very discrete situation. It was one ethnic group in one place that climbed one mountain, and we did one escape route without setting a single person on the ground. You didn’t have to worry about the exit strategy or the endgame.”⁴⁸² The United States combined military and humanitarian efforts to protect these civilians. In response to this threat, Obama justified his actions by referencing the US’ responsibility to prevent massacres. In an interview with Thomas Friedman of the New York Times, Obama said, “When you have a unique circumstance in which genocide is threatened, and a country is willing to have us in there, you have a strong international consensus that these people need to be protected and we have a capacity to do so, then we have an obligation to do so.”⁴⁸³ On August 7, 2014, Obama said,

*When we face a situation like we do on that mountain -- with innocent people facing the prospect of violence on a horrific scale, when we have a mandate to help -- in this case, a request from the Iraqi government -- and when we have the unique capabilities to help avert a massacre, then I believe the United States of America cannot turn a blind eye. We can act, carefully and responsibly, to prevent a potential act of genocide.*⁴⁸⁴

In the same speech, Obama also justified another military operation in Iraq by arguing it was necessary to protect Americans in Iraq. ISIS was moving toward Erbil, where the United States had personnel and a consulate. In order to prevent this threat to Americans, Obama authorized airstrikes against ISIS targets if and when they advanced toward Erbil.⁴⁸⁵ Others are even more skeptical of humanitarian motives for armed interventions. Rajan Menon, for instance, suggests the bombing in Iraq and Syria in the late summer of 2014 was due to US and European fears that “Western IS recruits would one day return home and engage in acts of terrorism.”⁴⁸⁶

Given the two distinct operations that Obama initiated in August 2014 and the aid provided to the Yezidis, it is likely that humanitarian goals played an important role in Obama’s motives. The United States dropped bombs on ISIS militants threatening the exposed Yezidis on Mt. Sinjar and provided relief supplies to Yezidis. Additional countries also sent supplies,⁴⁸⁷ while Kurdish ground forces contributed to the ground fight against ISIS.⁴⁸⁸

The APB reportedly played some role in the case of the Yezidis, but its role was likely limited given how high a priority ISIS was at that stage for the US government. Jared Genser, a lawyer, scholar, and journalist, wrote that “the board has been credited with producing a rapid US response last summer after the Islamic State drove tens of thousands of Iraqi Yezidis from their homes.”⁴⁸⁹ Sewall, said that “the APB helped catalyze a swift USG response. Working with our Embassy and consulates in Iraq along with the State Department’s Religious Freedom Office to collect critical information, the US launched strikes that degraded ISIL’s strength and gave the local Kurdish military forces enough

⁴⁸² Osnos, “In The Land of The Possible.”

⁴⁸³ Thomas L. Friedman, “Obama on the World: President Obama Talks to Thomas L. Friedman About Iraq, Putin and Israel,” *The New York Times*, August 8, 2014, <http://www.nytimes.com/2014/08/09/opinion/president-obama-thomas-l-friedman-iraq-and-world-affairs.html>.

⁴⁸⁴ Barack Obama, “Statement by The President,” *Whitehouse.gov*, August 7, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/08/07/statement-president>.

⁴⁸⁵ Ibid.

⁴⁸⁶ Rajan Menon, *The Conceit of Humanitarian Intervention*, 1 edition (New York: Oxford University Press, 2016), 125–26.

⁴⁸⁷ Helene Cooper and Michael D. Shear, “Militants’ Siege on Mountain in Iraq Is Over, Pentagon Says,” *The New York Times*, August 13, 2014, <http://www.nytimes.com/2014/08/14/world/middleeast/iraq-yazidi-refugees.html>.

⁴⁸⁸ Ibid.

⁴⁸⁹ Jared Genser, “Preventing Atrocities Now — And in the Future,” *The Washington Post*, April 24, 2015, http://www.washingtonpost.com/opinions/preventing-atrocities-now--and-in-the-future/2015/04/24/f20b027e-e920-11e4-aae1-d642717d8afa_story.html.

momentum to break the siege and free the Yazidis from entrapment on Mount Sinjar.”⁴⁹⁰ In another public statement on the Yezidis crisis, Sewall said the APB

*was able to play a value-added role by focusing attention on particular cases, helping to prompt swift action . . . the APB again helped ensure a swift USG response by working with our Embassy and consulates in Iraq along with the State Department’s Religious Freedom Office to collect credible information. This information helped inform the U.S. decision to launch strikes that degraded ISIL’s capabilities and gave the local Kurdish military forces enough momentum to break the siege and free the Yazidis from Mount Sinjar.*⁴⁹¹

However, one US government official interviewed for this study said that the Iraq interagency process led the response, and the APB did not have substantial input on the military response.⁴⁹²

In the case of the Yezidis, the publicly available evidence of US actions and statements of officials strongly suggests that US policy was driven in part by the goal of halting ongoing attacks on the civilian population, and preventing an imminent escalation of such attacks. Its efforts likely contributed to saving the lives of innocent civilians. In an evaluation of USAID’s efforts, Staal reported that USAID “actions had helped save lives.”⁴⁹³ (In one tragic response to the bombing, ISIS murdered a US journalist, James Foley, who was being held by ISIS on or around August 19, 2014.⁴⁹⁴)

The aid given to the Yezidis is only part of a large aid package the United States provides Iraqis. According to the UN, Iraq has one of the largest populations of displaced people in the world, with some 2.5 million people displaced since January 2014.⁴⁹⁵ According to the State Department, from 2010 through the first half of 2014, the United States provided more than \$1.1 billion in humanitarian assistance to internally and externally displaced Iraqis.⁴⁹⁶

The decision to bomb ISIS was made outside of the Security Council. The United States argued that it had authorization under international law through the collective self-defense clause of Article 51 of the UN Charter, and that therefore Security Council authorization was unnecessary. In Iraq, the United States had the consent of the Iraqi government, and for its attacks in Syria it argued that collective self-defense permitted armed intervention in Syria against ISIS in order to protect Iraq.⁴⁹⁷

⁴⁹⁰ Sewall, “Preventing Mass Atrocities.”

⁴⁹¹ Sarah Sewall, “Making Progress: US Prevention of Mass Atrocities,” Remarks, <http://humanrights.gov/dyn/2015/04/making-Progress-U.s.-Prevention-of-Mass-Atrocities>, (April 24, 2015), <http://www.humanrights.gov/dyn/2015/04/making-progress-u.s.-prevention-of-mass-atrocities>.

⁴⁹² Interview, 20 March 2015.

⁴⁹³ Thomas Staal “Testimony of Senior Deputy Assistant Administrator Thomas Staal Before the House Subcommittee on Africa, Global Health, Human Rights and International Organizations and Subcommittee on the Middle east and North Africa.” September 10, 2014. <http://www.usaid.gov/news-information/congressional-testimony/sep-10-2014-sr-daa-thomas-staal-iraq-isil>.

⁴⁹⁴ Rukmini Callimachi, “ISIS Video Purports to Show Beheading of James Foley,” *The New York Times*, August 19, 2014, <http://www.nytimes.com/2014/08/20/world/middleeast/isis-james-foley-syria-execution.html>.

⁴⁹⁵ UN Office for the Coordination of Humanitarian Affairs, “Iraq Crisis Situation Report No. 34” (United Nations, March 28, 2015), <https://www.humanitarianresponse.info/system/files/documents/files/OCHA%20Iraq%20Crisis%20Situation%20Report%20No.34.pdf>.

⁴⁹⁶ Bureau of Public Affairs Department Of State. The Office of Website Management, “US Pledges Additional Humanitarian Assistance to Iraq,” Press Release I Media Note, *US Department of State*, (June 12, 2014), <http://www.state.gov/r/pa/prs/ps/2014/06/227495.htm>.

⁴⁹⁷ Somini Sengupta and Charlie Savage, “US Invokes Iraq’s Defense in Legal Justification of Syria Strikes,” *The New York Times*, September 23, 2014, <http://www.nytimes.com/2014/09/24/us/politics/us-invokes-defense-of-iraq-in-saying-strikes-on-syria-are-legal.html>.

Abuses of Iraqi Forces and Associated Militia

In recent years, including in 2014—a year when Iraqi and associated forces alleged committed abuses—the United States provided military support to the Iraqi government. In 2014, the State Department reported that the United States provided the Iraqi government over \$500 million in small arms and ammunition.⁴⁹⁸ The United States also provided \$1.6 billion in Train and Equip Funds (TEF).⁴⁹⁹ Additionally, the United States assisted the Iraqi government by providing air support, intelligence, and others means.⁵⁰⁰ Some military equipment the United States supplied to Iraq has allegedly fallen into the hands of ISIS⁵⁰¹ and Iranian backed militias.⁵⁰²

While the material falling into the hands of ISIS is obviously concerning, the deeper reason the response is problematic is because the Iraqi government and affiliated militia have likely committed atrocities while battling ISIS, although their abuses are nowhere near as grave as those committed by ISIS. A UN report that covers the period from June 2014 to February 2015 found that Iraqi forces “and affiliated armed groups may have committed war crimes.”⁵⁰³ The UN documented torture, murder, kidnapping, taking hostages, directing attacks against civilians, and pillaging.⁵⁰⁴ Human Rights Watch found that Iraqi government troops and associated forces committed indiscriminate attacks,⁵⁰⁵ including dropping barrel bombs in civilian areas.⁵⁰⁶ In a 2014 report, Amnesty International documents “war crimes” committed by Shia militia backed by Iraqi forces.⁵⁰⁷ Based on evidence from June and July 2014, Human Rights Watch found that militia backed by Iraqi forces kidnapped and summarily executed dozens of men.⁵⁰⁸ In another Human Rights Watch report, they found that in the fall of 2014 “militias engaged in deliberate and wanton destruction of civilian property after the retreat of ISIS and the end of fighting in the area.”⁵⁰⁹

Some of the attacks committed by militia affiliated with the Iraqi government seem more like policy than anomaly. Human Rights Watch reports that “[m]ilitias also appear to have planned at least some of the attacks in advance, indicating culpability by government political and military bodies that oversee the militias.”⁵¹⁰ These attacks were widespread: Human Rights Watch documented that thousands of building were destroyed.⁵¹¹ Such attacks might constitute ethnic cleansing.⁵¹² Alleged motives were

⁴⁹⁸ Department Of State, “US Security Assistance to Iraq in 2014,” Press Release/Fact Sheet, *US Department of State*, January 6, 2015, <http://www.state.gov/p/nea/rls/235648.htm>.

⁴⁹⁹ *Ibid.*

⁵⁰⁰ *Ibid.*

⁵⁰¹ The New York Times, “Arms Windfall for Insurgents as Iraq City Falls,” *The New York Times*, June 10, 2014, <http://www.nytimes.com/2014/06/11/world/middleeast/mosul-iraq-militants-seize-us-weapons.html>; Tim Arango, “Key Iraqi City Falls to ISIS as Last of Security Forces Flee,” *The New York Times*, May 17, 2015, <http://www.nytimes.com/2015/05/18/world/middleeast/isis-ramadi-iraq.html>.

⁵⁰² Bill Roggio and Caleb Weiss, “Video Shows Hezbollah Brigades Convoy Transporting American M1 Tank,” *The Long War Journal*, January 28, 2015, http://www.longwarjournal.org/archives/2015/01/hezbollah_brigades_c.php.

⁵⁰³ United Nations, “Report of the Office of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Iraq in the Light of Abuses Committed by the so-Called Islamic State in Iraq and the Levant and Associated Groups. A/HRC/28/18 (Advance Unedited Version),” para. 78, p. 16.

⁵⁰⁴ *Ibid.*

⁵⁰⁵ Human Rights Watch, “World Report 2015,” 2015, 301–2, http://www.hrw.org/sites/default/files/wr2015_web.pdf.

⁵⁰⁶ *Ibid.*, 302.

⁵⁰⁷ Amnesty International, “Absolute Impunity: Militia Rule in Iraq” (Amnesty International, October 14, 2014), 4, 24, <https://www.amnesty.org/en/documents/MDE14/015/2014/en/>.

⁵⁰⁸ Human Rights Watch, “Iraq: Pro-Government Militias’ Trail of Death,” July 31, 2014, <http://www.hrw.org/news/2014/07/31/iraq-pro-government-militias-trail-death>.

⁵⁰⁹ Human Rights Watch, “After Liberation Came Destruction: Iraqi Militias and the Aftermath of Amerli,” March 18, 2015, 3, http://www.hrw.org/sites/default/files/reports/iraq0315_forUpload.pdf.

⁵¹⁰ *Ibid.*, 2.

⁵¹¹ *Ibid.*, 3.

revenge because some were thought to support ISIS and the collective punishment of Sunnis.⁵¹³ Ali Khedery, a former US official who advised numerous US ambassadors to Iraq, went so far as to write that “[t]he United States is now acting as the air force, the armory, and the diplomatic cover for Iraqi militias that are committing some of the worst human rights abuses on the planet.”⁵¹⁴

Accountability for such abuses was weak. As of early 2015, Human Rights Watch reported that Iraq had not tried anyone for the alleged abuses.⁵¹⁵ Some of this might have changed. An investigation by ABC News found that Iraq is both investigating alleged abuses of its forces and associated militia, and a US official is quoted as saying that the United States “withheld assistance from certain Iraqi units on the basis of credible information” of abuses.⁵¹⁶ In a report released in early 2017, which covered the period from June 2014 through November 2016, Amnesty International found that the Iraqi government knowingly provided weapons to militia that committed war crimes and other abuses—including weapons the United States supplied Iraq.⁵¹⁷ Despite the importance of defeating ISIS, the response to ISIS by Iraqi forces and associated militia has been far from ideal.

Conclusion

More than a decade after overthrowing a dictator who committed mass atrocities, the United States led an effort that attempted to end the advance and reign of a group that regularly and openly commits shocking mass atrocities as standard policy. It partially succeeded. While ISIS obviously committed numerous atrocities, some would have likely been far worse had the United States not intervened. But in the process, the United States directly supported a government that in turn supported affiliated militias that very likely committed human rights abuses. The US-led anti-ISIS strategy continues as of late 2016, but it has failed to destroy the group in over two years of aerial bombardment with the support of local ground forces.

⁵¹² Michael Weiss and Michael Pregent, “The US Providing Air Cover for Ethnic Cleansing in Iraq,” *Foreign Policy*, March 28, 2015, <http://foreignpolicy.com/2015/03/28/the-united-states-is-providing-air-cover-for-ethnic-cleansing-in-iraq-shiite-militias-isis/>.

⁵¹³ Human Rights Watch, “After Liberation Came Destruction,” 2.

⁵¹⁴ Ali Khedery, “Iran’s Shiite Militias Are Running Amok in Iraq,” *Foreign Policy*, February 19, 2015, <http://foreignpolicy.com/2015/02/19/irans-shiite-militias-are-running-amok-in-iraq/>.

⁵¹⁵ Human Rights Watch, “Iraq: ISIS, Militias Feed Cycle of Abuses,” February 2, 2015, <http://www.hrw.org/news/2015/02/02/iraq-isis-militias-feed-cycle-abuses>.

⁵¹⁶ James Gordon Meek et al., “US-Trained Iraqi Forces Investigated for War Crimes,” *ABC News*, March 12, 2015, <http://abcnews.go.com/International/dirty-brigades-us-trained-iraqi-forces-investigated-war/story?id=29193253>.

⁵¹⁷ Amnesty International, “Iraq: Turning a Blind Eye: The Arming of The Popular Mobilization Units” (Amnesty International, January 5, 2017), <https://www.amnesty.org/en/documents/mde14/5386/2017/en/>.

Kenya

On March 4 2013, Kenyans went to the polls to elect a new president under a new constitution. The amount of voters was “the largest in history” with approximately 86% of registered electors casting their votes.⁵¹⁸ Uhuru Kenyatta, son of Kenya’s first president after independence in 1963, won the elections with a majority of 50.07%. His main opponent, Raila Odinga, challenged the results in court, referring to alleged inconsistencies and technical problems. The Court, however, confirmed the results. Odinga accepted this ruling.⁵¹⁹ While there were clashes in several counties, the 2013 elections were regarded as relatively peaceful.⁵²⁰ This has not been the case in previous elections.

Since the introduction of a multi-party system in Kenya in the early 1990s, ethnic violence has been a feature in Kenyan elections.⁵²¹ In a country with numerous ethnic groups,⁵²² where political parties are formed along ethnic lines and with a winner-take-all system that allows those in power to obtain exclusive access to states resources and services, elections have become a highly charged competition for ethnic dominance.⁵²³ Elections in 1992, 1997, and 2002 all saw violence, but none at the unprecedented level of the elections in 2007.⁵²⁴ It took many by surprise when the sitting president Mwai Kibaki was declared the winner in 2007, because prior to this announcement Odinga, Kibaki’s competitor, took the lead in the polls.⁵²⁵ The ensuing peaceful demonstrations against a “stolen election” rapidly turned into inter-ethnic violence. Supporters of Odinga, for the most part from the Luo and Kalenjin communities, attacked supporters of Kibaki, of the Kikuyu community. Later, Kikuyu gangs retaliated and attacked Luos and Kalenjins.⁵²⁶ While estimates vary, the violence has claimed over 1,000 lives. Hundreds of thousands people were internally displaced⁵²⁷ and Kenya suddenly became one of Africa’s hotspots.

The international community responded swiftly to the outbreak of violence in December 2007, but consecutive mediation efforts of Archbishop Desmond Tutu, the US Assistant Secretary of State for African Affairs, Jendayi Frazer, and several former African leaders (from Botswana, Mozambique,

⁵¹⁸ The Guardian, “Uhuru Kenyatta Wins Kenyan Election by a Narrow Margin,” March 9, 2013, <https://www.theguardian.com/world/2013/mar/09/kenyatta-declared-victor-in-kenyan-elections>; BBC News, “Kenya Election: Uhuru Kenyatta Wins Presidency”; Fagan, “Kenya’s 2013 Elections: An Effective Assistance Model?” Testimony before the US House of Representatives Committee on Foreign Affairs Subcommittee on Africa, Global Health, Global Human Rights and International Organizations”; USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” February 2014, 4.

⁵¹⁹ International Crisis Group, “Kenya After the Elections,” 1; Bureau of Democracy, Human Rights and Labor, “Country Reports on Human Rights Practices for 2013: Kenya,” 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>; The Guardian, “Uhuru Kenyatta’s Election Victory Is Upheld by Kenya’s Supreme Court,” March 30, 2013, <http://www.theguardian.com/world/2013/mar/31/kenya-court-upholds-kenyatta-victory>.

⁵²⁰ International Crisis Group, “Kenya After the Elections,” 2; USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 4.

⁵²¹ Office of the UN High Commissioner for Human Rights, “Report from OHCHR Fact-Finding Mission to Kenya, 6-28 February 2008,” March 19, 2008, 6, <http://www.usahidi.com/wp-content/uploads/2008/03/final-ohchr-kenya-report-19-march2008.pdf>.

⁵²² The largest ethnic groups are Kikuyu (20%), Luhya (14%), Luo (13%), Kalenjin (11%), and Kamba (11%). International Coalition for the Responsibility to Protect, “The Crisis in Kenya,” <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-kenya#1>.

⁵²³ Steeves, “Democracy Unravelling in Kenya: Multi-Party Competition and Ethnic Targeting,” 462; Weiss, “Halting Atrocities in Kenya,” 19; Ndung’u and Wepundi, “Transition and Reform: People’s Peacemaking Perspectives on Kenya’s Post-2008 Political Crisis and Lessons for the Future,” 1.

⁵²⁴ Weiss, “Halting Atrocities in Kenya,” 20.

⁵²⁵ Sabine Höhn, “New Start or False Start? The ICC and Electoral Violence in Kenya,” *Development and Change*, 2014, 567.

⁵²⁶ Steeves, “Democracy Unravelling in Kenya: Multi-Party Competition and Ethnic Targeting,” 456; Höhn, “New Start or False Start? The ICC and Electoral Violence in Kenya,” 567–568.

⁵²⁷ Human Rights Watch, “Ballots to Bullets. Organized Political Violence and Kenya’s Crisis of Governance,” 2.

Tanzania, and Zambia) failed.⁵²⁸ This changed when the president of Ghana and AU Chair John Kufuor asked Kofi Annan to lead the AU Panel of Eminent African Personalities and to act as AU Chief Mediator.⁵²⁹ Eventually, on February 28, 2008, Annan was able to broker a power-sharing agreement.⁵³⁰ This agreement also encompassed a reform agenda that would address deep-seated issues such as unemployment, socio-economic inequality, impunity, and land grievances.⁵³¹

The subsequent efforts of Kenyan actors and members of the international community centered on facilitating the reform process and avoiding a repeat of violence during the elections scheduled for March 2013, when Kenyans would not only elect a new president, but also—as part of the reform process—governors, senators, women’s representatives to the national assembly, members of the national assembly, and county assembly ward representatives.⁵³²

As Kenya has been a critical strategic partner of the United States for decades and an “anchor state” in the troubled region, the United States made considerable contributions to the Kenyan reform process in the period from 2008-2013.⁵³³ Assistance was arguably broader than merely electoral support, and encompassed a “multidimensional effort”.⁵³⁴ This chapter will examine the efforts of the United States and in particular the APB, until 2013, to help Kenya restore order and mitigate the risk of violence. Kenya was cited as the “first case of successful R2P prevention”.⁵³⁵ However, we argue that while the United States and other members of the international community have taken significant steps in Kenya to mitigate the risk of violence, it remains to be seen to what extent the achievements of a relatively peaceful referendum in 2010 and general elections in 2013 are able to ensure long-term stability. Furthermore, one should not overestimate the impact of the efforts undertaken by the United States. Other factors, such as the “general consensus” among Kenyans to avoid another wave of violence, and the criminal investigations and proceedings of the ICC, played major roles in halting election violence in 2013.⁵³⁶ In addition, actors such as faith-based groups and other members of Kenyan civil society and businesses, as well as the European Union and its member states, significantly helped to ensure such outcomes.⁵³⁷

⁵²⁸ International Coalition for the Responsibility to Protect, “The Crisis in Kenya”; Weiss, “Halting Atrocities in Kenya,” 21.

⁵²⁹ *Ibid.*

⁵³⁰ International Coalition for the Responsibility to Protect, “The Crisis in Kenya”; Reuters, “Text of Power-Sharing Agreement in Kenya,” February 28, 2008, <http://www.reuters.com/article/us-kenya-crisis-text-idUSL2822580120080228>.

⁵³¹ Elisabeth Lindenmayer and Josie Lianna Kaye, “A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya” (International Peace Institute, August 2009), 10, http://responsibilitytoprotect.org/kenyamediation_epub.pdf; USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 3.

⁵³² Independent Electoral and Boundaries Commission, “Summary of All Elective Positions in the March 4th 2013 General Election,” July 18, 2013, <http://www.iebc.or.ke/index.php/2015-01-15-11-10-24/downloads/item/summary-of-all-elective-positions-in-the-march-4th-2013-general-election>; USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 3; Brookings, “Kenya: A Country Redeemed after a Peaceful Election,” April 2, 2013, <http://www.brookings.edu/blogs/up-front/posts/2013/04/02-kenya-peaceful-elections-kimenyi>.

⁵³³ Lauren Ploch Blanchard, “Kenya: Current Issues and US Policy” (Congressional Research Service, February 26, 2013), 1, <http://www.refworld.org/docid/51418bb32.html>.

⁵³⁴ USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 5.

⁵³⁵ Weiss, “Halting Atrocities in Kenya,” 29; Junk, “The Two-Level Politics of Support - US Foreign Policy and the Responsibility to Protect,” 546; Julian Junk, “Bringing the Non-Coercive Dimensions of R2P to the Fore: The Case of Kenya,” *Global Society*, November 11, 2015, 8–9,

⁵³⁶ International Crisis Group, “Kenya After the Elections.”

⁵³⁷ Lumsdaine, Akpedonu, and Sow, “Keeping the Peace: Lessons Learned from Preventive Action towards Kenya’s 2013 Elections” 40; Victor Owuor and Scott Wisor, “The Role of Kenya’s Private Sector in Peacebuilding: The Case of the 2013 Election Cycle,” May 2014. From 2008-2013 the EU made available €399 million for support to Kenya. Babaud and Ndung’u, “Early Warning and Conflict Prevention by the EU: Learning Lessons from the 2008 Post-Election Violence in Kenya,” 16; Institute for Security Studies, “How Kenya Delivered Its Peaceful

The following section will briefly address the US policy toward Kenya in general. This will be followed by a discussion on the immediate response to the violence by Kenyan actors and the international community. Thereafter, the US policy on the reform agenda, the constitutional referendum, and the general elections more specifically, as well as the role of the APB, will be discussed. Concluding remarks will be provided in the final section.

US Policy Toward Kenya

The US diplomatic mission in Kenya is the largest in Africa and hosts a variety of programs, including, among others, the Regional Security Office, USAID, the Departments of Agriculture and Commerce, and the Center for Disease Control.⁵³⁸ Since Kenya gained independence in 1963, the United States has devoted “tens and often hundreds of millions of dollars annually” to support the country.⁵³⁹ Well before 9/11, the partnership between the United States and Kenya was expanded to include counterterrorism. This cooperation was triggered by the Al Qaeda bombings of the US embassies in Kenya and Tanzania in 1998, which brought Kenya “on the frontline” in the global war on terror.⁵⁴⁰

The 2007 election violence complicated the US-Kenya partnership when Kenya's leaders were implicated in the violence and were indicted by the ICC. This brought new challenges for the US government to weigh the various competing interests such as counterterrorism, human rights, and development against one another.⁵⁴¹ While Kenya is an important partner in East Africa for the United States, in particular with respect to counterterrorism, the United States could not ignore the accusations of local and international actors regarding the involvement of presidential candidates in mass atrocities and the history of impunity. Indeed, following the election violence in 2007/2008, the United States has frequently expressed the need for accountability. Diplomatic relations came under increasing pressure when the US Assistant Secretary of State, Johnnie Carson, stated in February 2013 “[w]e live in an interconnected world and people should be thoughtful about the impact that their choices have on their nation, on the region, on the economy, on the society and on the world in which they live. Choices have consequences.”⁵⁴² Obama’s visit to Kenya in July 2015, the first time an incumbent US president visited the country, was seen as an attempt to smoothen the diplomatic relations between the two countries.⁵⁴³

Immediate Response to the Election Violence

Soon after the election violence, efforts from both Kenyan actors and the international community were geared toward preventing the violence from escalating. Kenyan actors focused on stabilizing the situation and providing humanitarian assistance, whereas international actors focused on the relevant

General Elections,” March 20, 2013, <https://www.issafrika.org/iss-today/how-kenya-delivered-its-peaceful-general-elections>.

⁵³⁸ Joel D. Barkan, “Electoral Violence in Kenya: Contingency Planning Memorandum No. 17” (Council on Foreign Relations, January 2013), 5, <http://www.cfr.org/kenya/electoral-violence-kenya/p29761>; Blanchard, “Kenya: Current Issues and US Policy,” 2.

⁵³⁹ USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 5.

⁵⁴⁰ Blanchard, “Kenya: Current Issues and US Policy,” 1.

⁵⁴¹ *Ibid.*, 15.

⁵⁴² Voice of America, “US Official Says Kenya’s Elections Have ‘Consequences,’” February 7, 2013, <http://www.voanews.com/content/us-official-says-kenya-elections-have-consequences/1599063.html>; Joseph Warungu, “Choices and Consequences in Kenya’s Election,” March 18, 2013, <http://www.icfj.org/blogs/choices-and-consequences-kenya%E2%80%99s-election>.

⁵⁴³ BBC News, “Obama Kenya Trip More than Just Symbolic”; Witney Schneidman, “Obama in Kenya: A Report from the Field and a Recap of the Global Entrepreneurship Summit” (Brookings, July 29, 2015), <https://www.brookings.edu/blog/africa-in-focus/2015/07/29/obama-in-kenya-a-report-from-the-field-and-a-recap-of-the-global-entrepreneurship-summit/>; Adjoa Anyimadu, “Obama Arrives in a Kenya of Contradictions,” July 23, 2015, <https://www.chathamhouse.org/expert/comment/obama-arrives-kenya-contradictions>.

leaders, as reflected in the series of negotiations led by Annan.⁵⁴⁴ The Security Council reportedly played a small role in the period immediately following the election violence and issued a statement in which it praised the AU efforts and expressed its support for the efforts of the Panel of Eminent African Personalities to negotiate a solution.⁵⁴⁵

Early efforts of the United States were also primarily geared toward helping Kenya to damp down the violence. The US government initially supported the re-election of Kibaki despite accusations that the elections were rigged.⁵⁴⁶ However, the United States later acknowledged that the elections lacked credibility and were flawed⁵⁴⁷, expressing its support to the Panel of Eminent African Personalities and dispatching Secretary Rice to help the Panel broker a deal. During her visit, Rice called for “a halt to violence” while stressing that “power sharing was necessary and that the United States would not return to its usual warm relations with Kenya until the crisis was over”.⁵⁴⁸ The Executive Director at Human Rights Watch, Kenneth Roth, commented on the US response to the crisis by stating that “Rice did play a constructive role in Kenya, and this agreement is a wonderful step forward.”⁵⁴⁹

Commitment to the Reform Process

Although the mediation efforts led by Annan resulted in a power-sharing agreement, this deal alone would not be an adequate answer to the underlying causes of the violence. Constitutional and institutional reforms had to be put in place. The constitutional referendum in 2010 was regarded as a crucial step forward.⁵⁵⁰ The US preventive efforts aimed at ensuring a free, fair, and peaceful referendum. This was, as noted by a leading scholar of American foreign policy Bruce Jentleson, “an interagency effort coordinated across the executive branch and led by the NSC”.⁵⁵¹ From 2008-2013, the US government made available over \$150 million for a variety of efforts, including supporting a peaceful referendum in 2010 and elections in 2013.⁵⁵² The US embassy formed “monitoring teams” in vulnerable areas.⁵⁵³ The Office of Transition Initiatives (USAID) also implemented programs aimed at promoting the peaceful participation of young Kenyans in the referendum.⁵⁵⁴

The United States demonstrated the importance with which it viewed the reform agenda by sending several high-level US officials to Kenya. In August 2009, Secretary Clinton visited Kenya to increase the pressure on the Kenyan government to do more to “resolve tensions” and to implement the reforms agreed upon in the power-sharing agreement.⁵⁵⁵ In a meeting with Kenyan leaders, she also called for the removal of the attorney general and the police chief, who allegedly disregarded killings perpetrated

⁵⁴⁴ Cassidy Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?” (Friends Committee on National Legislation, October 2011), 3, http://fcn.org/assets/Kenya_Policy_Brief_2011.pdf.

⁵⁴⁵ Junk, “The Two-Level Politics of Support - US Foreign Policy and the Responsibility to Protect,” 545; Security Council, “Statement by the President of the Security Council,” February 6, 2008, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PRST/2008/4.

⁵⁴⁶ Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 3.

⁵⁴⁷ Kieh Jr., “The Bush Administration, US Democracy Promotion, and Elections in Africa,” 37-38; Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 3; Dagne, “Kenya: Current Conditions and the Challenges Ahead,” 8-9.

⁵⁴⁸ Weiss, “Halting Atrocities in Kenya,” 23; Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?”; The Guardian, “Bush to Send Rice to Kenya to Demand a Halt to Violence”.

⁵⁴⁹ The New York Times, “In Kenya, US Added Action to Talk of Democracy,” March 1, 2008, http://www.nytimes.com/2008/03/01/world/africa/01diplo.html?fta=y&_r=1&.

⁵⁵⁰ Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 3.

⁵⁵¹ Bruce W. Jentleson, “The Obama Administration and R2P: Progress, Problems and Prospects,” *Global Responsibility to Protect*, (2012), 414.

⁵⁵² USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 5.

⁵⁵³ Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 4.

⁵⁵⁴ Ibid; Friends Committee on National Legislation, “Kenya’s National Elections: A Roadmap for US Policy”, 1.

⁵⁵⁵ The Washington Post, “Clinton Pushes Kenyan Leaders to Follow Through on Promised Reforms,” August 6, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/08/05/AR2009080500408.html>.

by police forces. Additionally, Clinton warned that the US government would impose a travel ban to the United States on several Kenyan officials should Kenya not undertake serious efforts to bring those responsible for the election violence to justice.⁵⁵⁶ A few months before the referendum, Vice President Biden visited Kenya and met with the Kenyan president and prime minister to “discuss peace and stability in the region”.⁵⁵⁷

The constitutional referendum was relatively peaceful and was seen as “a triumph for reform”.⁵⁵⁸ Nonetheless, some US Republican Congressmen criticized the constitution because it would broaden abortion rights. They accused the embassy in Nairobi of supporting this effort which would violate the Siljander Amendment that forbids using US assistance funds to lobby for or against abortion.⁵⁵⁹

Call for Accountability

The United States has been vocal about the need for accountability for the election violence in 2007/2008. While the United States itself is not a party to the Rome Statute, the United States was supportive of the criminal proceedings against those responsible for orchestrating the violence before the ICC.⁵⁶⁰ In February 2010, Stephen Rapp declared that the United States would provide support for protecting witnesses.⁵⁶¹ In a statement in December 2010, Obama himself called on the leadership, as well as the people of Kenya, to cooperate with the Court.⁵⁶² A few years later, in 2013, when the AU requested the Security Council to delay the ICC cases against the newly elected president and deputy president of Kenya for one year in order to address terrorist threats, the US government did not support Kenya’s bid as it believed that “the concerns raised by Kenya regarding the International Criminal Court proceedings against President Kenyatta and Deputy President Ruto are best addressed within the framework of the Court.”⁵⁶³

2013 General Elections

The APB came in shortly after its formation in April 2012. Its meetings addressed the situation in Kenya and the elections of 2013, and facilitated the sharing of information among different government agencies, advancing “the Kenya cause within the government.”⁵⁶⁴ However, the APB reportedly did not play a significant decision-making role. This observation may not come as a surprise given that the APB was specifically mandated to address those cases that otherwise would not be addressed by US national security mechanisms. Indeed, because Kenya was one of the foreign policy priorities of the

⁵⁵⁶ Ibid.

⁵⁵⁷ CNN, “VP Biden on Week-Long Trip to Africa,” June 7, 2010, <http://edition.cnn.com/2010/POLITICS/06/07/biden.africa.trip/>.

⁵⁵⁸ Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 5.

⁵⁵⁹ Jeffrey Gettleman, “Kenyan Constitution Opens New Front in Culture Wars,” May 13, 2010,

<http://www.nytimes.com/2010/05/14/world/africa/14kenya.html>; USAID, “USAID Guidance For Implementing The Siljander Amendment,” May 22, 2014,

<https://www.usaid.gov/sites/default/files/documents/1864/USAID%20Guidance%20for%20Implementing%20the%20Siljander%20Amendment.pdf>.

⁵⁶⁰ Regan, “Kenya’s National Elections: Violence Renewed or Crisis Prevented?,” 5.

⁵⁶¹ Voice of America, “US to Assist in Protection of Kenyan ICC Witnesses,” *Voa News*, February 11, 2010, <http://www.voanews.com/content/us-to-help-protect-kenyan-violence-witnesses-84133462/159772.html>.

⁵⁶² “Statement by President Obama on the International Criminal Court Announcement” (The White House, December 15, 2010), <https://obamawhitehouse.archives.gov/the-press-office/2010/12/15/statement-president-obama-international-criminal-court-announcement>.

⁵⁶³ United States Mission to the United Nations, “Ambassador Power on Kenya’s ICC Deferral Request,” November 15, 2013, [http://www.reuters.com/article/us-kenya-icc-un-idUSBRE99L14O20131022](http://iipdigital.usembassy.gov/st/english/texttrans/2013/11/20131115286924.html#axzz4IMEoUOq; Odula, “US Opposes Kenya’s Bid to Defer Int’l Trials”; Reuters, “African Leaders Ask UN to Defer Kenya International Criminal Trials,” October 22, 2013, <a href=).

⁵⁶⁴ Scholar, phone interview, May 28, 2015.

United States, it had already received ample attention from the US national security mechanisms. Hence, after the creation of the APB, the US government did not significantly change its policy toward Kenya. Yet, APB supporters within the US government reportedly cited the case of Kenya as a successful example of the APB's work, to demonstrate its added value.⁵⁶⁵

As the 2013 elections approached, the United States augmented assistance in different areas including, but not limited to, election observations and administration, civic and voter education, and conflict mitigation. The United States coordinated these efforts within its interagency process, according to the public report of a USAID rapid assessment review.⁵⁶⁶ The US embassy worked closely together with other major actors such as USAID, the State Department's CSO, and donor partners. The US ambassador, for example, met on a frequent basis with "interagency staff" who were involved in providing electoral support and coordinated efforts with key players.⁵⁶⁷ In 2011 USAID introduced a program called "Yes Youth Can!" aimed at addressing poverty and unemployment among others.⁵⁶⁸ USAID also supported programs that worked toward building the capacity of civil society (such as the Kenyan Civil Society Strengthening Program) and political parties (through the National Democratic Institute for International Affairs),⁵⁶⁹ and provided assistance to the Independent Electoral and Boundaries Commission as well as the judiciary.⁵⁷⁰ CSO played a critical role in coordinating the observation efforts of the US.⁵⁷¹ With more than 30 US observer teams in Kenya, the United States had the largest delegation of observers of the country's development partners.⁵⁷²

These electoral and peacebuilding efforts were complemented by high-level diplomatic engagement and the direct involvement of Obama. In 2012 Clinton visited Kenya again. This time, her visit aimed to avoid a repeat of the 2007 post-election violence during the 2013 elections.⁵⁷³ In February 2013, Obama delivered a video message to the Kenyan people and called for a peaceful election that "reflects the will of the people."⁵⁷⁴ This also highlighted his "commitment to the U.S. Kenya partnership".⁵⁷⁵

Parts of Kenya experienced some clashes prior to the 2013 elections. Human Rights Watch reported over 477 deaths and 118,000 displaced persons.⁵⁷⁶ The election results were received with mixed feelings. Many claimed that these elections were largely peaceful.⁵⁷⁷ Some international groups such as the Carter Center concluded that in general the elections were credible.⁵⁷⁸ Others, however, were more

⁵⁶⁵ Scholar, phone interview, May 28, 2015.

⁵⁶⁶ USAID, "USAID Support for Kenya's 2013 Elections: Rapid Assessment Review," 5-6.

⁵⁶⁷ Ibid, 5-8.

⁵⁶⁸ Ibid., 9.

⁵⁶⁹ Ibid., 10-11.

⁵⁷⁰ USAID, "2013 Report to the People," 2013.

⁵⁷¹ Social Impact, "Final Evaluation of CSO's Kenya Engagement (February 2012-April 2013)," 12; USAID, "USAID Support for Kenya's 2013 Elections: Rapid Assessment Review," 18.

⁵⁷² Social Impact, "Final Evaluation of CSO's Kenya Engagement (February 2012-April 2013)," 12.

⁵⁷³ US Department of State, "Background Briefing on Secretary Clinton's Travel to Africa," August 4, 2012, <http://www.state.gov/r/pa/prs/ps/2012/08/196060.htm>.

⁵⁷⁴ President Obama, "President Obama's Message to the People of Kenya," February 5, 2013., <https://obamawhitehouse.archives.gov/blog/2013/02/05/president-obamas-message-people-kenya>.

⁵⁷⁵ President Obama, "President Obama's Message to the People of Kenya"; Blanchard, "Kenya: Current Issues and US Policy," 12; US Department of State, "Daily Press Briefing," February 5, 2013, <http://www.state.gov/r/pa/prs/dpb/2013/02/203780.htm#KENYA>.

⁵⁷⁶ Human Rights Watch, "High Stakes: Political Violence and the 2013 Elections in Kenya" (Human Rights Watch, February 2013.), 1, <http://www.hrw.org/sites/default/files/reports/kenya0213webwcover.pdf>.

⁵⁷⁷ International Crisis Group, "Kenya After the Elections."; Brookings, "Kenya: A Country Redeemed after a Peaceful Election."; Institute for Security Studies, "How Kenya Delivered Its Peaceful General Elections."; USAID, "USAID Support for Kenya's 2013 Elections: Rapid Assessment Review," 4.

⁵⁷⁸ Carter Center, "Observing Kenya's March 2013 National Elections. Final Report," October 2013, 68, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/kenya-final-101613.pdf.

critical. They questioned the credibility, and raised the high risk of fraud as well as the potential for another outbreak of violence during the next elections.⁵⁷⁹

Conclusion

Paul Fagan, regional director for Africa at the International Republican Institute, stated before the US House of Representatives Committee on Foreign Affairs in April 2013, “Five years on, and Kenyans have emerged from that dark chapter in their nation’s history with a new constitutional and political order and significant steps made toward national reconciliation and healing.”⁵⁸⁰

Indeed, soon after the election violence in 2007/2008, the US government, together with other members of the international community and Kenyan actors, contributed to organizing peaceful elections in Kenya. The US’ commitment toward Kenya has been reflected in the consistent support for the reform agenda, the ICC investigations, and the constitutional referendum as well as the 2013 elections more specifically. While the situation in Kenya has been discussed in APB meetings, the APB did not play a significant role in influencing US policy, as the policy toward Kenya was already part of a well-established interagency process.

The immediate goals of a successful 2010 referendum and 2013 elections seemed to be achieved. These two milestones were regarded as relatively peaceful. This can in part be attributed to the electoral support provided by the United States and other donor partners.⁵⁸¹ However, the impact of such efforts should not be overestimated for several reasons.

First, several other factors may have helped to prevent a crisis in 2013. The International Crisis Group, for example, argued that after the 2007/2008 violence there was consensus among Kenyans that such violence ought to be avoided in the future.⁵⁸² The ICC indictments and proceedings may also have deterred criminal behavior. Paradoxically, its involvement reportedly brought together two political parties representing the main rival ethnic groups implicated in the violence during the 2007 elections—the Kikuyu and Kalenjin communities respectively—reportedly in order to jointly fight the ICC.⁵⁸³ This “Jubilee Coalition” has likely lessened the tensions between these ethnic groups.⁵⁸⁴ Further confrontation may have been avoided because many people left potentially volatile areas and returned to their own constituents to cast their votes. Self-censorship of the media may also have contributed to a more peaceful outcome.⁵⁸⁵

Secondly, many efforts undertaken by the international community from 2008-2013 focused on assuring peaceful elections. However, the violence during the 2007 elections should not be regarded as an isolated event. The elections were rather a catalyst for violence than its cause. Underlying drivers of the conflict have still not been adequately addressed.⁵⁸⁶ While the Kenyan government has committed itself

⁵⁷⁹ United States Institute of Peace, “Elections and Violent Conflict in Kenya. Making Prevention Stick,” October 2014, <http://www.usip.org/publications/elections-and-violent-conflict-in-kenya-making-prevention-stick>; USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 4.

⁵⁸⁰ House Committee on Foreign Affairs Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, “Testimony of Paul Fagan Regional Director for Africa International Republican Institute,” April 16, 2013, 2, <http://docs.house.gov/meetings/FA/FA16/20130416/100675/HHRG-113-FA16-Wstate-FaganP-20130416.pdf>.

⁵⁸¹ *Ibid.*, 4.

⁵⁸² International Crisis Group, “Kenya After the Elections.”

⁵⁸³ Mueller, “Kenya and the International Criminal Court (ICC): Politics, the Election and the Law,” 35-36;

Kendall, “‘UhuRuto’ and Other Leviathans: The International Criminal Court and the Kenyan Political Order.”

⁵⁸⁴ USAID, “USAID Support for Kenya’s 2013 Elections: Rapid Assessment Review,” 4; Kendall, “‘UhuRuto’ and Other Leviathans: The International Criminal Court and the Kenyan Political Order.”

⁵⁸⁵ International Crisis Group, “Kenya After the Elections.”

⁵⁸⁶ Human Rights Watch, “World Report 2016,” 351; International Crisis Group, “Kenya After the Elections.”

to seek “long-term measures and solutions”⁵⁸⁷ by signing the National Accord, many reform initiatives still need to be implemented.⁵⁸⁸ Human Rights Watch also stipulated in its 2016 World Report that no “tangible progress” was made with respect to bringing those responsible for the 2007/2008 election violence to justice.⁵⁸⁹

Thus, while the United States and others have taken significant steps in Kenya from 2008-2013 to mitigate the risk of violence, it remains to be seen how effective such efforts are. Continued attention by the United States and other members of the international community, in collaboration with Kenyan actors, is vital in order to ensure that 2010 and 2013 were no exceptions.

⁵⁸⁷ Kenya Law Reform Commission, “National Accord and Agenda Four Commissions,” 2015, <http://www.klrc.go.ke/index.php/our-work/national-accord-and-agenda-four-commissions>.

⁵⁸⁸ International Crisis Group, “Kenya After the Elections”; Human Rights Watch, “World Report 2016,” 351.

⁵⁸⁹ Human Rights Watch, “World Report 2016,” 351.

Libya

Ten days into the military intervention in Libya in March 2011, President Obama praised his administration's efforts in mobilizing international military action to prevent mass atrocities in the North African state: "Some nations may be able to turn a blind eye to atrocities in other countries. The United States of America is different. And as President, I refused to wait for the images of slaughter and mass graves before taking action."⁵⁹⁰ After the death of Libyan dictator Muammar Gaddafi seven months later, the then-US permanent representative at NATO Ivo Daalder and James Stavridis, at the time NATO's top general, described NATO's operation in Libya as "a model intervention."⁵⁹¹

More than five years later, as of late 2016, the state of Libya barely exists, and little has changed for the better. "There is no overstating the chaos of post-Qaddafi Libya," as the *New Yorker's* Jon Lee Anderson wrote more than a year earlier. A peace accord facilitated by the UN Support Mission in Libya (UNSMIL) in December 2015 provides the country with an internationally recognized government. But there are still two parliaments competing for legitimacy and power, no centrally controlled military and countless militia groups fighting each other.⁵⁹² Islamist groups, including the Islamic State, might have been expelled from cities like Sirte but the risk of terrorist attacks and atrocities are still high. With weak or non-existent state institutions, there has been very little security for civilians since 2011. In the fall of 2014, Amnesty International warned that "armed groups and militias are running amok, launching indiscriminate attacks in civilian areas and committing widespread abuses, including war crimes, with complete impunity."⁵⁹³ UNSMIL warned all fighters and their leaders to stop acts that "may amount to war crimes or crimes against humanity."⁵⁹⁴ According to UNHCR, by September 2016, the violence had left around 350,000 people displaced.⁵⁹⁵

In response to the deteriorating situation in the country, critics of the Obama administration's Libya policy broadly fall into two categories: one group criticizes the decision to intervene in the first place, arguing that the intervention was destined to create chaos from the start.⁵⁹⁶ Another set of critics argues that the administration should have made a much stronger effort to rebuild post-Gaddafi Libya, in particular by sending or supporting a military stabilization force.⁵⁹⁷

Both groups tend to oversimplify the choices available to the administration before, during, and after the intervention. To learn the right lessons from US policy in Libya for the US atrocity prevention agenda, however, it is necessary to examine the circumstances of US decision-making before the intervention and during the immediate period after the death of Gaddafi. In this chapter, we will therefore first review the Obama administration's choice to support a military intervention in Libya. The decision to intervene

⁵⁹⁰ The White House, "Remarks by the President in Address to the Nation on Libya," March 28, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya>.

⁵⁹¹ Alan J. Kuperman, "Obama's Libya Debacle," *Foreign Affairs* (2015).

⁵⁹² Rod Nordland, "Libya: Unified against Isis, Fragmented After," *New York Times*, September 3, 2016, http://www.nytimes.com/2016/09/04/world/middleeast/libya-unified-against-isis-fragmented-after.html?_r=0.

⁵⁹³ Amnesty International, "Libya: 'Rule of the Gun' Amid Mounting War Crimes by Rival Militias," October 30, 2014, <https://www.amnesty.org/en/latest/news/2014/10/libya-rule-gun-amid-mounting-war-crimes-rival-militias/>.

⁵⁹⁴ UNSMIL, "Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya," (2014).

⁵⁹⁵ UNHCR, "Libya Situation Operational Update," (2016).

⁵⁹⁶ Kuperman, "Obama's Libya Debacle."; Hugh Roberts, "Western Recklessness in Libya," *London Review of Books*, September 22, 2012, <http://www.lrb.co.uk/blog/2012/09/22/hugh-roberts/libya-and-the-recklessness-of-the-west/>.

⁵⁹⁷ Max Boot, "Too Little Too Late in Libya," *Los Angeles Times*, October 21, 2012, <http://articles.latimes.com/2012/oct/21/opinion/la-oe-boot-benghazi-iraq-security-20121021>; The Washington Post, "What Obama Botched in Libya," *The Washington Post*, May 5, 2014, http://www.washingtonpost.com/opinions/what-obama-botched-in-libya/2014/05/05/3aef7176-d47a-11e3-95d3-3bcd77cd4e11_story.html; Jennifer Rubin, "Libya: The Obama-Clinton Debacle," *The Washington Post*, February 17, 2015, <http://www.washingtonpost.com/blogs/right-turn/wp/2015/02/17/libya-the-obama-clinton-debacle/>.

would likely not have been taken had Obama not prioritized the prevention of mass atrocities. We will then examine US policy after the end of the intervention and contend that the United States could have made a stronger effort to support Libyan transitional authorities in reconstructing a state. The failure of the Libyan authorities and the international community, including the United States, to build a stable Libya after the intervention, is a key source of civilian insecurity and has heightened the risks of mass atrocities in the country today. Yet, critics of US policy after the intervention also need to acknowledge the circumstances that led to the decision not to deploy a stabilization force in Libya, including the strong opposition of the Libyans to any larger international role in the country.

Prioritizing Mass Atrocity Prevention: the Decision to Intervene in Libya

The Obama Administration's choice to support a military intervention in Libya in March 2011 is impossible to explain without giving weight to the political priority of the prevention of mass atrocities. The decision for intervention needs to be placed in the context of the Arab Spring in early 2011, the forceful reaction by Gaddafi to protests in his country, and the rapid international reaction to the violence. In January and February 2011, protests in Tunisia and Egypt forced long-term dictators Ben Ali and Mubarak to resign. The Gaddafi regime answered initially peaceful protests with force. On February 20, 2011, Human Rights Watch reported 230 deaths, including from targeted shootings of demonstrators.⁵⁹⁸ Less than two weeks after protests had started in Libya, the Security Council unanimously imposed unprecedented sanctions on the Libyan leadership and referred the situation in the country to the ICC.⁵⁹⁹ On March 1, the General Assembly suspended Libya's membership on the Human Rights Council.⁶⁰⁰ Gaddafi remained unimpressed. He announced that his forces would "cleanse" the rebels by searching for them "house by house" in the rebel stronghold of Benghazi and compared them to "cockroaches,"⁶⁰¹ reminding many in the United States and elsewhere of the rhetoric of the perpetrators of the Rwandan genocide.⁶⁰²

Before the APB was formed, Obama made a decision on intervention in Libya that demonstrated his desire to prevent mass atrocities. Obama did not merely decide to support a no-fly zone that had been proposed by the British and the French in the Security Council. When, on the evening of March 15, 2011, his advisors presented the president with the option of whether or not to support the no-fly zone, Obama rejected the choice itself. His military advisors agreed that simply preventing the Libyan air force from flying would not stop Gaddafi from entering Benghazi with his tanks. Journalist Michael Hastings cited Obama as saying "You're telling me that Benghazi could be overrun this week, but you're not giving me any options that stop it. [...] I want real options."⁶⁰³ Later the same evening, Obama's advisors presented a third option that included targeted air strikes against Gaddafi's tanks in addition to the no-fly zone. Against the advice of Secretary Gates, his National Security Advisor Tom Donilon and Biden, Obama decided to pursue this third option. He tasked Susan Rice to negotiate a Security Council

⁵⁹⁸ Human Rights Watch, "Libya: Governments Should Demand End to Unlawful Killings," February 20, 2011, <http://www.hrw.org/news/2011/02/20/libya-governments-should-demand-end-unlawful-killings>.

⁵⁹⁹ UN Security Council, "Resolution 1970," (2011).

⁶⁰⁰ UN General Assembly, "Resolution 65/265. Suspension of the Rights of Membership of the Libyan Arab Jamahiriya in the Human Rights Council," ed. UN General Assembly (New York, 2011).

⁶⁰¹ BBC, "Libya Protests: Defiant Gaddafi Refuses to Quit," *BBC* 2011.

⁶⁰² Sarah Brockmeier, "Germany and the Intervention in Libya," *Survival Global Politics and Strategy* 55, no. 6 (2013). For more on the initial response by the US government to the violence in Libya see also Edith M. Lederer, "US Supports War Crimes Tribunal for First Time," *The Washington Post*, March 2, 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/02/AR2011030200163.html>; Jeff Mason, "US Says Libya Has Spoken, Gaddafi Must Leave Now," *Reuters*, December 6, 2011), <http://www.reuters.com/article/2011/02/26/us-libya-usa-idUSTRE71K6D520110226>.

⁶⁰³ Michael Hastings, "Inside Obama's War Room," *Rolling Stone*, October 27, 2011, <http://www.rollingstone.com/politics/news/inside-obamas-war-room-20111013?print=true>; Michael Lewis, "Obama's Way," *Vanity Fair*, September 11, 2012, <http://www.vanityfair.com/politics/2012/10/michael-lewis-profile-barack-obama>.

resolution that would mandate such military action.⁶⁰⁴ Resolution 1973 that authorized “all necessary measures” to protect civilians was passed 36 hours later.⁶⁰⁵ On 19 March, the United States started air operations over Libya, together with Britain and France, which would be taken over by NATO two weeks later.

The prevention of mass atrocities was by no means the only reason why Obama supported the intervention. The president was under pressure from Paris and London. Both France and Britain advocated for humanitarian intervention to prevent a large scale massacre, hinting at a US obligation to show reciprocal support for their longstanding efforts in Afghanistan.⁶⁰⁶ In London, “[t]here was a very strong feeling at the top of [the British] government that Benghazi could very easily become the Srebrenica of our watch”, according to “a senior government source” quoted in the Guardian.⁶⁰⁷ For the French president, the desire to show activism in foreign policy and cover up his previously good relationship with the Gaddafi regime might also have played a role.⁶⁰⁸ When Obama decided to support the intervention, he made clear to his European counterparts that the United States would not take the lead on the operation.⁶⁰⁹ Obama’s decision was also the result of the specific circumstances of the crisis in Libya and the context of the Arab Spring.⁶¹⁰ The president himself provided a long list of factors that could have changed his decision: “If somebody had said to me that we could not take out their air defense without putting our fliers at risk in a significant way; if the level of risk for our military personnel had been ratcheted up—that might have changed my decision [...] Or if I did not feel Sarkozy or Cameron were far enough out there to follow through. Or if I did not think we could get a U.N. resolution passed.”⁶¹¹ Still, Obama could also have decided to merely support a no-fly zone. He rejected that option, however, with the specific reason that it would not guarantee the protection of civilians in Benghazi.

⁶⁰⁴ Hastings, "Inside Obama's War Room."

⁶⁰⁵ UN Security Council, "Resolution 1973," (New York, 2011). For more details on the Obama Administration’s decision making on authorizing the Libya intervention cf. Ryan Lizza, "The Consequentialist," *The New Yorker*, May 2, 2011, http://www.newyorker.com/reporting/2011/05/02/110502fa_fact_lizza; James Mann, *The Obamians: The Struggle inside the White House to Redefine American Power* (New York: Viking, 2012); Hastings, "Inside Obama's War Room."; Colum Lynch, "Amb. Rice: Leading from Behind? That's 'Whacked.'," *Foreign Policy*, October 31, 2011, http://turtlebay.foreignpolicy.com/posts/2011/10/31/amb_rice_leading_from_behind_that_s_whacked. Helene Cooper and Steven Lee Myers, "Obama Takes Hard Line with Libya after Shift by Clinton," *The New York Times*, March 18, 2011, <http://www.nytimes.com/2011/03/19/world/africa/19policy.html?pagewanted=all&r=1&>; Christopher Chivvis, *Toppling Qaddafi: Libya and the Limits of Liberal Intervention* (Cambridge: Cambridge University Press, 2013).

⁶⁰⁶ Mann, *The Obamians: The Struggle inside the White House to Redefine American Power*, 290. Joby Warrick and Karen DeYoung, "US Freezes Libyan Assets, Takes Steps to Aid Refugees," *The Washington Post*, February 28, 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/28/AR2011022802797.html>.

⁶⁰⁷ Patrick Wintour and Nicholas Watt, "David Cameron's Libyan War: Why the PM Felt Gaddafi Had to Be Stopped," *The Guardian*, October 2, 2011, <http://www.guardian.co.uk/politics/2011/oct/02/david-cameron-libyan-war-analysis>.

⁶⁰⁸ Sarah Brockmeier, Gerrit Kurtz, and Julian Junk, "Emerging Norm and Rhetorical Tool: Europe and a Responsibility to Protect," *Conflict, Security and Development* 14, no. 4 (2014): 446.

⁶⁰⁹ Chivvis, *Toppling Qaddafi: Libya and the Limits of Liberal Intervention*, 53-55.

⁶¹⁰ For more on the decision making on the intervention in Libya in general cf. Rebecca Adler-Nissen and Vincent Pouliot, "Power in Practice: Negotiating the International Intervention in Libya," *European Journal of International Relations* 20, no. 4 (2014); Simon Adams, "Libya and the Responsibility to Protect," in *Occasional Paper Series* (Global Centre for the Responsibility to Protect, 2012); Alex J. Bellamy and Paul D. Williams, "The New Politics of Protection - Cote D'ivoire, Libya and the Responsibility to Protect," *International Affairs* 87, no. 4 (2011); Emily O'Brien and Andrew Sinclair, "The Libyan War: A Diplomatic History. February-August 2011," (New York: Center on International Cooperation, 2011); Brockmeier, "Germany and the Intervention in Libya."; Sarah Brockmeier, Oliver Stuenkel, and Marcos Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection," *Global Society* (under review).

⁶¹¹ Lewis, "Obama's Way."; *ibid*; James Traub, "The Point Guard," *Foreign Policy*, September 2012, http://www.foreignpolicy.com/articles/2012/08/13/the_point_guard?page=full, last accessed on December 5, 2012.

Amid rising criticism of his decision making on Libya immediately following the intervention,⁶¹² the president made a case for US leadership on the prevention of mass atrocities in a speech on March 28, 2011. He argued that in a case that involved a direct threat to civilians, such as Benghazi, it was in the national interest of the United States to prevent mass atrocities: “[G]iven the costs and risks of intervention, we must always measure our interests against the need for action. But that cannot be an argument for never acting on behalf of what’s right.”⁶¹³ Even if US national security was not immediately threatened, argued Obama, there were situations of looming mass atrocities, in which American interests and values were at stake.⁶¹⁴

Regime Change: Taken for Granted

Many, especially outside of the United States, criticized the course that the intervention in Libya took. The intervening coalition led by NATO did not stop once they had protected civilians in Benghazi from the immediate threat of Gaddafi forces, but continued to essentially act as an air force to the rebels fighting on the ground until they defeated the Gaddafi regime.⁶¹⁵

The abstentions by Russia and China had enabled resolution 1973 to pass. While there are several reasons for their abstentions, including the backing of regional organizations, neither Moscow nor Beijing wanted to be seen to oppose action that could prevent a massacre in Libya.⁶¹⁶ Yet, in their view and the view of India, Brazil, and South Africa, the United States and its partners far exceeded the mandate of resolution 1973. The resolution had authorized military measures to stop the immediate threat on Benghazi, as well as measures to “[facilitate] dialogue to lead to the political reforms necessary to find a peaceful and sustainable solution,” as was emphasized in paragraph 2.⁶¹⁷ When, briefly after the start of the intervention, the coalition informed the AU that its safety would not be guaranteed if it went to Tripoli to continue its efforts to find a negotiated solution, South Africa and other emerging powers on the Security Council were outraged.

The opponents of regime change decried what they saw as an abuse of the humanitarian argument on protecting people for the political goal of regime change.⁶¹⁸ Russia, China, Brazil, India, and South Africa were particularly frustrated by what they saw as the dismissal of any serious attempt to find a negotiated solution.⁶¹⁹

It is difficult in retrospect to judge the chances of success for a negotiated solution once the immediate danger to civilians in Benghazi had been stopped. According to two former US administration officials, there had been multiple opportunities for Gaddafi to take a deal, which he refused.⁶²⁰ In retrospect, however, three elements of the US and NATO response during the intervention contributed to what, in

⁶¹² The Week, "Everyone's a Critic: Obama's Growing List of Libya Dissenters", March 23, 2011, <http://theweek.com/article/index/213429/everyones-a-critic-obamas-growing-list-of-libya-dissenters>.

⁶¹³ The White House, "Remarks by the President in Address to the Nation on Libya."

⁶¹⁴ Ibid.

⁶¹⁵ Obama, Cameron and Sarkozy made an indirect case for regime change in a joint op-ed in April 2011: Barack Obama, David Cameron, and Nicolas Sarkozy, "Libya's Pathway to Peace," *The International Herald Tribune*, April 15, 2011, <http://www.nytimes.com/2011/04/15/opinion/15iht-edlibya15.html>.

⁶¹⁶ Sarah Brockmeier, Oliver Stuenkel, and Marcos Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection," *Global Society* (forthcoming); The Mendeleyev Journal, "Why Russia Voted to Abstain on Libya "No-Fly" Resolution (Exerpts from English Translation of Press Conference by President Medvedev)," March 21, 2011; Yun Sun, "China's Acquiescence on Unscr 1973: No Big Deal," *PacNet: Pacific Forum CSIS*, March 31, 2011, <http://csis.org/files/publication/pac1120.pdf>.

⁶¹⁷ UN Security Council, "Resolution 1973."

⁶¹⁸ Brockmeier, Stuenkel, and Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection."

⁶¹⁹ Alex de Waal, "My Fears, Alas, Were Not Unfounded': Africa's Responses to the Libya Conflict," in *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, ed. Aidan Hehir and Robert Murray (New York: Palgrave Macmillan, 2013).

⁶²⁰ Derek Chollet and Ben Fishman, "Who Lost Libya? Obama's Intervention in Retrospect," *Foreign Affairs* (2015).

the eyes of many analysts, was a decrease in the legitimacy and credibility of the responsibility to protect concept and a toxic atmosphere on the Security Council that also had negative consequences for US policy in Syria.⁶²¹

First, even if there were back-channel attempts by the United States to support negotiations, NATO does not seem to have used its influence on the rebels to push them to negotiate with the Gaddafi regime. In January 2016, the former British Chief of Defence Staff, Sir David Richards, told the House of Commons inquiry into the Libya intervention that he had built a pause into the British campaign plan in Libya. Political leaders, he explained, “should at least have had an opportunity to pause, perhaps have a ceasefire and have another go at the political process.”⁶²² He highlighted that the NATO coalition could have put more pressure on the National Transitional Council (NTC) to engage in political negotiations and could have insisted on a ceasefire, but they never did.⁶²³ As Simon Adams, Director of the Global Centre of the Responsibility to Protect, put it: “Countries supporting the NATO-led intervention applied little diplomatic pressure on the [NTC] to take the AU initiative seriously. Although Qaddafi’s gesture may have been empty, it still should have been vigorously pursued.”⁶²⁴

Second, the United States also did not seem to have prepared any diplomatic groundwork for sustaining Security Council support for the operation—likely because it was hoped that the intervention would be over in a matter of days or weeks. Some scholars and policymakers in the discussions on the Libya intervention made the case that sometimes regime change can be a necessary part of interventions to protect civilians.⁶²⁵ Edward Luck, for example, then-Special Advisor for the Responsibility to Protect, argued in 2011 that while regime change could not be the goal of the responsibility to protect, “it may be in some cases that the only way to protect populations is to change the regime.”⁶²⁶ The United States, France, and the United Kingdom, however, hardly ever made an explicit case for the position that regime change might be necessary to protect civilians in Libya. On the contrary, in a common op-ed in April 2011, Obama, Sarkozy, and Cameron announced that their goal was not regime change.⁶²⁷ In response to the criticisms by the BRICS states on the Security Council, the United States and its allies argued that military interventions could not be micromanaged. While this might be true, it was not an argument that seriously engaged with the criticism that the operation should have been (temporarily) halted to engage in new negotiation efforts.⁶²⁸

Thirdly, the United States and its NATO partners were accused of purposefully overlooking atrocity crimes that were committed by the rebels they supported. A report published by the Human Rights Council in January 2014 found that NATO had conducted a “highly precise campaign with a

⁶²¹ Thorsten Benner, "Nato's Libya Mission Could Cause a Political Backlash," *Deutsche Welle*, September 8, 2011, <http://www.dw.de/natos-libya-mission-could-cause-a-political-backlash/a-15371687-1>; Brockmeier, Stuenkel, and Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection."

⁶²² UK House of Commons, "Oral Evidence: Libya: Examination of Intervention and Collapse and the UK's Future Policy Options," (2016).

⁶²³ Ibid.

⁶²⁴ Adams, "Libya and the Responsibility to Protect."

⁶²⁵ Alex J. Bellamy, "The Responsibility to Protect and the Problem of Regime Change," in *The Responsibility to Protect: Challenges & Opportunities in Light of the Libyan Intervention*, ed. Alex Stark (e-International Relations, 2011).

⁶²⁶ Bernard Gwertzman, "Will Syria Follow Libya? Interview with Edward C. Luck, Special Advisor to the UN Secretary-General," *Council on Foreign Relations*, September 1, 2011, <http://www.cfr.org/syria/syria-follow-libya/p25745>.

⁶²⁷ Obama, Cameron, and Sarkozy, "Libya's Pathway to Peace."

⁶²⁸ "Interview with Brazilian Ambassador Maria Luiza Ribeiro Viotti," (Berlin 2014); Brockmeier, Stuenkel, and Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection"; Sarah Brockmeier, "Lessons in Statecraft Still to Be Learned 5 Years after the Libya Intervention," *War on the Rocks*, March 16, 2016, <http://warontherocks.com/2016/03/lessons-in-statecraft-still-to-be-learned-5-years-after-the-libya-intervention/>.

demonstrable determination to avoid civilian casualties.⁶²⁹ According to the report, 60 civilians were killed and 55 injured by NATO airstrikes.⁶³⁰ It also underlined, however, that the rebel forces supported by NATO had committed war crimes, crimes against humanity, and “breaches of international human rights law.”⁶³¹ These included unlawful killings of 65 to 78 loyalist soldiers and of a number of Chadian nationals; mass arbitrary arrests, often accompanied by torture; targeted attacks against Tawergha and Mashashiya communities; and use of “inherently indiscriminate weapons in their military offensives against cities perceived as loyalist,” particularly in Sirte.⁶³² Despite efforts to set up transitional justice mechanisms in Libya, no one has been held accountable for these crimes to date.⁶³³

US Policy in Post-Gaddafi Libya: Disengaging Without a Plan

On 20 October 2011, Gaddafi was captured and killed in Sirte by forces loyal to the NTC, which declared Libya to be officially “liberated” three days later.⁶³⁴ President Obama commented on the death of Gaddafi in the Rose Garden, praising the “opportunity” for the Libyan people “to determine their own destiny in a new and democratic Libya.” He cautioned that the transition would be difficult and Libya would have to “travel a long and winding road to full democracy”, but promised that the United States would be a partner to the Libyan people in “forg[ing] a future that provides dignity, freedom, and opportunity.”⁶³⁵

Over the following years, however, Libya would never really begin to embark on the path to stability, much less democracy. The continued instability provided an environment in Libya that allowed for continued human rights abuses and in some cases, abuses by competing fighting groups that, according to the UN mission in the country, “may amount to war crimes or crimes against humanity.”⁶³⁶ According to Amnesty International, “all sides committed serious violations of international humanitarian law, including war crimes, and human rights abuses.”⁶³⁷

During the seven months of the military campaign and immediately after Gaddafi’s death, both US and international experts warned of the challenges that Libya would face:⁶³⁸ The legacy of Gaddafi’s decades-long regime consisted of a lack of national identity and a profound dislike of centralized authority.⁶³⁹ State institutions were extremely weak and co-opted by a system of patronage networks.⁶⁴⁰ Thousands of weapons were spread across the country. The vacuum opened by the demise of the

⁶²⁹ Human Rights Council, “Report of the International Commission of Inquiry on Libya,” ed. General Assembly (2014).

⁶³⁰ *Ibid.*, 16.

⁶³¹ *Ibid.*, 1.

⁶³² *Ibid.*, 8.

⁶³³ Lawyers for Justice in Libya, Redress, and Dignity, “Stakeholder Report to the United Nations Human Rights Council Universal Periodic Review-Libya,” (October 2014),

<http://www.redress.org/downloads/publications/2015torture-in-libya--lfjl-redress-and-dignity-%287%29.pdf>.

⁶³⁴ BBC News, “Libya’s New Rulers Declare Country Liberated,” *BBC* (2011).

⁶³⁵ White House, “Remarks by the President on the Death of Muammar Qaddafi.” (October 11, 2011).

<https://obamawhitehouse.archives.gov/the-press-office/2011/10/20/remarks-president-death-muammar-qaddafi>.

⁶³⁶ UNSMIL, “Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya.”

⁶³⁷ Amnesty International, “Libya Annual Report 2015/2016,” (2016).

⁶³⁸ Richard N. Haass, Ray Takeyh, and Ed Husain, “After Qaddafi, Libya’s Daunting Path,” *Council on Foreign Relations* (October 20, 2011), <http://www.cfr.org/libya/after-qaddafi-libyas-daunting-path/p26249>; Daniel Serwer, “Post-Qaddafi Instability in Libya,” in *Contingency Planning Memorandum No. 12* (Council on Foreign Relations Center for Preventive Action, 2011); Robert M. Danin and Bernard Gwertzman, “Interview: Libya’s ‘Precarious’ Transition Ahead,” *The Council on Foreign Relations* (August 25, 2011), <http://www.cfr.org/libya/libyas-precious-transition-ahead/p25712>; International Crisis Group, “Divided We Stand: Libya’s Enduring Conflicts,” (2012).

⁶³⁹ M. Wierda, “Confronting Qadhafi’s Legacy: Transitional Justice in Libya,” in *The Libyan Revolution and Its Aftermath* (C. Hurst & Co., 2015), 153-76.

⁶⁴⁰ *Ibid.*

loyalist security apparatus would quickly be filled by a multiplicity of loosely organized, ideologically divided, and well-armed militia groups, each with its own regional strongholds and areas of influence.⁶⁴¹

In retrospect, US engagement in post-Gaddafi Libya can be divided into two periods: a first period between the death of Gaddafi and the September 2012 attacks in Benghazi and a second period after the attacks. The first period presented a “window”⁶⁴² for the United States and other international actors to support the effort of building a new Libyan state. After the September 11, 2012 attacks on the US diplomatic compound in Benghazi, US engagement decreased markedly while Libya quickly descended into chaos.

The Missed Window of Opportunity: October 2011 to September 2012

During the period after the death of Gaddafi until Libya’s first national elections in mid-2012, the United States primarily focused on supporting the political UN mission in the country. The UNSMIL was tasked with providing assistance for a democratic transition with free and fair elections, promoting the rule of law and providing support for reforming the Libyan security sector. In support of these goals, the United States began programs on transition assistance and security sector support by USAID (funded through the Office of Transition Initiatives). By 2013, funding amounted to an overall sum of \$25 million for support of civil society groups and technical assistance to electoral administration bodies.⁶⁴³

With the hindsight of how the situation in Libya developed, the United States lacked a broader plan for the post-Gaddafi period and its own contribution to rebuilding the Libyan state. When asked whether there was a vision for Libya within the US government in 2012, a former Administration official working on Libya during that time, replied “no.” US policymakers instead were “tracking various stabilization streams, on DDR [disarmament, demobilization and reintegration], justice, reconstruction, economic reform, infrastructure.”⁶⁴⁴ The United States looked to the UN, which was supposed to conduct the overall donor coordination. In the months before the death of Gaddafi, a White House official approached the Council of Foreign Relations (CFR) to run an exercise on contingency planning for Libya after Gaddafi.⁶⁴⁵ When the CFR convened a meeting on the contingency plans, one participant was “struck that all relevant inter-agency actors were there—because there wasn’t an inter-agency process.” The participant was “shocked that people [in the Administration] did not give this more thought at the time.”⁶⁴⁶

Related to the lack of an overarching vision, the administration has been criticized for a lack of overall scale and effort in its Libya policy after the death of Gaddafi.⁶⁴⁷ On the one hand, in hindsight, administration officials, including the president, agree with the assessment that the US could have done more. Obama himself argued in August 2014 that his administration “underestimated...the need to come in full force.” “If you’re gonna do this,” the president told the New York Times, “there has to be a much more aggressive effort to rebuild societies.”⁶⁴⁸ A former administration official that worked on Libya agrees. “We could have done more,” he argued, naming more coordination with US allies as an example. In particular, during the window of opportunity before September 2012, “there was not much

⁶⁴¹ Christopher S. Chivvis and Jeffrey Martini, "Libya after Qaddafi: Lessons and Implications for the Future," ed. RAND Corporation (RAND, 2014), 7-30.

⁶⁴² Former administration official, interview, 18 March 2015.

⁶⁴³ C. M. Blanchard, "Libya: Transition and US Policy," (Congressional Research Service, 2014). See also USAID, "Libya Country Page."

⁶⁴⁴ Former administration official, interview, 18 March 2015.

⁶⁴⁵ The resulting report is available to the public: Serwer, "Post-Qaddafi Instability in Libya."

⁶⁴⁶ Exchange with participant in the meeting, 20 March 2015.

⁶⁴⁷ Compare for example: Washington Post, "What Obama Botched in Libya," *Washington Post*, 2014.

⁶⁴⁸ Thomas L. Friedman, "Obama on the World," *The New York Times*, August 8, 2014, http://www.nytimes.com/2014/08/09/opinion/president-obama-thomas-l-friedman-iraq-and-world-affairs.html?_r=0.

money on the table” given that Congress did not see funds for oil-rich Libya as a priority. The administration “could have made a stronger case to Congress for funds,” argued the same official.

On the other hand, for a fair assessment of the administration’s policies in Libya and for an informed debate on the lessons of the post-intervention peacebuilding efforts, the circumstances of the period after the death of Gaddafi have to be considered.

First, and most importantly, the Libyan authorities in charge rejected a larger international role in their country’s transition. The interim authorities feared that a stronger international involvement would weaken their legitimacy. As James Traub summarized for *Foreign Policy*: “Libyan officials proudly refused Western offers of help; they wanted stuff, not training.”⁶⁴⁹

The former administration official similarly argues that the United States “had to step back” given the Libyan’s attitude toward outside support: “They were adamant that they would do it mostly themselves.”⁶⁵⁰ One example the official recalled concerns US efforts on reducing the number of MANPADS (shoulder-launched anti-aircraft missile systems) in the country—a priority for the administration. The offers of assistance “could have been better coordinated”, argue Derek Chollet and Ben Fishman in a *Foreign Affairs* article published in April 2015, “but every assistance program took weeks, if not months, for the Libyans to accept—and even longer to get started due to the torturous pace of decision-making, Libyan ministers’ lack of budgetary authority, and the public sector’s minimal bureaucratic capacity.”⁶⁵¹ They argue that while the United States and its allies could have done more, the leverage by any external power was limited: “The United States partners could not force decisions, sign essential documents, or extract payments from a dysfunctional budget process.”⁶⁵² Ian Martin, Special Representative of the United Nations Secretary-General and head of the UNSMIL from September 2011 to October 2012, argues that “the Libyans making their revolution were determined to control that transition, and were wary, with the Iraq experience in mind, of post-conflict situations dominated by external actors.”⁶⁵³ Martin echoes the frustration by US officials that most advice given was politely heard but ultimately not reflected in the actions by the NTC.⁶⁵⁴

Neither the European Union nor the United States were eager to send a substantive number of troops or police forces to Libya.⁶⁵⁵ There was “no appetite for large scale boots-on the ground state building effort after Iraq and Afghanistan.”⁶⁵⁶ So both the European Union and the United States did not make a concerted effort to argue with the Libyan authorities for the deployment of such a force.⁶⁵⁷ But those that criticize the United States for not engaging with a “heavier footprint”⁶⁵⁸ in Libya often overlook the fact that the Libyans also decidedly rejected the idea of an international peacekeeping force in the country. In August 2011, two months before the end of NATO’s military campaign in Libya, a leaked UN planning document proposed the deployment of a few hundred police advisors and unarmed military observers, as well as a continuing role for NATO that was not laid out in more detail.⁶⁵⁹ The NTC decidedly rejected

⁶⁴⁹ James Traub, “Is Libya Beyond Repair?,” *Foreign Policy*, November 1, 2013, <http://foreignpolicy.com/2013/11/01/is-libya-beyond-repair/>.

⁶⁵⁰ Former administration official, interview, 18 March 2015.

⁶⁵¹ Chollet and Fishman, “Who Lost Libya? Obama’s Intervention in Retrospect.”

⁶⁵² *Ibid.*

⁶⁵³ Ian Martin, “The United Nations’ Role in the First Year of the Transition,” in *The Libyan Revolution and Its Aftermath*, ed. Peter Cole and Brian McQuinn (London: C. Hurst & Co., 2015), 145.

⁶⁵⁴ *Ibid.*

⁶⁵⁵ Chivvis and Martini, “Libya after Qaddafi: Lessons and Implications for the Future.”

⁶⁵⁶ *Ibid.*, 5.

⁶⁵⁷ *Ibid.*, 5.

⁶⁵⁸ See for example Boot, “Too Little Too Late in Libya.”

⁶⁵⁹ Michael W. Doyle, *The Question of Intervention: John Stuart Mill and the Responsibility to Protect* (New Haven: Yale University Press, 2015), 138.

even this comparably less intrusive option.⁶⁶⁰ This demonstrates that suggestions such as the Council of Foreign Relations' "force of up to three thousand paramilitary police"⁶⁶¹ from the European Union and the UN or a NATO-led stabilization mission were not options that the Libyan leaders were prepared to consider. Derek Chollet and Ben Fishman summarized the lack of support for a peacekeeping mission inside and outside of Libya:

*Contrary to the assertions of some critics, there was never a realistic option for establishing an international peacekeeping or postconflict security mechanism, because the Libyans did not want it. And no viable candidates from the West or the region stepped up to lead or compose such a force, because no one wanted to participate in an enterprise that might appear neocolonial.*⁶⁶²

A second circumstance that needs to be taken into account for a fair assessment of US policy after the death of Gaddafi is the initial optimism regarding the capacities of the transitional authorities and the developments in Libya in the first few months of the transition. Initially, the situation in Tripoli remained calm.⁶⁶³ Libya expert Dirk Vandewalle, for example, described the period between October 2011 and the first national elections in the summer of 2012 as "Libya's own moment of enthusiasm":⁶⁶⁴ a period in which the emerging institutional symbols of democracy spurred some hopes for a peaceful and inclusive process of political transition.⁶⁶⁵ At the UN, Ian Martin provided "upbeat" reports to the Security Council on the progress in Libya that "may have delayed a realization of how anarchic Libya had in fact become," as Columbia professor Michael Doyle wrote.⁶⁶⁶ The elections in July 2012 were peaceful. As late as September 2012, Vandewalle wrote that "the larger story about the new Libya is surprisingly positive. The worst-case scenarios commonly predicted a year ago have not emerged, and there are actually grounds for guarded optimism about the future."⁶⁶⁷

The combination of this initial optimism and the Libyans' refusal of a larger international role have to be taken into account for a balanced judgement on US policy in the period before September 2012. Despite these considerations, as US officials admit themselves, the administration could have done more in that initial period to support the state building effort in Libya. It was in this period that the United States and the international community still had a chance to turn things around. Then, as one US official recalls, "Benghazi happened and everything fell apart."⁶⁶⁸

Libya and US Policy After the Benghazi Attacks

On September 11, 2012, armed Islamist militants attacked the US diplomatic compound in Benghazi, killing US ambassador Christopher Stevens and three other American officials.⁶⁶⁹ Two months before the 2012 US presidential elections, the incident caused a domestic firestorm, centered on the question

⁶⁶⁰ Ibid., 138.

⁶⁶¹ Serwer, "Post-Qaddafi Instability in Libya," 8.

⁶⁶² Chollet and Fishman, "Who Lost Libya? Obama's Intervention in Retrospect."

⁶⁶³ Chivvis and Martini, "Libya after Qaddafi: Lessons and Implications for the Future."

⁶⁶⁴ D. Vandewalle, "Libya's Uncertain Revolution," in *The Libyan Revolution and Its Aftermath*, ed. P. Cole, and McQuinn, B. (C. Hurst & Co., 2015), 18.

⁶⁶⁵ Dirk Vandewalle, "The Surprising Success of the New Libya," *Foreign Affairs*, November/December (2012).

⁶⁶⁶ Doyle, *The Question of Intervention: John Stuart Mill and the Responsibility to Protect*, 138.

⁶⁶⁷ Vandewalle, "The Surprising Success of the New Libya."

⁶⁶⁸ Former administration official, interview, March 18, 2015.

⁶⁶⁹ US Senate Select Committee on Intelligence, "Terrorist Attacks on US Facilities in Benghazi, Libya, September 11-12, 2012," (2014).

of whether administration officials had tried to mislead the public by making initial statements that the attacks appeared to have been spontaneous and not an act of planned terrorism.⁶⁷⁰

After the attacks, the United States withdrew most diplomatic staff from Libya and “essentially abandoned its role in the international efforts to rebuild Libya and foster democracy.”⁶⁷¹ The New Yorker’s Jon Lee Anderson cites a senior government official that describes the extreme politicization of the attacks as the reason for an almost complete drawdown of US efforts in supporting the transition in the country. The attacks “pushed almost all assistance efforts to the side.”⁶⁷² A program that would have deployed advisors to the Libyan Ministry of Defense was halted, for example.⁶⁷³

At the same time, starting in the fall of 2012, the situation in Libya deteriorated. Throughout 2013 it became increasingly evident that the interim government was not able to effectively demobilize illegal armed groups and establish security throughout the country.⁶⁷⁴ The situation escalated in late 2013, when a campaign of targeted assassinations of security officers took place in Benghazi and Prime Minister Zeidan was briefly kidnapped by militia groups.⁶⁷⁵ After major political and institutional setbacks, including elections to a Constitutional Drafting Assembly which were marred by violence and low turnout as well as the ousting of Zeidan,⁶⁷⁶ the country has effectively been in a civil war since May 2014.⁶⁷⁷ In May, retired general Khalifah Haftar, who formerly worked for the CIA,⁶⁷⁸ launched an unauthorized military campaign in eastern Libya to neutralize Islamist militias suspected of terrorist activities.⁶⁷⁹ The campaign, which was accompanied by pledges to “cleanse” Libya of the Muslim Brothers,⁶⁸⁰ precipitated a region-wide armed struggle between pro- and anti-Islamist forces.

In reaction to these developments, the United States repeatedly called on all sides to avoid violence and to “resolve differences through political dialogue and participation in the democratic process.”⁶⁸¹ But, as the Congressional Research Service dryly noted in the fall of 2014: “Convincing or compelling parties to do so has proven more difficult.”⁶⁸² Diplomatic engagement with Libya is complicated by the chaotic conditions and lack of clear partners on the Libyan side.⁶⁸³ The more actors fought over power and legitimacy in Libya, the less clear it became which interim leaders the United States and the international community should support.⁶⁸⁴ In addition, as was the case before September 2012, US officials showed exasperation over the lack of capacities by their Libyan counterparts. “The Libyans defeated everyone,” a Senior Administration official told Jon Lee Anderson: “It didn’t matter how hard we tried, they defeated us all.”⁶⁸⁵

⁶⁷⁰ Scott Shane, “Clearing the Record About Benghazi,” *New York Times*, October 17, 2012, <http://www.nytimes.com/2012/10/18/us/politics/questions-and-answers-on-the-benghazi-attack.html>.

⁶⁷¹ Anderson, “The Unravelling.”

⁶⁷² Traub, “Is Libya Beyond Repair?.”

⁶⁷³ Ibid.

⁶⁷⁴ United Nations Security Council, “Report of the Secretary-General on the United Nations Support in Libya,” (2013).

⁶⁷⁵ Blanchard, “Libya: Transition and US Policy.”

⁶⁷⁶ Ibid., 4.

⁶⁷⁷ Louis Charbonneau, “Libya Warns United Nations of Possible Slide into Civil War,” *Reuters*, August 27, 2014, <http://www.reuters.com/article/2014/08/27/us-libya-security-un-idUSKBN0GR1TT20140827>.

⁶⁷⁸ Anderson, “The Unravelling.”

⁶⁷⁹ Ibid.

⁶⁸⁰ Anas El Gomati, “Khalifa Haftar: Fighting Terrorism or Pursuing Political Power?,” *Al Jazeera*, June 10, 2014, <http://www.aljazeera.com/indepth/opinion/2014/06/khalifa-hifter-operation-dignity-20146108259233889.html>.

⁶⁸¹ The White House, “Statement by the President on the Elections in Libya,” June 26, 2014,

<https://obamawhitehouse.archives.gov/the-press-office/2014/06/26/statement-president-elections-libya>.

⁶⁸² Blanchard, “Libya: Transition and US Policy,” 8-9.

⁶⁸³ Ibid., 9.

⁶⁸⁴ Ibid.

⁶⁸⁵ Anderson, “The Unravelling.”

Overall, since September 2012, US engagement has also been hampered by the lack of staff on the ground.⁶⁸⁶ After the appointment of a new ambassador to Libya in March 2013, all embassy activities in the country were once again suspended in July 2014, due to ongoing violence between militia groups. In December 2015, a UN-backed dialogue process succeeded in establishing an internationally recognized national government.⁶⁸⁷ Nevertheless, as of late 2016, Libya is highly unstable and hardly united.⁶⁸⁸ All of this had terrible consequences for Libyan civilians. Libyan oil revenues have decreased by 90% over the last few years, amounting to losses of about \$ 68 billion since 2013.⁶⁸⁹ Many businesses are closed. The organization “Libya Body Count” estimates that more than 5500 people have been killed since January 2014⁶⁹⁰ and hundreds of thousands of Libyan citizens have fled to neighboring Tunisia.⁶⁹¹ The country’s breakdown does not only affect its citizens, but has severe consequences for the broader region. There are unguarded border crossings in the southern desert to Algeria, Niger, Chad, and Sudan with jihadists being able to move freely and the smuggling of migrants through Libya across the Mediterranean to Europe has increased significantly, with thousands of people drowning in the process.⁶⁹² The December 2015 peace agreement was the first sign of hope in a long time, but it has yet to produce increased and long-term stability.

Conclusion

Foreign Policy’s James Traub summarized the post-war developments in Libya thus: “The 42-year-old reign of Muammar al-Qaddafi was so utterly personal that when he fell from power, everything fell with him.”⁶⁹³

That Gaddafi fell at all was to a large extent the consequence of the US supported military intervention in Libya. The process that ended with Obama’s decision to support an intervention in Libya in March 2011 demonstrated that the prevention of mass atrocities was a political priority for the administration and for Obama personally. In the period immediately after the intervention, however, the United States overestimated the capacity of the transitional authorities in Libya to build a new state as well as the ability of the UN mission to help them. As with its European allies, the United States could have made a much stronger effort to work with the Libyans. The US room for maneuver was limited, however, given Libya’s opposition to a large scale international involvement in the transition.

In the aftermath of the Benghazi attacks in September 2012, domestic political reasons led to a significant drawdown of US efforts in the country. The atrocity prevention lens that had played such a significant role in making the United States go into Libya in the first place seems to have been lost entirely after 2012.

Our review of US policy in Libya since 2011 ultimately shows that any debates on the “lessons from Libya”⁶⁹⁴ should go beyond the mere criticism of the decision to intervene as such or the lack of a military stabilization force after the death of Gaddafi. More fruitful discussions on the intervention would

⁶⁸⁶ Chivvis and Martini, “Libya after Qaddafi: Lessons and Implications for the Future,” 24-25; Chollet and Fishman, “Who Lost Libya? Obama’s Intervention in Retrospect.”

⁶⁸⁷ Kareem Fahim and Suliman Ali Zway, “Libya’s Rival Factions Sign Deal for Unity Government,” *New York Times*, December 17, 2015, <http://www.nytimes.com/2015/12/18/world/africa/libya-unity-government.html>.

⁶⁸⁸ Nordland, “Libya: Unified against Isis, Fragmented After.”

⁶⁸⁹ Anjali Raval, “War and Strife Have Cost Libya \$68bn in Lost Oil Revenues,” *Financial Times*, January 24, 2016, <https://www.ft.com/content/4dc800de-c27a-11e5-b3b1-7b2481276e45#axzz3yCLRqPnc>.

⁶⁹⁰ Libya Body Count, “Total Violent Deaths as of 02 December 2016,” 2016, <http://www.libyabodycount.org/>.

⁶⁹¹ Anderson, “The Unravelling.”

⁶⁹² International Crisis Group, “Libya: Getting Geneva Right,” *International Crisis Group Middle East and North Africa Report Nr. 157* (2015).

⁶⁹³ Traub, “Is Libya Beyond Repair?.”

⁶⁹⁴ Alan J. Kuperman, “Lessons from Libya: How Not to Intervene,” in *Policy Brief* (Belfer Center for Science and International Affairs, Harvard Kennedy School, 2013).

revolve around the strategic questions that Libya raised regarding the use of force in preventing atrocity crimes. These include the relationship between the protection of civilians and regime change as well as the relationship between political strategy and military means. The argument by Brazil and other emerging powers that NATO should have stopped the military campaign after the immediate threat to civilians in Benghazi was averted and given serious political negotiations a chance, has been hardly addressed by US diplomats. The suggestion and other possible alternatives to the way the operation was handled have also been less discussed in Washington. While it is debatable whether the option proposed by Brazil and others was realistic, their suggestion points to the need to discuss not only *whether* to intervene militarily to protect civilians, but *how* to do so—both in regard to the specific cases of Libya and beyond. The paucity of discussion on how to intervene militarily highlights a gap in the prevention of mass atrocity crimes and the use of force that US policymakers should address.⁶⁹⁵

⁶⁹⁵ Genocide Prevention Task Force, "Preventing Genocide. A Blueprint for US Policymakers," (Washington, DC: The American Academy of Diplomacy, US Holocaust Memorial Museum, US Institute of Peace, 2008); Thorsten Benner et al., "Effective and Responsible Protection from Atrocity Crimes: Toward Global Action," ed. Philipp Rotmann and Sarah Brockmeier (Global Public Policy Institute, 2015); Sarah Brockmeier, "Re-Examining the Lessons of the Libya Intervention," *Royal United Services Institute*, May 24, 2016, <https://rusi.org/publication/newsbrief/re-examining-lessons-libya-intervention>.

Myanmar

On May 28, 2012, a Buddhist woman in the Rakhine State of northwestern Myanmar was reportedly raped and killed by three Muslim men.⁶⁹⁶ The event triggered a wave of retributive violence as majority Buddhist Rakhine populations targeted minority Muslim Rohingya populations. Over the course of the next two weeks, nearly 100 people were killed and more than 75,000 Rohingya Muslims were displaced when more than 5,000 homes were destroyed.⁶⁹⁷ Human Rights Watch reported at the time that Myanmar state security forces were complicit in the violence and that they had participated in destroying homes and arresting hundreds.⁶⁹⁸ Myanmar media also fueled the campaign, casting the Rohingya as “terrorists and traitors.”⁶⁹⁹

The violence in Myanmar erupted just a month after President Obama’s speech at the US Holocaust Memorial Museum that announced the formation of the APB. Hence, Myanmar was one of the very first cases on the APB’s plate. Unlike Syria (see chapter below), Myanmar did not have a formal IPC process in place to address the escalating violence. In one of its first assignments, the APB facilitated the rapid US government coordination to assess the magnitude of the violence, to examine the risk factors for escalation, and develop strategies for preventing and mitigating further violence. In this sense, as will be discussed below, Myanmar proved to be a modest procedural success for the APB.

Yet, the US government response to the escalation of violence against the Rohingya peoples in 2012 also demonstrates some of the limits of an atrocity prevention strategy in the context of broader geostrategic interests. The violence came in the midst of a major political transition for the country’s relations to the outside world. After a military coup in 1990, Myanmar retreated into relative isolation for nearly twenty years.⁷⁰⁰ Throughout the 1990s, US attention on the “quasi-Marxist” Myanmar government focused extensively on pressing the government to respect human rights and democracy—and the release from house confinement of Nobel Laureate Aung San Suu Kyi.⁷⁰¹ In 2010, the Myanmar government finally began a series of initial democratic reforms, making it, as the Economist put it, “the last large Asian country to become connected to the world economy.”⁷⁰² The opening triggered a thaw in US- Myanmar relations just as Washington began its “pivot” to Asia in an effort to check rising Chinese influence in East and Southeast Asia. The confluence of these events has shifted, somewhat, the overall balance of US interests in Myanmar. Washington still places significant emphasis on the country’s human rights and the democratic reform efforts, yet new geostrategic and economic interests also weigh heavily in US policy.

Myanmar’s transition and the shifting interests of the United States in the country and the region has been reflected in two separate presidential visits to Myanmar —the first to demonstrate American support for the reform efforts in 2012 and the second, in late 2014, to participate in Myanmar’s hosting of the 25th annual ASEAN summit. In both visits, and in broader US policy developments, the Obama administration has expressed its commitment to Myanmar and the wider Asia-Pacific region as part of

⁶⁹⁶ Thomas Fuller, “Crisis in Myanmar Over Buddhist-Muslim Clash,” *New York Times*, June 10, 2012.

⁶⁹⁷ International Crisis Group, “The Dark Side of Transition: Violence Against Muslims in Myanmar,” Asia Report No. 251, October 1, 2013, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/myanmar/251-the-dark-side-of-transition-violence-against-muslims-in-myanmar.aspx>.

⁶⁹⁸ Human Rights Watch, “All you can do is pray: Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma’s Arakan State,” April 22, 2013, <https://www.hrw.org/report/2013/04/22/all-you-can-do-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims>.

⁶⁹⁹ Moshahida Sultana Ritu, “Ethnic Cleansing in Myanmar,” *New York Times*, July 12, 2012.

⁷⁰⁰ Kenton Clymer, *A Delicate Relationship: The United States and Burma/Myanmar Since 1945* (Ithaca: Cornell University Press, 2015), ch.12–13.

⁷⁰¹ “A Burmese Spring,” *The Economist*, May 25, 2013, <http://www.economist.com/news/special-report/21578168-after-50-years-brutal-military-rule-myanmars-democratic-opening-has-been-swift-and>.

⁷⁰² “The Promise and the Pitfalls,” *The Economist*, May 25, 2013, <http://www.economist.com/news/special-report/21578171-why-investors-still-need-proceed-caution-promiseand-pitfalls>.

the administration's "Asia pivot" strategy designed to respond to growing Chinese influence in the region. The administration has also continued to press the new government on human rights and democratic reform efforts, with the systemic discrimination of the Rohingya and the periodic episodes of mass violence and ethnic cleansing being the top concern. That violence, as well as the massive displacement of the Rohingya peoples and ongoing refugee crisis, poses a serious threat to the regime's democratic transition and American policy in Myanmar.

Background to the 2012 Violence

Rakhine State is located along the coastal region of northwestern Myanmar stretching up to the border with Bangladesh. It is separated from much of the rest of the country by the 600-mile long Arakan Mountain range that has precluded Rangoon from establishing full control over the region and has contributed to a different cultural, political, and economic development between Rakhine State and the rest of Myanmar.

Tensions between the majority Buddhist population and minority Muslim Rohingya peoples in Rakhine State (formerly known as Arakan State) are rooted in widely divergent historical narratives about identity and place.⁷⁰³ For the Rohingya, many are indigenous to the region or else migrated to the area from Bengali territories in the north more than two centuries ago. They lay claim to parts of Rakhine State as their homeland. Rakhine Buddhists, meanwhile, see the Rohingya as illegal immigrants who were forced from Bangladesh during the Bangladesh Liberation War in the 1970s and who came as economic immigrants in the more recent wave of migration in the 1980s. They have long concluded that the Rohingya should be denied Myanmar citizenship rights and sent back to Bangladesh.⁷⁰⁴ After decades of simmering tensions, in 1982 the Myanmar military junta passed a citizenship law declaring all Rohingya as "non-citizens" and identified them as "Bengalis" and called for their return to Bangladesh. Since then, the Rohingya minority has been unable to receive basic citizenship rights and have endured extensive waves of discrimination and violence.⁷⁰⁵

The eruption of violence against the Rohingya in May 2012, however, coincided with Myanmar's emergence from more than five decades of self-imposed international isolation. That effort began with a gradual set of constitutional reforms introduced in 2008. In 2010, the country held general elections, and, though opposition parties boycotted the elections, the results convinced the military junta to initiate a series of modest reforms. In March 2011, a nominally civilian government led by retired general Thein Sein took power.

The reforms in Myanmar opened the space for re-establishing relations with the United States. Washington had suspended diplomatic relations with the military regime in 1990 after it had refused to accept the results of parliamentary elections that year and also because of the house arrest a year earlier of democratic activists Aung San Suu Kyi. Suu Kyi was awarded the Nobel Peace Prize in 1991 for her open resistance to the military's hardline rule and, a result of her subsequent iconic status, US attention to Myanmar, especially from Congress and human rights organizations, has often outstripped the country's size and overall strategic importance.

⁷⁰³ International Crisis Group, "Myanmar: The Politics of Rakhine State", Asia Report no. 26, October 22, 2014, [http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/261-myanmar-the-politics-of-rakhine-state.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-east-asia/burma-myanmar/261-myanmar-the-politics-of-rakhine-state.pdf).

⁷⁰⁴ Gregory B. Poling, "Separating Fact from Fiction About Myanmar's Rohingya," Center For Strategic and International Studies, Washington, DC, February 13, 2014.

⁷⁰⁵ Human Rights Watch, "Living in Limbo," August 1, 2000; Habib, Saddiqui, *The Forgotten Rohingya: Their Struggle for Human Rights in Burma*, Amazon Digital Services.

Myanmar's transition in 2011/12 occurred simultaneously with the emergence of Obama's Asian "pivot" strategy which called for reorienting American political, economic, and security resources to East Asia to meet the rising influence of China throughout the region.⁷⁰⁶ Both China and India began aggressively competing for oil and gas interests and offered Myanmar's new government an alternative route to development and international engagement.⁷⁰⁷ In addition, both Japan and South Korea made overtures of major investment—and, according to several senior officials from the region, no one talks about human rights in these discussions: "Everyone thinks [Myanmar] is a darling for investment. Everyone is looking at the possibilities from investment and ignoring everything else."⁷⁰⁸

However, when Myanmar's initial reforms went beyond what both Washington and Beijing initially expected, it created an opening for the United States to gain more influence over the reform process. In an effort to bolster the nascent democratic process and shift Myanmar's focus westward, Secretary Clinton visited Myanmar in November 2011, the first senior level US visit in more than 50 years. Eight months later, in July 2012, the US dispatched Ambassador Derek Mitchell to serve as the first US Ambassador to the country since 1990.⁷⁰⁹

Mitchell, a long-time defense specialist on Asia at the Pentagon and the Center for Strategic and International Studies in Washington had led the US government's efforts to map the future of US-Myanmar relations prior to his appointment. The Myanmar government immediately accredited him upon his arrival—a rarity for a government that often takes months to formally process new ambassadors. Mitchell also speaks fluent Mandarin and immediately opened a regular dialogue with China's ambassador to Myanmar, Li Junhua, in part to temper China's concerns with the Obama administration's Asia pivot policy.⁷¹⁰

A key element of the new US policy was the gradual lifting of sanctions, beginning in the spring of 2012. Despite initial reservations from Aung San Suu Kyi, who remained skeptical of the government's reform intentions, the initial wave of sanctions relief removed restrictions on investment and financial services, thereby allowing US businesses to move into Myanmar. The EU quickly followed.

US Response to the 2012 Violence

The violence in May and June of 2012 occurred less than two months after the establishment of the APB. The initial wave of killings followed by the widespread cleansing of Rohingya peoples from whole neighborhoods of Sittwe and the destruction of their homes and property signaled the potential for a dramatic escalation in mass atrocity violence.⁷¹¹ The APB convened in early June and rang alarm bells. The atrocity prevention advocacy community, as well as Mitchell and the Special Coordinator's office, also quickly focused on the violence. The Special Coordinator's office worked closely with both the Myanmar desk and CSO office at the State Department and was sensitive to the impact that a wave of inter-communal violence would have on US efforts to support the country's nascent transition. Mitchell participated directly in the APB deliberations and because of the simultaneity of the outbreak of violence with the emerging transition process, the functional response of atrocity prevention and the broader

⁷⁰⁶ Kurt Campbell and Brian Andrews, "Explaining the US 'Pivot' to Asia," Chatham House Report, August 2013, http://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Americas/0813pp_pivottoasia.pdf.

⁷⁰⁷ Ibid.; Dingding Chen and Katrin Kinzelbach, "Democracy Promotion and China: Blocker or Bystander? Democratization, Vol. 22, no. 2, 2015.

⁷⁰⁸ ASEAN official, interview, January 9, 2015, Kuala Lumpur, Malaysia.

⁷⁰⁹ Anthony Kuhn, "After Long Isolation, Myanmar Now Has its Suitors," *National Public Radio*, February 22, 2013, <http://www.npr.org/2013/02/22/172687939/chinese-pipeline-lays-in-the-middle-of-myanmar-s-future-foreign-relations>.

⁷¹⁰ ASEAN official, interview, January 9, 2015, Kuala Lumpur, Malaysia.

⁷¹¹ Senior US official, interview, December 9, 2014, Washington, DC.

conception of American strategic support for reform became conjoined from the start of the new US policy on Myanmar.

Mitchell raised his concerns with Then Sein and other Myanmar officials during his first substantive meetings in early July. A few weeks later, Secretary Clinton met with Thein Sein in Cambodia at a dinner to promote US business and investment in Southeast Asia and also raised US concerns about the treatment of the Rohingya.⁷¹² However, both Mitchell and Clinton walked the delicate line between demanding greater efforts to protect the Rohingya people while not antagonizing Thein Sein and jeopardizing the government's reform efforts. As part of this navigation process, both refrained from using the term "Rohingya."

The human rights issue, nonetheless, captured significant attention in Washington. The APB continued discussing Myanmar in July and focused on the escalating violence and additional risk factors there.⁷¹³ In late July, the US State Department issued its annual report on religious freedom to Congress and declared that ethnic Rohingya Muslims "continued to experience the severest forms of legal, economic, educational, and social discrimination."⁷¹⁴ In addition, international press reporting continued to highlight the plight of the Rohingya Muslim. On August 14, British Channel 4 reporters gained access to Sittwe and released the first major international media reports on "ethnic cleansing" and the destruction of mosques and entire villages.⁷¹⁵ All this culminated in greater pressure on the Obama administration from members of Congress and civil society to condemn the Myanmar government.

Throughout the wave of violence, the Myanmar government deflected international pressure by proclaiming that the violence was perpetrated at the local level—often by Buddhist nationalists and by the Rohingya themselves. Nonetheless, shortly after the high level meeting between Thein Sein and Clinton and the ongoing protestations by Ambassador Mitchell—and after additional demands from the UN and the Organization of Islamic Cooperation (OIC) Thein Sein established a formal government investigation commission to investigate the violence.⁷¹⁶ The investigation commission had a mandate to examine the triggers of the May and June violence and the state government's response in Rakhine, and to develop strategies for reconciliation and longer-term economic development. Thein Sein selected a diverse group of Buddhist, Muslim, Christian, and Hindu professionals and religious leaders to investigate. The commission, however, did not include representatives from the Rohingya nor did it address issues of citizenship rights and the statelessness problem. Furthermore, it referred to the Muslim communities in Rakhine as Bengali rather than Rohingya, reinforcing the idea that they were illegal immigrants from Bangladesh.

Shortly after the commission began its work, however, a second wave of violence erupted in October 2012. The timing coincided with the preparations for President Obama's first visit to Myanmar scheduled for November 19, 2012.⁷¹⁷ The APB again took up the issue in its October meetings and, working in conjunction with the regional bureau, prepared the briefing materials for President Obama's visit to outline the sources and magnitude of the violence. Power briefed the president shortly before his

⁷¹² Jane Perlez, "Myanmar's Leader Invites US Businesses to Return," *New York Times*, July 12, 2012.

⁷¹³ Former U.S. Government official, interview, December 11, 2014, Washington, DC.

⁷¹⁴ Mark McDonald, "China Assails US 'Arrogance' in Report on Religious Freedom," *New York Times*, July 31, 2012.

⁷¹⁵ Video at: http://link.brightcove.com/services/player/bcpid601325122001?bckey=AQ~~,AAAAAEabvr4~,Wtd2HT-p_Vh4qBclZDrvZlvNCU8nxccG&bctid=1785256986001.

⁷¹⁶ "UN Envoy Urges Probe Into Myanmar Violence," *Al Jazeera*, August 5, 2012,

<http://www.aljazeera.com/news/asia-pacific/2012/08/201285133161644.html>.

⁷¹⁷ Thomas Fuller, "Dozens are Killed in Myanmar as Sectarian Violence Flares Again," *The New York Times*, October 27, 2012.

departure from Washington on the reports of the violence, and the widespread displacement of nearly 800,000 people was reported to him also.⁷¹⁸

In addition to the intensifying focus in Washington on the situation, two days before President Obama's visit, on November 17, Human Rights Watch released satellite imagery showing the systematic destruction of hundreds of homes in Rohingya villages.⁷¹⁹ Ambassador Mitchell again took the issue directly to Thein Sein in the planning meetings for President Obama's visit and demanded concrete action by the Myanmar government to stem the violence. Shortly before President Obama arrived in Yangon, President Thein announced that the government would take "decisive action" to stop violence against Muslims in Rakhine and that it would allow human rights organizations and media to travel to "conflict zones."⁷²⁰

In his speech at Yangon University, President Obama said, "there is no excuse for violence against innocent people."⁷²¹ Still, in a sign of the tenuous balancing act between US interests in Myanmar's transition and its interests in supporting human rights, President Obama refrained from using the term "Rohingya" in his speech or in his private conversations with Thein Sein.

The situation continued to lag after President Obama's visit. Throughout 2013 and 2014 and into 2015, the Rohingya population remained displaced, living in resettlement camps. The US State Department and USAID provided more than \$51.6 million for displaced persons and Myanmar in FY 2013.⁷²² However, in June 2014, the UN representatives in Myanmar labeled the camps "appalling" because of the lack of access to basic health, water, sanitation, and education.⁷²³ The Myanmar government continued to claim that the situation was largely outside of its control because the conflict stems in large part from deep seeded animosities between the Rohingya and Rakhine Buddhist communities and that its influence was limited because of the geographic remoteness of Rakhine state and the radicalized ethnic communities.

Nonetheless, the government still restricted international aid agencies such as Doctors Without Borders and relief efforts from the OIC.⁷²⁴ In February 2014, for example, the government claimed that Doctors Without Borders was engaged in political activities and ordered them to stop their work in Rakhine State. A month later, on March 26-27, despite the presence of Myanmar military forces in the region, Buddhist Rakhine gangs attacked several international humanitarian agencies in Sittwe because of their rumored efforts to give the Rohingya identity status for the 2014 census. Amid the unchecked attacks, almost all humanitarian work stopped for several weeks. All of this has prompted several ASEAN and regional officials to privately declare that the situation against the Rohingya is a "slow-burning genocide."⁷²⁵

Rakhine State Action Plan

In April 2013, the Myanmar government's investigation commission concluded its investigation and reported a set of recommendations on reconciliation, permanent resettlement, development, and to stop

⁷¹⁸ Former U.S. Government official, interview, December 11, 2014, Washington, DC.

⁷¹⁹ Human Rights Watch, "Burma: Satellite Images Show Widespread Attacks on Rohingya, Obama Should Press Thein Sein to End Sectarian Violence," November 17, 2012.

⁷²⁰ Peter Baker, "Obama Heads to Myanmar as It Promises More Reforms," *The New York Times*, November 18, 2012, <http://www.nytimes.com/2012/11/19/world/asia/obama-heads-to-myanmar-as-it-promises-more-reforms.html>.

⁷²¹ Hannah Beech, "Obama in Burma: US President's Landmark Visit Brings Hope, Criticism," *Time Magazine*, November 11, 2012.

⁷²² "Testimony of Judith Beth Cefkin, Special Advisor on Burma, Testimony Before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific," Washington, DC, December 4, 2013.

⁷²³ Michelle Nichols, "Rohingya camp conditions in Myanmar 'appalling' – UN," *Reuters*, June 17, 2014.

⁷²⁴ OIC official, interview, January 7, 2015, Kuala Lumpur.

⁷²⁵ OIC and ASEAN officials, interviews, January 2015, Thailand, Malaysia, and Singapore.

intolerance and extremism. While many welcomed some of the report's findings, it failed to address a number of deeper issues underlying the violence and the systematic persecution of the Rohingya population, including the confiscation and destruction of their property and the denial of their basic rights and citizenship.

Meanwhile, Ambassador Mitchell and international human rights organizations continued to maintain pressure on the government for more protections for the Rohingya populations.⁷²⁶ The APB also continued to monitor the situation with regular updates in both the APB sub-group and the APB principals meetings. In addition, the US press—notably *The Washington Post*—kept the issue in focus in Washington, signaling to the Myanmar government the US interest in the human rights issues there.

In October 2014, a month before President Obama's second visit to Myanmar, this time to attend the 25th Summit of the Association of Southeast Asian Nations, the government released the Rakhine State Action Plan. The plan followed on the recommendations of the Rakhine investigation commission and articulated a set of more specific recommendations for development and post-conflict reconstruction and reconciliation. The gist of the plan, however, called for the permanent resettlement of more than 130,000 Rohingya who were displaced in the 2012 violence. It continued to refer to the Rohingya as Bengalis and limited citizenship rights to them. One senior Human Rights Watch official claimed that the Rakhine State Action Plan "is nothing less than a blueprint for permanent segregation and statelessness that appears designed to strip the Rohingya of hope and force them to flee the country."⁷²⁷

Just before the ASEAN summit in November 2014, however, another wave of violence and displacement erupted with almost 15,000 Rohingya fleeing by boat from Myanmar to Thailand.⁷²⁸ During his visit, Obama again raised the issue of violence against the Rohingya with President Thein Sein, and with the continuing persecution and ongoing risk to the Rohingya people. This time, however, President Obama used the term Rohingya in his remarks and pressed for greater respect of human rights.

The 2015 General Elections

With high level presidential condemnation of the violence against the ethnic Rohingya populations, the APB continued to monitor events in Myanmar closely throughout 2015. The APB conducted a major study on Myanmar and coordinated a whole-of-government strategy to monitor and respond to events in the run up to the general elections held in November 2015. The APB worked closely with the Myanmar Desk and coordinated directly and frequently with Ambassador Mitchell in the run up to the elections.

The elections were held peacefully on November 8, 2015. Aung San Suu Kyi's National League for Democracy (NLD) party scored an overwhelming electoral victory, winning a supermajority of seats in parliament. Because of a constitutional prohibition, Suu Kyi is prohibited from holding the presidency. Still, in March 2016, Myanmar witnessed its first peaceful transition of power as Htin Kyaw of the NLD was sworn in as the country's first democratically elected president in more than five decades, though the military retains significant control over the government and parliament.

Despite the NLD's victory, the Rohingya population continues to suffer repression and violence. Despite Suu Kyi's international acclaim for her democracy efforts in Myanmar, she has been circumspect in her

⁷²⁶ US official, interview, March 2015, Washington DC.

⁷²⁷ Human Rights Watch, "Burma: Government Would Segregate Rohingya," October 3, 2014, <http://www.hrw.org/news/2014/10/03/burma-government-plan-would-segregate-rohingya>.

⁷²⁸ Jane Perlez, "Myanmar's Policy Message to Muslims: Get Out," *New York Times*, Nov. 7, 2014.

views toward the plight of the Rohingya. She and the NLD leadership took office tacitly siding with the military leadership by suggesting that the violence was a result of provocations on both sides.⁷²⁹

In the fall of 2016, violence again flared with a number of attacks on Myanmar-Bangladesh border security outposts. In response, Rakhine state military and police blamed Rohingya militants for the attacks and launched a series of raids in Rohingya villages and population centers. The military and police crackdown killed more than a dozen people and forced more than 50,000 people to flee after their homes were raided and many destroyed. The UN refugee agency accused the Myanmar government of ethnic cleansing as the forces displaced Rohingya populations and disrupted the flow of medicine, food, and other humanitarian assistance to the people.⁷³⁰

Missed Opportunities?

Prior to the outbreak of the most recent violence and ethnic cleansing in October 2016, the case of Myanmar was a modest procedural success for the American atrocity prevention efforts. The functional and regional divide that has been present in other cases does not appear to have had a significant role in Myanmar. The APB and Ambassador Mitchell appear to have worked well together. Myanmar's international profile has been raised by two US presidential visits in two years, and one visit by a secretary of state – all of which have coincided with some movement by the Thein Sein government to reign in some of the violence.

With respect to atrocity prevention, the record is slightly more mixed. On one hand, the pressure by the United States has likely helped prevent a major eruption of killings. On the other hand, the wave of ethnic cleansing, the serious human rights abuses, and poor humanitarian conditions for the Rohingya continue, with more than 100,000 Rohingya who have fled the country and another 150,000 displaced from their homes resettled into consolidated camps. In addition, there remain considerable concerns for a potential wave of mass atrocity violence, with the ASEAN Parliamentarians for Human Rights fact-finding mission and other concluding that “every common risk factor for atrocity crimes exists in Myanmar today.”⁷³¹ In summary, it appears as though the government is navigating a strategy to encourage continued persecution of the Rohingya, but to maintain a lid on overt killings to keep the international community at bay.

One missed opportunity to date is that the US policy has been largely a bilateral one between the United States and Myanmar. This makes some sense and has had some leverage, especially with two presidential visits in such a short period of time. Yet, there are limits to what the United States can do—especially given the range of interests in Myanmar's transition from other countries, including from China and India.

It is clear that leverage on Myanmar on the Rohingya issue will likely have to be broader and more comprehensive than US bilateral efforts. Some regional officials sympathetic to the Rohingya note that while the United States bilateral engagement with Myanmar has been somewhat productive and Ambassador Mitchell has been a strong champion for human rights, the United States has done little to coordinate and/or support the efforts of others. It also has done little to press its key allies and others in ASEAN to raise the issue more directly. One senior ASEAN official acknowledged that it would be helpful if the United States “would nudge ASEAN members.”⁷³²

⁷²⁹ Anjana Pasricha, “Aung San Suu Kyi Explains Silence on Rohingyas”. *Voice of America*, November 15, 2012.

⁷³⁰ Eleanor Albert, “The Rohingya Migrant Crisis,” Council on Foreign Relations, January 12, 2017.

⁷³¹ Daniel Sullivan, “Global Concern Growing over Risk of Atrocities in Burma,” United to End Genocide, April 23, 2015, www.endgenocide.com/global-concern-growing-over-risk-of-atrocities-in-burma/.

⁷³² Senior ASEAN official, interview, January 11, 2015, Kuala Lumpur, Malaysia.

In this sense, there may be opportunities for the United States to engage regional partners more directly. In early 2015, Malaysia assumed the ASEAN chair and has taken an active interest in the Rohingya issue—in large part because Malaysia has more than 139,000 UN Refugee Agency (UNHCR) registered Myanmar refugees in the country. While ASEAN remains committed to the principles of sovereignty and non-intervention, there are a number of countries looking for leverage through various forms of quiet diplomacy.

To this end, both ASEAN members and representatives of OIC have supported the development of a series of track 2 dialogues from Malaysia and Thailand. Local diaspora communities and others in ASEAN have given high marks to NGOs—especially those operating out of Singapore and Bangkok. This has been helpful to some degree because the situation requires a long-term strategy on reconciliation that Myanmar does not have the capabilities to deploy. Regional organizations—especially International NGOs (INGO)—have been working with like-minded INGOs and other “friendly” organizations in Myanmar.

The potential for atrocity violence is likely to increase and it appears that APB efforts have helped to mobilize a whole-of-government monitoring and response program. Yet, the challenge for atrocity prevention over the long run remains. Widespread and systematic state-sponsored discrimination against the Rohingya people continues and has contributed to the substantial escalation in Rohingya refugee flows in early 2017. But even if the Myanmar government slows or stems the refugee movements, the government’s deeper discrimination policies continue to elevate the risk of future mass atrocities against the Rohingya peoples.

South Sudan

On December 15, 2013, fighting broke out in Juba, the capital of South Sudan. Set off by a power struggle between political factions led by South Sudanese President Salva Kiir and his former Vice President Riek Machar, the violence quickly escalated into a civil war that engulfed most of the country. The International Crisis Group estimated in January 2015 that more than 50,000 people had died since December 2013.⁷³³ There are no official figures on the death toll since then⁷³⁴, but unofficial estimates of the conflict's death toll are as high as 300,000.⁷³⁵ In December 2016, UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that around three million had been displaced⁷³⁶ and more than 210,000 people were seeking shelter and protection in UN bases across the country⁷³⁷, while four million were forecast to be severely food insecure by early 2017.⁷³⁸ Much of the violence has been committed along ethnic lines, as militias of the Dinka, the group to which Salva Kiir belongs, attacked members of the Nuer, the ethnic group of Riek Machar, and vice versa.

After unsuccessful attempts to reach a political settlement, including the signing of a power sharing settlement in August 2015 that unraveled in July 2016, the civil war continued to escalate at the end of 2016 as a new wave of killing and displacement erupted along another ethnic fault line between Equatorians and Dinka.⁷³⁹ Government-associated groups allegedly carried out a brutal campaign of rapes, extrajudicial killings, abductions, torture, looting, and the burning of homes.⁷⁴⁰ International media and advocacy organizations reported targeted massacres, rape and mass shootings in churches, hospitals or schools in various parts of the country. In December 2016, the UN Commission on Human Rights in South Sudan determined that ethnic cleansing was taking place in the country, warning that "the stage is being set for a repeat of what happened in Rwanda."⁷⁴¹ The UN's special advisor for the prevention of genocide warned that South Sudan was at risk of ethnic war and "genocide".⁷⁴²

US policymakers were reportedly "horrified" by the extent of the violence in South Sudan that had already occurred in 2013.⁷⁴³ Yet the escalation did not come as a complete surprise. When the fighting broke out in Juba, Sudan and South Sudan had been at the center of attention for the genocide prevention movement in the United States for over a decade. The history of the world's newest nation is closely intertwined with the United States. After providing a brief background on US policy in Sudan and South Sudan, this chapter analyzes US policy toward South Sudan since its independence in two parts:

⁷³³ International Crisis Group, "Sudan and South Sudan's Merging Conflicts," in *Africa Report Nr. 223*, ed. International Crisis Group (Brussels, 2015), 1.

⁷³⁴ "South Sudan Is Dying, and Nobody Is Counting," *News 24* (2016), <http://www.news24.com/Africa/News/south-sudan-is-dying-and-nobody-is-counting-20160311-4>.

⁷³⁵ Michelle Nichols and Louis Charbonneau, "UN Official Says at Least 50,000 Dead in South Sudan War," *Reuters* (2016), <http://www.reuters.com/article/us-southsudan-unrest-un-idUSKCN0W503Q>.

⁷³⁶ Office for the Coordination of Humanitarian Affairs, "Humanitarian Bulletin 19: South Sudan," (2016).

⁷³⁷ UNMISS, "Protection of Civilians (Poc) Sites Update: 5 December," (2016).

⁷³⁸ World Food Programme, "Wfp South Sudan Special Report on Food and Nutrition Security: 1 December 2016," (2016).

⁷³⁹ Jennifer Williams. "The conflict in South Sudan, explained." January 9, 2017, <http://www.vox.com/world/2016/12/8/13817072/south-sudan-crisis-ethnic-cleansing-genocide-rwanda>.

⁷⁴⁰ Colum Lynch, "US Push to Halt Genocide in South Sudan Unravels at United Nations," *Foreign Policy* (2016), <http://foreignpolicy.com/2016/11/30/u-s-push-to-halt-genocide-in-south-sudan-unravels-at-united-nations/>; UN Security Council, "Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015) (S/2016/963)," (2016).

⁷⁴¹ UN News Centre, "International Community Has Obligation to Prevent 'Ethnic Cleansing' in South Sudan – UN Rights Experts," (2016), <http://www.un.org/apps/news/story.asp?NewsID=55693#.WEp4A-YrLct>.

⁷⁴² UN News Centre, "Risk of 'Outright Ethnic War' and Genocide in South Sudan, UN Envoy Warns," (2016), <http://www.un.org/apps/news/story.asp?NewsID=55538#.WEp5I-YrLcs>.

⁷⁴³ Warren Strobel and Louis Charbonneau, "US Was Slow to Lose Patience as South Sudan Unraveled," *Reuters* (2014), <http://www.reuters.com/article/2014/01/14/us-usa-southsudan-idUSBREA0D08R20140114>.

it will focus on the period between July 2011 and December 2013 and then cover the period of US response to atrocities since December 15, 2013.

The conflict in South Sudan is determined primarily by the country's political elites who are using ethnic divisions to mobilize supporters for their war. Especially after independence and with the direct access of these elites to the new state's oil revenues, the influence of any external actor in South Sudan declined significantly. US efforts to address the crisis and prevent mass atrocities can only be judged against this background, and not—as many advocacy groups or members of Congress would like—against the mere or continued existence of mass atrocities in South Sudan. As we will argue in this chapter, however, after helping South Sudan to become an independent state, the US government failed to fully bring to bear its remaining leverage over South Sudanese leaders. Due to the long history of US support for South Sudan, divisions within the administration on how to approach the country's political elites, and a disproportionate focus on technical cooperation at political pressure, the US government took too long to put strong and consistent pressure on South Sudanese leaders.

Background on the Crisis and US Policy on Sudan and South Sudan

The United States became increasingly involved in Sudan and South Sudan through its engagement with the two complex and related conflicts in the region: the North-South conflict between the government in Khartoum (Sudan) and rebel groups in the South (later South Sudan), and the conflict in the Western Sudanese region of Darfur.⁷⁴⁴ According to UN estimates, more than two million people died in the Second Sudanese Civil War between 1983 and 2005.⁷⁴⁵ Since 2003, more than 300,000 people have been killed in Darfur and more than two million Darfuris have been displaced.⁷⁴⁶

The original involvement by both the US government and different parts of US civil society in Sudan goes back for decades: US sympathy for the South, which is mostly Christian in contrast to the largely Muslim North, dates to the first North-South War in 1955 to 1972.⁷⁴⁷ Evangelical Christians became even more engaged for the plight of the Southerners in the North-South conflict in the 1990s and after 9/11 in the early days of the George W. Bush administration.⁷⁴⁸ The Black Caucus in Congress joined them as reports emerged of Arabs in the North enslaving Southerners.⁷⁴⁹ In 2003, the atrocities of the Janjaweed militia in Darfur, which were supported by the government in Khartoum, generated even more anger at the North and unprecedented attention in US civil society for Sudan. Under pressure from NGOs both Congress and Secretary Powell referred to the atrocities in Darfur as "genocide" in 2004.⁷⁵⁰ In 2009, the ICC issued an arrest warrant against Sudanese President Omar al-Bashir.⁷⁵¹

⁷⁴⁴ For background on the Darfur conflict see e.g. Alex de Waal and Julie Flint, *Darfur: A New History of a Long War (African Arguments)* (London: Zed Books, 2008).

⁷⁴⁵ United Nations, "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General," 2005, 19.

⁷⁴⁶ Human Rights Watch, "World Report 2014: Sudan," 2014, <http://www.hrw.org/world-report/2014/country-chapters/sudan>.

⁷⁴⁷ Princeton N. Lyman, "The United States and South Sudan: A Relationship under Pressure," in *The Ambassadors Review* (2013).

⁷⁴⁸ Ibid; Alex Perry, "George Clooney, South Sudan and How the World's Newest Nation Imploded," *Newsweek* (2014), <http://www.newsweek.com/2014/10/10/george-clooney-south-sudan-how-worlds-newest-nation-imploded-274547.html>.

⁷⁴⁹ Lyman, "The United States and South Sudan: A Relationship under Pressure"; Perry, "George Clooney, South Sudan and How the World's Newest Nation Imploded."

⁷⁵⁰ US Senate, "Declaring Genocide in Darfur," (Washington, DC, 2004); Bruce W. Jentleson, "The Obama Administration and R2P: Progress, Problems and Prospects," *Global Responsibility to Protect* 4, no. 4 (2012): 403. A UN Commission of Inquiry referred to the atrocities as crimes against humanity in 2005, see United Nations, "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General."

⁷⁵¹ Human Rights Watch, "Sudan: Icc Warrant for Al-Bashir on Genocide," (2010), <http://www.hrw.org/news/2010/07/13/sudan-icc-warrant-al-bashir-genocide>.

The Bush administration became a key mediator in the peace negotiations between North and South. The negotiations ultimately resulted in the Comprehensive Peace Agreement (CPA) in 2005, which ended the civil war between North and South and paved the way for a referendum on the independence on South Sudan after a six year transition period. Under the significant influence of the Sudan lobby, which largely simplified the conflicts in Sudan into a black and white situation with the “evil” dictator Bashir in the North and the “good” rebels in the South,⁷⁵² the Bush administration played an important role in enabling the possibility of secession for the South.

When President Obama took office, many key advocates of the Sudan lobby, including Susan Rice, became part of the administration (see chapter 2). Their chief goal for Sudan during the first three years of the administration was to ensure a peaceful independence referendum in the South. The administration put significant efforts and attention into pursuing this goal. The referendum passed without an outbreak of major violence. Journalists, activists, and experts praised the Obama administration for its efforts. Foreign Policy reporter Colum Lynch, for example, describes the US efforts behind the split of the two Sudans as “one of the greatest bipartisan achievements of the United States in Africa in recent decades.”⁷⁵³

Yet, key issues such as the status of the border region Abyei and oil distribution between Sudan and South Sudan had been postponed for a time after independence during the CPA negotiations and caused violent conflict after independence. Soon after the referendum, rebel groups from the border regions of Abyei, South Kordofan, and Blue Nile fought against the Government in Khartoum—in parts directly supported by Juba.⁷⁵⁴

At the same time, reforms within South Sudan’s political system and its army never materialized. As Sudan expert Edward Thomas puts it: “South Sudan’s would-be liberators were not able, in the course of their long struggle, to rethink the relationship between state and society. The Sudan People’s Liberation Movement/Army (SPLM/A) structured their relations with society around ethnicity. [...] Like its poorer predecessors, the new government in Juba is economically autonomous from society, and dependent on external forces.”⁷⁵⁵ During the more than thirty years of the Second Sudanese Civil War, a variety of armed groups had split from the SPLA, including a rebel group around Riek Machar.⁷⁵⁶ These internal splits within the SPLM/A had been largely pushed aside by the US and others during the CPA negotiations and the transition period and were never overcome.⁷⁵⁷

Weak institutions, corruption, and financial mismanagement by South Sudan’s leadership hobbled the new state. The process of developing a permanent constitution soon stalled. Salva Kiir’s security forces arrested and killed journalists who were critical of the government. Ethnic violence continued to grow throughout the country, particularly in the Jonglei state in 2012-2013 with the involvement of sections of the SPLA. Kiir’s government kept the UN mission in South Sudan from investigating the violence and rejected any criticism by the UN as interference. While the fight about oil with Sudan provided the kit to hold the SPML/A together throughout 2012, by early 2013, Salva Kiir was faced with challenges to his

⁷⁵² Alan Boswell, "The Failed State Lobby," *Foreign Policy* (2012),

http://www.foreignpolicy.com/articles/2012/07/09/the_failed_state_lobby.

⁷⁵³ Colum Lynch, "Inside the White House Fight over the Slaughter in South Sudan," *Foreign Policy* (2015), <http://foreignpolicy.com/2015/01/26/exclusive-inside-the-white-house-fight-southsudan-obama-conflict-susanrice-unitednations/#correction>; Jon Temin and Laurence Woocher, "Learning from Sudan’s 2011 Referendum," in *Special Report* (United States Institute of Peace, 2012).

⁷⁵⁴ Peter Schumann, "Die Un Auf Dem Prüfstand - Warum Die Zwei-Staaten-Lösung Südsudan Bislang Keinen Frieden Gebracht Hat," *Vereinte Nationen* 3/2012 (2012): 106.

⁷⁵⁵ Edward Thomas, *South Sudan: A Slow Liberation* (London: Zed Books, 2013).

⁷⁵⁶ International Crisis Group, "South Sudan: A Civil War by Any Other Name," (2014), 3; Brian Adeba, "South Sudan – Where Does Durable Peace Lie?," *New African* (2015), <http://newafricanmagazine.com/south-sudan-where-does-durable-peace-lie/>.

⁷⁵⁷ Adeba, "South Sudan – Where Does Durable Peace Lie?."

rule. Vice President Riek Machar announced that he would run for president during the next presidential elections. In addition, a group of loyalists of the former SPLA/M leader John Garang urged President Kiir to take a stronger stance against Khartoum. When he sacked his cabinet in July 2013, Kiir inadvertently united these two groups of opponents against him. A few months later, in December 2013, they would jointly challenge his rule, starting the new outbreak of violence.⁷⁵⁸

US Policy in South Sudan Since Independence

In retrospect, it was the period between independence in July 2011 and the outbreak of large-scale violence in December 2013 during which the Obama administration would have had to make a more concerted and united effort to pressure South Sudanese leaders for reforms that could have prevented later atrocities. During these two and a half years, that had already started before the APB began to operate in the summer of 2012, the Obama administration tried to address a number of conflict and atrocity risks, including through high-level political engagement by Obama and his Secretaries of State, Clinton and Kerry.

Throughout late 2011 and 2012, the focus of US attention lay on the conflict between Sudan and South Sudan over oil. Obama met Salva Kiir personally at the sidelines of the UN General Assembly in 2011 to ask him to stop Juba's support for rebels fighting against Khartoum.⁷⁵⁹ In 2012, further personal engagement by Hillary Clinton contributed to a deal between Salva Kiir and Sudan's Al Bashir on oil distribution that compensated the North for losing the South Sudanese oil production.⁷⁶⁰

In the fall of 2012, reports came out of Juba that the South Sudanese government harassed human rights workers and had assassinated a journalist critical of the government. The United States offered to send the Federal Bureau of Investigation (FBI) to Juba to assist in the investigation. When Kiir rejected the offer, the US ambassador to South Sudan, Susan Page, openly criticized the harassment and assassination.⁷⁶¹

When in 2013, cyclical inter-ethnic violence in South Sudan's Jonglei state escalated again, the APB played an important role in raising the level of US government attention. "It first looked like it was the typical cattle wrestling, low-level tribal killing," remembers one Washington activist, "but with the APB involved there was a deeper look [at] what was going on."⁷⁶² This led to the recognition in Washington that the patterns of violence were not typical for the cyclical tribal conflict over livestock but that the violence was more organized than previously recognized, that armed militia were involved and they were supported by elements of the army.⁷⁶³ In Pibor town, witnesses told the *New York Times* about soldiers "indiscriminately firing on busy market squares, fatally beating noncombatants and raping women."⁷⁶⁴ Since 2011, human rights groups had reported about the systematic killing of civilians and the spread of hate messages, including an official statement by one group of its intent to "wipe out the entire Murle tribe on the face of the earth."⁷⁶⁵ Taken together, this "raised a lot of alarms within the

⁷⁵⁸ Thomas, *South Sudan: A Slow Liberation*.

⁷⁵⁹ Lyman, "The United States and South Sudan: A Relationship under Pressure," 2.

⁷⁶⁰ *Ibid.*, 15.

⁷⁶¹ *Ibid.*, 16.

⁷⁶² Washington activist, phone interview, February 16, 2015.

⁷⁶³ Washington activist, phone interview, February 16, 2015.

⁷⁶⁴ Nicholas Kulish, "South Sudan's Army Faces Accusations of Civilian Abuse," *New York Times* (2013), <http://www.nytimes.com/2013/09/29/world/africa/south-sudans-army-faces-accusations-of-civilian-abuse.html>.

⁷⁶⁵ Genocide Watch, "South Sudan," <http://www.genocidewatch.org/southsudan.html>; "Saaf Urges Immediate Peace Process for Jonglei," *Sudan Advocacy* (2013), <http://www.sudanadvocacy.com/2013/04/13/saaf-urges-immediate-peace-process-for-jonglei/>; "United Nations Urges South Sudan to Help Avert Possible Attack," *Bloomberg* (2011), <https://www.bloomberg.com/news/articles/2011-12-27/united-nations-urges-south-sudan-to-help-avert-possible-attack>.

administration—above the alarms that would normally have been raised by the Africa Bureau,” says the observer of the APB’s activities. “It looked like the APB was driving a policy discussion on South Sudan.”⁷⁶⁶

Several current and former administration officials and NGO activists point to the US reaction to violence in Jonglei state as a “success story” of the APB.⁷⁶⁷ After the fighting, 100,000 members of the Murle ethnic group appeared to be missing. White House officials decided to hold a public event with journalists and advocacy organizations to highlight their concerns over the violence in Jonglei state and the fate of the missing civilians.⁷⁶⁸ The meeting was led by Steven Pomper and also attended by Gayle Smith, Senior Director for Democracy and Global Development, and Grant Harris, Senior Director for African Affairs.⁷⁶⁹ According to a New York Times article written after the event, at this point, the National Security Council held regular deputy level meetings on South Sudan, on both “the escalating violence in Jonglei and the governance problems.”⁷⁷⁰

As Finkel wrote and some interviewees suggested, the strong efforts of the APB on Jonglei state might have had the side effect that they did not pay enough attention to the political crisis in Juba.⁷⁷¹ The government as a whole seems to have concentrated on both crises, however. According to New York Times journalist Mark Landler, regular deputy-level meetings of the NSC focused on both the escalating violence in Jonglei and the governance problems.⁷⁷²

While the situation in Jonglei state could be improved and the engagement by the APB was seen as a “success” by many atrocity prevention advocates inside and outside the administration,⁷⁷³ the efforts of the administration to address the power struggle in Juba fell short: after Kiir sacked his entire cabinet in July 2013, Kerry personally called him to “urge him” to “quickly and transparently” form a new government.⁷⁷⁴ “We sent a very clear message to all parties, including the government [...] that that had to stop,” Gayle Smith told Reuters in 2014. Furthermore, former Special Envoy Princeton Lyman, who has at times been critical of the administration’s policies, conceded that the US “has made these concerns a major matter in our relations.”⁷⁷⁵

Yet, throughout this period and despite the efforts of the APB and high-level engagement by US officials, US warnings and pressure fell on deaf ears in Juba. Several observers explain the limited impact of preventive diplomacy with reference to the declining influence of any international actor, including the United States, after independence. South Sudanese elites had needed the United States to gain independence. When independence came, they had already amassed huge personal wealth

⁷⁶⁶ Washington activist, phone interview, February 16, 2015.

⁷⁶⁷ Former Administration official, interview, March 19, 2015, Washington DC; Civil society advocate, interview, March 19, 2015, Washington DC.

⁷⁶⁸ Civil society advocate, interview, March 19, 2015, Washington DC; Mark Landler, “US Pushes for Global Eye on South Sudan Conflict,” *New York Times* (2013), http://www.nytimes.com/2013/07/30/us/us-pushes-for-global-eye-on-south-sudan-conflict.html?_r=0.

⁷⁶⁹ Grant T. Harris, “Addressing the Crisis in South Sudan’s Jonglei State,” *The White House Blog* (2013), <https://www.whitehouse.gov/blog/2013/07/24/addressing-crisis-south-sudan-s-jonglei-state>.

⁷⁷⁰ Landler, “US Pushes for Global Eye on South Sudan Conflict.”

⁷⁷¹ Observer of US efforts on South Sudan, interview, March 19, 2015, Washington DC; Former administration official, interview, 19 March 2015, Washington DC; James P. Finkel, “Atrocity Prevention at the Crossroads: Assessing the President’s Atrocity Prevention Board after Two Years”, 22.

⁷⁷² Landler, “US Pushes for Global Eye on South Sudan Conflict.”

⁷⁷³ Civil society advocate, interview, March 19, 2015, Washington DC; Former Administration official, interview, March 19, 2015, Washington DC; State Department official, interview, March 20, 2015, Washington DC.

⁷⁷⁴ US Department of State, “Readout of Call with South Sudan President Salva Kiir. Press Statement John Kerry, Secretary of State, Washington, DC,” (2013), <http://www.state.gov/secretary/remarks/2013/07/212496.htm>.

⁷⁷⁵ Lyman, “The United States and South Sudan: A Relationship under Pressure,” 3.

from corruption, particularly oil revenues, and thus became much less dependent on outside support even while the people of South Sudan were dependent on outside aid.⁷⁷⁶

Within the possible space for US influence, however, the administration still failed to send a clear and unified message to South Sudanese leaders: first, by continuing to send hundreds of millions of dollars in aid to the government in Juba and second, by sending mixed messages from different parts of the administration.

In the years after independence, the United States was the single largest donor to South Sudan, providing around \$500 million per year. While the bulk of this money was aimed at building not only government but also civil society capacity and economic infrastructure, parts of this aid went directly into funding and equipping the South Sudanese military.⁷⁷⁷ Since 2005, the United States spent more than \$300 million on military support in the country.⁷⁷⁸ The fact that Special Envoy Booth highlighted the need for more transparent and accountable management of state finances after the crisis broke out, warning that there will be no “business as usual” in the relationship between South Sudanese leaders and the donor countries in the future, indicates a lack of such pressure during the crucial period after independence.⁷⁷⁹ The United States was not alone in being accused of being too close to the South Sudanese leaders: many experts criticized the UN Mission in South Sudan (UNMISS) for the fact that its mandate of government support and capacity building overlooked the enormous political challenges in the country.⁷⁸⁰ Beyond the mandate, some US officials and outside experts also saw UNMISS and in particular the mission head Hilde Johnson as very partial to the government—to the extent of becoming an impediment to US engagement by inserting herself between donor countries and the Kiir government.⁷⁸¹

Yet, the same criticism of partiality to the government and disproportionate focus on government capacity building was leveled against the United States. In July 2012, journalist and Sudan expert Alan Boswell warned that “[w]ithout the United States’ heavy-handed engagement, it is doubtful South Sudan would today be its own country. But Washington’s love affair with the SPLM looks likely to end in heartbreak. [...] [T]he United States does not seem to have a strategy in place to induce South Sudan’s leaders to reform their ways.”⁷⁸²

Sudan expert Gérard Prunier resigned his post as an advisor to the South Sudanese government in the first half of 2012 because he did not want to be “guilty by association.”⁷⁸³ “By resigning”, journalist Alan Boswell argued, “Prunier has done what US opponents of Bashir have seemed unable to do – merge their hatred of Khartoum with any sort of similar outrage toward South Sudanese leadership.”⁷⁸⁴ Indeed, given the long-standing divisions within the administration on how to treat the South, the United States failed to send a clear message to Kiir.

⁷⁷⁶ Washington activist, phone interview, February 16, 2015; Mark Mardell, “Is the US Powerless in South Sudan?,” *BBC* (2014), <http://www.bbc.com/news/world-us-canada-25738492>.

⁷⁷⁷ Lauren Ploch Blanchard, “Sudan and South Sudan: Current Issues for Congress and US Policy,” (2012), <http://www.fas.org/sgp/crs/row/R42774.pdf>.

⁷⁷⁸ Boswell, “The Failed State Lobby.”

⁷⁷⁹ Donald Booth, “Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward,” *The Atlantic Council* (2014), <http://photos.state.gov/libraries/sudan/895/pdf/US-Policy-on-Sudan-and-South-Sudan.pdf>.

⁷⁸⁰ Aljazeera, “Sudan Expert: International Community Enabled South Sudanese Corruption,” *Interview with Alex de Waal* (2015), <http://america.aljazeera.com/watch/shows/fault-lines/articles/2015/4/12/sudan-expert-international-community-enabled-south-sudanese-corruption.html>.

⁷⁸¹ Personal communication with researcher based on interviews conducted with US officials, July 2013 and June 2015.

⁷⁸² Boswell, “The Failed State Lobby.”

⁷⁸³ *Ibid.*

⁷⁸⁴ *Ibid.*

Jon Temin, another expert on South Sudan, also points out that the United States and the international community in general did not “pay enough attention to the politics at play in South Sudan, focusing instead on the more technical aspects of state-building in the new country.”⁷⁸⁵

Lyman argued in January 2014 that during the post-independence period, the US “couldn’t really get a handle [...] on the fact that the national army was really a coalition of militias, not really an integrated army.”⁷⁸⁶ In the same discussion, Lyman hinted at divisions not only between the government of the United States and South Sudan but also within the US administration on how to address reform in the SPLA: “We talked about it a lot but I think one of the things we were not able to do—and I can’t tell you how many months we spent on this—to try and establish some kind of a professional understanding—and agreement among ourselves I have to say—about how you approach the reformation of the SPLA.”⁷⁸⁷

After Lyman left his post in December 2012,⁷⁸⁸ for most of 2013 both the post of Special Envoy and that of Assistant Secretary of State for African Affairs remained vacant, with the situation in South Sudan deteriorating.⁷⁸⁹ At the UN, the United States was represented by long-term supporter of South Sudan Susan Rice who blocked efforts in the Security Council that would have sanctioned South Sudan and Sudan. Other Council diplomats suggest that this US reluctance made Kiir feel that he was free to do what he wanted.⁷⁹⁰ “US support made South Sudanese leaders reckless,” Sudan expert Alex de Waal told Boswell in mid-2012. “They think the rules don’t apply to them.”⁷⁹¹ The administration’s divergence of opinion was going so far that observers of US policy in South Sudan remember meetings in Juba in which US diplomats tried to pressure South Sudanese leaders while the latter received text messages from Susan Rice from New York undercutting that same message.⁷⁹²

At the embassy in Juba, such divisions on how to best approach the Kiir government might also have impeded a more forceful US engagement with the country’s political elites. According to several former US embassy staff, Ambassador Page was too friendly with the Kiir government, to the point of personally editing cables to soften the analysis.⁷⁹³

These divisions within the administration on how to deal with South Sudan have existed since the Bush administration but have been particularly pronounced under Obama. Due to the long history of US policy in South Sudan, the mere size of the advocacy community on the Sudans and the unprecedented seniority to which members of this community rose in the administration, splits in this particular case seem unusually intense. Individuals on one side advocated for an uncompromising view against Khartoum from the beginning and tended to be softer on the South Sudanese elites. This group comprised some advocacy organizations, and key figures such as Susan Rice and Gayle Smith (slated to lead USAID, and a former senior director at the NSC and co-founder of the Enough Project) who

⁷⁸⁵ Jon Temin, “Q&A: South Sudan’s Violence,” (2014), <http://www.usip.org/publications/qa-south-sudan-s-violence>.

⁷⁸⁶ United States Institute of Peace, “Crisis in South Sudan,” (2014), <http://www.usip.org/events/crisis-in-south-sudan>.

⁷⁸⁷ Ibid.

⁷⁸⁸ Daniel Sullivan, “Keep Hope in the Sudans: Appoint a New Special Envoy for Sudan and South Sudan,” *United to End Genocide* (2012), <http://endgenocide.org/keep-hope-in-the-sudans-appoint-a-new-special-envoy-for-sudan-and-south-sudan/>.

⁷⁸⁹ Strobel and Charbonneau, “US Was Slow to Lose Patience as South Sudan Unraveled.”; Tom Andrews, “United to End Genocide Welcomes Appointment of Special Envoy for Sudan and South Sudan,” *United to End Genocide* (2013), <http://endgenocide.org/united-to-end-genocide-welcomes-appointment-of-special-envoy-for-sudan-and-south-sudan/>.

⁷⁹⁰ Strobel and Charbonneau, “US Was Slow to Lose Patience as South Sudan Unraveled.”

⁷⁹¹ Boswell, “The Failed State Lobby.”

⁷⁹² Washington activist, phone interview, February 16, 2015.

⁷⁹³ Personal communication with researcher based on interviews conducted with US officials, July 2013 and June 2015.

have had close relationships with leaders in the South since the 1990s, tended to be softer on the South Sudanese elites. As one Washington activist describes it, this group of people has continued to view the South as the underdog and would argue that “these are our friends and we have an obligation to them.”⁷⁹⁴ Since the beginning of the administration, this group was often opposed by policymakers who did not have personal ties with South Sudan. This second group tended to advocate for a policy that would engage more with Khartoum and be more critical with the failings in Juba. For several months during the first year of the Obama administration, individuals from these two camps argued with each other in the effort to come up with a Sudan strategy.⁷⁹⁵ The successive Special Envoys for Sudan have spent a lot of their time “trying to manage the disparity among the opposing camps”, as one observer in Washington put it.⁷⁹⁶

Civil society activists on the two Sudans long supported the camp whose views on the South must be seen as far too soft in retrospect. Having painted a picture of the “good” South opposed to the brutal regime in Khartoum, this community took too long to distance itself from supporting the Kiir government. Lyman, speaking about his time as special envoy until December 2012, observed that US diplomats’ efforts to keep peace between North and South were complicated by the overwhelming sympathy for the South in the United States: on several occasions, when the US government wanted to criticize South Sudan, NGO activists and some members of Congress criticized a supposed “moral equivalency” between the North and the South.⁷⁹⁷ Kiir knew this, argued Lyman, and South Sudan was very much able to “mobilize its friends” in the United States to put pressure on the administration.⁷⁹⁸

Indeed, throughout much of 2012 and early 2013, the advocacy community mostly continued its lobbying against Sudanese President Bashir, focusing on the crises in Blue Nile and South Kordofan.⁷⁹⁹ In May 2012, in a telling example of one-sidedness, Andrew S. Natsios, a former Sudan Special Envoy in the Bush administration, called on the administration to send anti-aircraft weapons to South Sudan so it could defend itself against Khartoum.⁸⁰⁰ A letter by genocide scholars to Lyman and the APB in fall 2012 focused entirely on the conflicts in Blue Nile and South Kordofan and called for a stronger US position against Bashir. It did not mention human rights violations and growing tensions in South Sudan.⁸⁰¹ It was only when Kiir dismissed his cabinet in July 2013 that leading Sudan activists, including John Prendergast, Ted Dagne, Eric Reeves, and Roger Winter, wrote a letter to Salva Kiir expressing their concern about human rights violations in South Sudan and stressing the need for reform.⁸⁰²

⁷⁹⁴ Washington activist, phone interview, February 16, 2015; For more on the Sudan lobby’s ties with the leadership in the South see Rebecca J. Hamilton, “Special Report: The Wonks Who Sold Washington on South Sudan,” *Reuters* (2012), <http://www.reuters.com/article/2012/07/11/us-south-sudan-midwives-idUSBRE86A0GC20120711>.

⁷⁹⁵ US Department of State, “Sudan: A Critical Moment, a Comprehensive Approach (Media Note),” 2009, <http://www.state.gov/r/pa/prs/ps/2009/oct/130672.htm>.

⁷⁹⁶ Washington activist, phone interview, February 16, 2015.

⁷⁹⁷ Lyman, “The United States and South Sudan: A Relationship under Pressure,” 15.

⁷⁹⁸ *Ibid.*, 2.

⁷⁹⁹ Daniel Sullivan, “Not on the Agenda: The Humanitarian Crisis on the Two Year Anniversary of South Sudan’s Referendum,” *United to End Genocide* (2013), <http://endgenocide.org/not-on-the-agenda-on-the-two-year-anniversary-of-south-sudans-referendum/>.

⁸⁰⁰ Andrew Natsios, “To Stop the War on South Sudan, the US Should Send Weapons,” *The Washington Post* (2012), https://www.washingtonpost.com/opinions/to-stop-the-war-on-south-sudan-the-us-should-send-weapons/2012/05/11/gIQAywIkIU_story.html?utm_term=.5e02195343df.

⁸⁰¹ South Sudan News Agency, “Genocide Scholars Letters to the US Special Envoy to Sudan and the US Government’s Atrocities Prevention Board Go Unanswered,” (2013), <http://www.southsudannewsagency.com/opinion/columnists/genocide-scholars-letters-to-the-us-special-envoy-to-sudan>.

⁸⁰² Ted Dagne et al., “Letter of Friends of South Sudan to President Kiir,” 2013, http://enoughproject.org/files/FriendsofSouthSudanLetter_July2013.pdf; Akshaya Kumar, “7 Things You Need to

US Policy on the South Sudanese Civil War Since December 2013

In the fall of 2013, Lyman expressed his hope that there would still be “time to help South Sudan arrest this slide into autocracy and the danger of ethnic unraveling.”⁸⁰³ He turned out to be wrong. Within weeks, the country was engulfed in conflict and ethnic violence of a scale that few US policymakers had deemed possible.

Since December 2013, US policy to halt and respond to mass atrocities in South Sudan consisted of both more technical measures and political efforts to encourage a negotiated solution to the power struggle between Salva Kiir and Riek Machar. According to one Washington activist, the APB quickly took the initiative of mobilizing the humanitarian response and immediate measures to support suffering civilians, while the Africa Bureau focused on the political agenda.⁸⁰⁴

On the more technical side in 2014, the United States responded to the atrocities by increasing humanitarian aid and supporting the ability of UNMISS to protect civilians, at least within the mission’s limited capacities. It also supported efforts to sharpen the focus of UNMISS on the protection of civilians, provided support to the AU Commission of Inquiry and helped negotiate humanitarian access.⁸⁰⁵ With more than \$1.7 billion in humanitarian aid for South Sudan within 2.5 years since the civil war’s outbreak⁸⁰⁶ and more than \$ 2.2 billion overall assistance,⁸⁰⁷ the United States was by far the biggest provider of aid in the country.⁸⁰⁸

Politically, the Obama administration agreed with the UN, key African governments, and other big donors such as the European Union that the central reason for the violence was the power struggle between Salva Kiir and Riek Machar, who were openly stoking the violence along ethnic lines.⁸⁰⁹ The administration supported the peace negotiations led by the Intergovernmental Authority on Development (IGAD) and warned of “serious consequences” if the leaders of South Sudan failed to come to a political agreement. In May 2014, Kerry travelled to Juba and warned both Kiir and Machar that the United States would pursue sanctions against individuals stoking the violence.⁸¹⁰ According to Donald Booth, the United States also supported diplomatic efforts to forge unity behind the IGAD process, the negotiation of a Cessation of Hostilities Agreement, and the “creation of a mechanism to monitor and verify compliance with that agreement.”⁸¹¹ Within the political processes, the United States put a special emphasis on including more stakeholders from across civil society in the negotiations than only the usual suspects in South Sudanese leadership. It tried to ensure that any political solution was more sustainable than previous peace agreements in Sudan and South Sudan.⁸¹² At the same time, Salva Kiir was invited to the African Leaders Summit in August 2014 and welcomed to the White House.

Know About South Sudan's Government Crisis," *Enough Project* (2013), <http://www.enoughproject.org/blogs/7-things-you-need-know-about-south-sudans-government-crisis>.

⁸⁰³ Lyman, "The United States and South Sudan: A Relationship under Pressure," 4.

⁸⁰⁴ Washington activist, phone interview, February 16, 2015.

⁸⁰⁵ Booth, "Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward".

⁸⁰⁶ USAID, "United States Announces Nearly \$138 Million in Additional Humanitarian Assistance for South Sudan," 2016, <https://www.usaid.gov/news-information/press-releases/aug-22-2016-us-announces-nearly-138-million-additional-humanitarian-assistance-south-sudan>.

⁸⁰⁷ USAID, "US Foreign Aid by Country,"

https://explorer.usaid.gov/cd/SSD?measure=Obligations&fiscal_year=2015&implementing_agency_id=1.

⁸⁰⁸ USAID, "United States Announces Nearly \$138 Million in Additional Humanitarian Assistance for South Sudan."

⁸⁰⁹ Booth, "Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward".

⁸¹⁰ Lynch, "Inside the White House Fight over the Slaughter in South Sudan."

⁸¹¹ Booth, "Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward."

⁸¹² *Ibid.*

The IGAD negotiations concluded with a peace agreement signed by Salva Kiir and Riek Machar in August 2015. The US administration welcomed the agreement and the establishment of a transitional government in April 2016. It supported the Joint Monitoring and Evaluation Commission (JMEC)—the body responsible for overseeing the peace agreement—with more than \$ 3 million⁸¹³ and strongly advocated for a swift establishment of hybrid courts mandated by the peace agreement to increase accountability for the violence since December 2013.⁸¹⁴

Only one year after signing the peace agreement, however, the transitional government had collapsed, Riek Machar had left Juba, and renewed fighting had begun throughout the country.⁸¹⁵ In July 2016, several hundred people were killed in fighting in Juba. In an attack on an international hotel by more than 80 armed soldiers, a South Sudanese journalist was killed, international aid workers were assaulted, and several women raped. Despite several urgent calls for protection, UNMISS soldiers did not come to their help.⁸¹⁶

In response, the administration sent 47 troops to Juba to protect US citizens in South Sudan and in particular the embassy. Reacting to the increased fighting and the unraveling of the peace agreement, the United States led the charge in the Security Council to mandate 4000 additional peacekeepers as part of a “Rapid Reaction Force.”⁸¹⁷ Booth travelled throughout the region engaging military and foreign policy leaders in those countries that had agreed to send soldiers as part of the Rapid Reaction Force to ensure that they would be able to deploy as quickly as possible.⁸¹⁸ In September 2016, Ambassador Power led a trip by the Security Council to Juba after which Kiir agreed to the deployment of the troops, an agreement he would soon rescind again.⁸¹⁹

Could the US response between December 2013 and late 2016 have been stronger? Realistically, any unilateral change in US strategy without changes in the rest of the international community, the AU, and most importantly South Sudanese politicians would very likely not have been enough to change the course of events. Yet, critics have pointed to two factors that limited US effectiveness on South Sudan in particular.

First, a limiting factor of US political engagement on South Sudan was the immediate evacuation of the US embassy after the outbreak of violence in December 2013. Slightly over a year after the death of Ambassador Stevens in Libya in September 2012, US officials were extremely preoccupied with the security of their deployed personnel. “Benghazi” seems to have also initially overshadowed the US crisis response in South Sudan. A member of the Washington advocacy community pointed to the status of the embassy as a key point in the discussions on South Sudan—distracting from the actual crisis. “When the violence started in Juba they immediately closed the embassy. And then there was a real fight about keeping the ambassador there at post, because of the signal it would send if she left.”⁸²⁰ In the end, President Obama sent a small military contingent to Juba in order to increase the security of the embassy’s emergency personnel, enabling then-Ambassador Page to stay.⁸²¹ By the time Susan

⁸¹³ Committee on Foreign Affairs, *The Growing Crisis in South Sudan*, 2, 7 September 2016, 24.

⁸¹⁴ Siobhán O’Grady, “South Sudan VP Blames Former Rebel Leader for Unrest,” *Foreign Policy* (2016).

⁸¹⁵ “UN Panel Blames South Sudan Leaders for Juba Violence,” *Al Jazeera* (2016), <http://www.aljazeera.com/news/2016/09/panel-blames-south-sudan-leaders-juba-violence-160909063715494.html>.

⁸¹⁶ Booth, “Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward”.

⁸¹⁷ Michelle Nichols, “US Proposes UN Approve 4,000-Strong Force for South Sudan’s Juba,” *Reuters* (2016), <http://www.reuters.com/article/us-southsudan-security-un-idUSKCN10I12S?il=0>.

⁸¹⁸ *The Growing Crisis in South Sudan*, 21.

⁸¹⁹ Colum Lynch, “South Sudan’s Attacks on UN Could Imperil Future Peacekeeping,” *Foreign Policy* (2016), <http://foreignpolicy.com/2016/10/10/south-sudans-attacks-on-u-n-could-imperil-future-peacekeeping/>.

⁸²⁰ Washington activist, phone interview, February 16, 2015.

⁸²¹ Associated Press, “President Obama Sends Military Personnel to Sudan to Bolster Security at US Embassy,” 2013, http://www.cleveland.com/world/index.ssf/2013/12/president_obama_sends_military.html.

Page resigned her ambassadorship in August 2014, she lamented that embassy staff numbers had not resumed pre-crisis levels, stating that “we’ve increased our funding markedly but don’t have the people to do all of the work that is required.”⁸²² Page’s successor Mary Phee was not confirmed by the US Senate until almost a year after Page had resigned, leaving the ambassadorial post vacant.⁸²³ Alan Goulty, a former UK Special Envoy to Sudan, pointed out the problem for US engagement in the crisis without presence on the ground: “US leverage” he argued at a January 2014 event at the US Institute for Peace, “depends on presence. And unless you have a US presence in South Sudan, South Sudan will suffer. Very simple.”⁸²⁴ The United States lacks both access and leverage in Juba, Michael Gerson, a Washington Post columnist and former speechwriter for George W. Bush, also argued.⁸²⁵

Second, critics of the administration highlight internal divisions on sanctions and an arms embargo as limiting the effectiveness of the US response to atrocities in South Sudan after December 2013. In May 2014, the White House imposed sanctions on Marial Canuon, the commander of the presidential guard force, and Peter Gadet, a rebel commander accused of having led the April 15, 2014 attacks in Bentiu which killed more than 200 civilians.⁸²⁶

Beyond these initial sanctions, however, disagreements within the administration again prevented an unequivocal US stance on sanctions against Kiir and Machar as well as an arms embargo. In May 2014, Power announced that the United States would “seek in the U.N. Security Council to authorize targeted sanctions.”⁸²⁷ But Power reportedly only started to look for international support for a possible resolution in New York in September 2014. The suggested resolution included sanctions such as asset freezes and travel bans against leaders from both sides and an arms embargo. In October 2014, Special Envoy Booth echoed her call for targeted sanctions authorized by the Security Council to send “a unified signal that this senseless war is unacceptable and that those responsible will pay a price.”⁸²⁸

It took the United States until November 2014 to introduce a resolution. The new resolution did not demand an arms embargo. As Foreign Policy columnist Colum Lynch reports, Susan Rice—now the National Security Advisor—opposed an arms embargo, blocking attempts to pursue it in New York. According to Lynch, Rice argued internally that it could undermine a democratically elected government in Juba, and that neighboring Uganda was unlikely to enforce a potential embargo.⁸²⁹

There was also still no internal agreement on sanctions against the leadership in Juba.⁸³⁰ Both Power and Kerry found that the need for sanctions was “manifest”,⁸³¹ but another administration official told Lynch that “hastily imposed sanctions might [only] provide a short-term, feel-good solution to critics who are clamoring for action.”⁸³² In December 2014, in part due to the inability of the US administration to agree on a common approach, the Security Council agreed only to a presidential statement on the

⁸²² “US Ambassador Prepares ‘Bittersweet’ Departure from South Sudan,” *Voice of America* (2014), <http://www.voanews.com/a/south-sudan-susan-page-departure/2425155.html>.

⁸²³ Enough Project, “NGOs Urge Senate to Confirm Ambassador to South Sudan,” 2015, <http://www.enoughproject.org/blogs/ngos-urge-senate-confirm-ambassador-south-sudan>.

⁸²⁴ United States Institute of Peace, “Crisis in South Sudan.”

⁸²⁵ Michael Gerson, “South Sudan Swirls toward Chaos,” *Washington Post* (2015), http://www.washingtonpost.com/opinions/horror-and-suffering-in-the-worlds-most-fragile-state/2015/06/01/5bc8d2d2-0888-11e5-9e39-0db921c47b93_story.html.

⁸²⁶ US Department of State, “Background Briefing on South Sudan by Senior Administration Officials,” 2014, <http://m.state.gov/md225701.htm>.

⁸²⁷ Lynch, “Inside the White House Fight over the Slaughter in South Sudan.”

⁸²⁸ Booth, “Speech by Donald Booth, US Special Envoy for Sudan and South Sudan: US Policy on Sudan and South Sudan: The Way Forward”.

⁸²⁹ Lynch, “US Push to Halt Genocide in South Sudan Unravels at United Nations.”

⁸³⁰ Lynch, “Inside the White House Fight over the Slaughter in South Sudan.”

⁸³¹ *Ibid.*

⁸³² *Ibid.*

anniversary of the outbreak of fighting that warned of targeted sanctions. The lack of a unified US approach meant that there was no strategy that others could get behind.

Members of Congress and human rights groups argued that a proposal for an embargo had to come from the United States because IGAD, with Uganda as a member, would not advocate such an initiative. In January 2015, a letter by 29 South Sudanese and international NGOs to President Obama expressed their frustration over the indecisiveness of the administration.⁸³³ In February 2015, the UN humanitarian chief Valerie Amos joined the international calls for an arms embargo against South Sudan.⁸³⁴ Also in early 2015, the International Crisis Group supported a UN-imposed arms embargo and called for a more active engagement by China and the United States in the peace negotiations, given their “regional influence.”⁸³⁵

Yet it took until late 2016 for the United States to get behind an arms embargo—when the South Sudanese government had rescinded its agreement to the deployment of the Rapid Reaction Force and the UN Commission on Human Rights in South Sudan had warned of the possibility of “another Rwanda.”⁸³⁶ At that point, however, the United States was no longer able to rally enough countries in New York behind the idea of more targeted sanctions and the arms embargo to pass a Security Council resolution.⁸³⁷

In a testimony to Congress in September 2016, Booth suggested that the arms embargo had served as a negotiation tool, implying that the United States had held back to be able to still use it as such and that the threat of the embargo had helped to get the government to agree to the Rapid Reaction Force.⁸³⁸ If holding off the arms embargo for so long was indeed a strategic choice as Booth suggests, it may have proven to be the wrong one.

Conclusion

After witnessing the site of a mass grave dug by UN peacekeepers in the completely destroyed town of Malakal in 2014, journalist Alex Perry observed: “The world had guided the South Sudanese to freedom. Two and a half years later, it was shoveling their bodies into mass graves with bulldozers.”⁸³⁹

No other major international actor is as closely linked to these developments in South Sudan as the United States. Sudan and South Sudan have not been cases in which a lack of political attention in Washington prevented an effective US policy on preventing mass atrocities, nor has it been a case in which the government made too few resources available. It was the mass atrocities in the Sudanese Civil War and in Darfur that have amplified an advocacy movement on genocide prevention in the United States. An active inter-agency process on Sudan already existed before the administration took office and, given the concern of important policymakers within the government and civil society organizations, the administration kept Sudan and South Sudan high on the agenda. Yet, despite this attention and at times even because of the long and intense relationship with the country, US attempts to prevent atrocities in South Sudan have fallen short of their potential.

⁸³³ International Coalition for the Responsibility to Protect, “Arms Embargo for South Sudan to Protect Human Rights,” <http://www.responsibilitytoprotect.org/index.php/crises/196-crisis-in-south-sudan/5668-q29-intl-ngos-including-3-members-of-icrtop-crisis-alert-south-sudan-q-arms-embargo-for-south-sudan-to-protect-human-rights-q-8-january-2015>.

⁸³⁴ Antony Loewenstein, “Valerie Amos Calls for Arms Embargo against South Sudan,” *The Guardian* (2015), <http://www.theguardian.com/world/2015/feb/10/valerie-amos-south-sudan-arms-embargo-un>.

⁸³⁵ *The Growing Crisis in South Sudan*, 25, 31.

⁸³⁶ Conor Gaffey, “Another Rwanda? UN Warns of Genocide Risk in South Sudan,” *Newsweek* (2016), <http://europe.newsweek.com/rwanda-un-warns-genocide-risk-south-sudan-527110?rm=eu>.

⁸³⁷ Lynch, “US Push to Halt Genocide in South Sudan Unravels at United Nations.”

⁸³⁸ *The Growing Crisis in South Sudan*, 25, 31.

⁸³⁹ Perry, “George Clooney, South Sudan and How the World’s Newest Nation Imploded.”

Both with regard to the period between 2011 and December 2013 and the immediate crisis response since then, the United States has put significant resources, including the president's personal involvement and that of two successive Secretaries of State, behind the attempt to restore peace and prevent mass atrocities in South Sudan. However, the administration's pressure on leaders in Juba might have been stronger had it been more united internally. Differences on how to treat the South that have existed in the Obama administration since the beginning have made it easier for Salva Kiir and other leaders responsible for the current violence to evade US pressure. This split was for a long time amplified and supported by large parts of the advocacy community which only started to call for pressure on South Sudanese leaders in mid-2013.

Since independence, South Sudan has suffered neither from a lack of attention nor from insufficient resources from the United States. To the contrary, the unprecedented funds that the United States spent on state building in the country might even have been counterproductive. While some US money went to urgently needed development and humanitarian assistance to the population, some of these funds propped up political leaders and a military that would re-plunge their country into a civil war. The APB has been involved with the situation in South Sudan and at times fulfilled the role it was intended to play in the policy process: advocating for more analysis and intelligence on the situation and raising alarms about the potential for atrocities. The Board's engagement for civilians in Jonglei state in the summer of 2013 was seen as a success by many inside and outside the administration. Strong APB engagement on the ethnic violence in Jonglei, however, might also have distracted its attention from the political crisis in Juba.

Ultimately, as highlighted in this chapter, US efforts in South Sudan need to be placed in the context of the declining influence of any external actors on political leaders in Juba since the country's independence. It is important to acknowledge that even though the odds for prevention would have been better, there is no guarantee that a more united administration putting stronger pressure on political leaders earlier, as well as an APB with the bandwidth to deal with a multiple risk situation in South Sudan, would have led to a different outcome. In other words, even with attention and resources, there are limits to the United States' power to change the course of events on the ground before violence erupts.

It is this lack of (sufficient) influence and leverage, however, which provides reason for further debate on US policy in South Sudan. To really learn from US engagement in the country, discussions in Washington should also examine Washington's advocacy for South Sudan's independence in the first place, as well as long term US support for the same political elites that are now wreaking havoc on their civilian population.

Syria

No other conflict in the world has been more vexing and destructive over the past six years than the war in Syria. Since the eruption of violence in March 2011, the conflict has escalated into a wider regional conflict with more than 300,000 people reportedly killed (until December 2016⁸⁴⁰; nearly 5 million refugees driven outside the country; and an additional 6.3 million people displaced from their pre-war homes but staying in Syria.⁸⁴¹ The Assad regime, supported by its Russian and Iranian backers, has waged a systematic campaign against armed insurgents using air and ground attacks on civilians and combatants indiscriminately.⁸⁴² ISIS controls territory across eastern Syria and western Iraq and in areas of southern Syria; Arab gulf states continue to funnel money to a wide range of rebel groups. Meanwhile, international monitors led by the Human Rights Council's Commission of Inquiry, international human rights and humanitarian organizations, and several Syrian observer communities have documented extensive atrocities, direct attacks on civilian populations, and systematic war crimes and crimes against humanity.⁸⁴³ These monitors have also documented the extensive use of barrel bombs by regime forces targeting civilian populations.⁸⁴⁴ Despite the severity of the conflict and the intensity and brutality of attacks on civilian populations, the United States and the international community have been unable to control or mitigate the intensity of violence or the deliberate attacks on civilians.

President Obama's vision of controlling mass atrocity violence failed miserably in Syria. Arguably, the Obama administration's inability, and unwillingness, to confront the mass atrocity violence in Syria was also a major strategic failure for the United States. The unchecked violence triggered a massive refugee flow that fueled widespread populism and nativism in the West, disrupting politics in the United Kingdom, throughout Europe, and in the United States. The corresponding security vacuum in Syria and throughout the Middle East, coupled with Russia's resurgence, has also triggered a significant geostrategic shift that potentially threatens the collapse of the global liberal order.

Measuring the broader implications of the American failure in Syria, however, fall outside of the scope of this study. Its purpose is more limited to understanding the limits of the institutional structures of the APB in Syria. This chapter examines these limits by unpacking and detailing the trajectory of violence in Syria from the outset of violence in 2011 through to the onset of full-blown civil war in 2013. Our concern here is why the US' efforts to prevent and then control the escalation of violence failed. We identify five distinct phases of progression of the conflict from 2011 through to the fall of 2013 and examine the potential openings and constraints on more effective US and international action.

Our analysis of this trajectory reveals several challenges for atrocity prevention in highly complex and dynamic environments. Because of the centrality of Syria to the Arab Spring revolutions, its proximity to the Libyan intervention, and the broader regional dimensions of the conflict, Syria was never lacking for attention in Washington. The problem, however, was that initially the violence emerged slowly over a

⁸⁴⁰ Syrian Observatory for Human Rights, "About 450 Thousand Were Killed and More than Two Millions Were Injured in 69 Months of the Start of the Syrian Revolution," December 13, 2016, <http://www.syriahr.com/en/?p=56923>.

⁸⁴¹ United Nations High Commissioner for Refugees, "Syria Emergency," <http://www.unhcr.org/syria-emergency.html>.

⁸⁴² "Statement on a Syrian Policy Framework," *International Crisis Group*, April 27, 2015.

⁸⁴³ See for example, Report of the Independent International Commission on Inquiry on the Syrian Arab Republic, August 13, 2015, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A.HRC.30.48_AEV.pdf; "Syria: Deliberate Killing of Civilians by ISIS," *Human Rights Watch Report*, July 3, 2015; "He Didn't Have to Die," *Human Rights Watch Report*, March 22, 2015.

⁸⁴⁴ "Syria's 'Circle of hell': Barrel bombs in Aleppo bring terror and bloodshed forcing civilians underground", *Amnesty International Report*, May 5, 2015, <https://www.amnesty.org/en/latest/news/2015/05/syrias-circle-of-hell-barrel-bombs-in-aleppo/>.

period of several months and the administration failed to fully appreciate the depth and speed with which the brutal crackdown would transform into a full-blown civil war and would produce the level of direct and deliberate attacks on Syria. While there were clear warning signs of impending mass atrocity violence, the Obama administration simply was not prepared to respond to the conflict through the mass atrocity prevention lens. From the outset of the conflict in March 2011, Syria and the broader Arab Spring revolutions and violence commanded high-level US policy interest. Because the administration already had a functioning IPC process established for Syria and other high profile cases, Samantha Power, at the opening of the first APB meeting, noted that the Board would not be examining such cases where the administration already had functioning processes for reacting to escalated crises and atrocities.⁸⁴⁵ Instead, the Board would create added value by identifying countries at risk early—before mass atrocities had begun—and trigger changes in US policy to act preventively.

Second, and related, US policy on Syria was quickly constrained by broader geostrategic dynamics, especially the deteriorating relationship between the United States and Russia and the deadlock within the Security Council over NATO's air campaign in Libya. Finally, while the Obama administration endorsed PSD-10 and proclaimed mass atrocity violence to be a US national security imperative, the legacy of the US wars in Iraq and Afghanistan, as well as ongoing military operations in Libya, served as a backdrop to President Obama steadfastly refusing to consider any form of military engagement in Syria on the table. In the end, the United States and the international community's overall response to the mass atrocity violence was weak and ineffective.

Background

The Syrian conflict began in March 2011 when the Syrian regime launched an aggressive crackdown on peaceful nation-wide civilian demonstrations inspired by the Arab Spring revolutions in Tunisia, Egypt, and Libya. Yet, well before 2011, there had long been signs of deep social, economic, and political distress in Syria and profound challenges to the legitimacy of Assad.⁸⁴⁶ Assad assumed power after the death of his father Hafez al-Assad in 2000, who himself had come to power in 1970 and established minority Alawite dominance over the country's security and intelligence agencies and senior military positions to consolidate and maintain his rule. Sunni Arabs, who formed a majority 60% of the population, often resented and occasionally resisted a regime dominated by the Alawites (who constituted only 12% of Syria's population). In 1982, Assad deployed the Syrian military and brutally repressed a Sunni Islamist insurrection in Hama. Over a two-day period, regime forces destroyed much of the city and killed thousands. In the wake of the Hama massacre, Hafez al-Assad further consolidated his power through emergency rule.⁸⁴⁷

By the time his son, Assad, assumed power in 2000, the country faced a deep set of problems: a recession throughout the late 1990s contributed to rising budget deficits, stagnant wages and growing income inequality, and declining oil revenues and production. In addition, a ten-year drought in eastern Syria eviscerated agricultural production and forced more than 800,000 people into poverty, putting enormous strains on a wide range of economic, social, and political institutions. All of these pressures

⁸⁴⁵ The White House, "Honoring the Pledge of Never Again: Introduction and Welcome," <http://www.youtube.com/watch?gl=DE&hl=de&v=CHmVblBHtg>, 23 April 2012.

⁸⁴⁶ *International Crisis Group Report*. "Popular Protest in North Africa and the Middle East (VI): The Syrian People's Slow-Motion Revolution." July 6, 2011, <http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Syria/108-%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20VI%20-%20The%20Syrian%20Peoples%20Slow-motion%20Revolution.pdf>.

⁸⁴⁷ David W. Lesch, *Syria: The Fall of the House of Assad*, (New Haven: Yale University Press, 2012), chapter 1.

underscored the challenges for Assad's legitimacy and the Alawite sectarian dominance over state institutions.⁸⁴⁸

Against this backdrop, once the Arab Spring revolutions spread from Tunisia to Egypt to Libya in early 2011, protest actions quickly followed throughout all of Syria. Assad relied heavily on his father's playbook on similar uprisings thirty years earlier by cracking down aggressively on the protest movements through a combination of arrests, detentions, torture, and direct fire on demonstrators.

First Phase of the Conflict: Hope for Change

In March 2011, as the Arab revolutions ignited in Tunisia, Egypt, and Libya, hundreds gathered in the Hamidiya market in Damascus chanting "[t]he revolution has started!"⁸⁴⁹ Simultaneously, demonstrations erupted in other cities to protest the government crackdown. All of these triggered reprisals from the state security services that stepped up a wave of detentions, beatings, and extra-constitutional killings. From the outset of the government crackdown, domestic and international human rights observers urged Syrian authorities to cease the use of excessive force against unarmed civilian protesters.⁸⁵⁰ By March 20, a week into the demonstrations, more than 38 protesters had been killed.⁸⁵¹ Marchers across the country carried signs that read "Stop Killing Innocent Peaceful Protestors."⁸⁵²

Under pressure, Assad announced on March 24 a series of reforms, including a salary increase for public workers, greater freedom for the news media and political parties, and a reconsideration of the 48-year-old emergency rule on public dissent.⁸⁵³ Despite these public announcements, the Assad regime simultaneously began a strategically calculated public campaign to blame the uprisings on domestic terrorists and foreign conspirators.⁸⁵⁴ It also continued its aggressive crackdown on the public demonstrations.

Initially, the international community's response to the government's crackdown was largely aloof. Several factors contributed to this restraint. First, despite the violence, the prevailing mood in Washington and European capitals was that Assad would eventually understand the broader Arab Spring pressures and would navigate toward some form of accommodation with the demonstrators. Many initially interpreted Assad's oscillation between crackdowns and concessions (albeit rhetorical on the latter) as a sign that he would ultimately allow some liberal political and economic reforms. For example, Secretary Clinton noted in late March, "there is a different leader in Syria now. Many of the members of Congress of both parties who have gone to Syria in recent months have said they believe he's a reformer."⁸⁵⁵ A month later, Clinton said there was "an opportunity for meaningful political and economic reform, and it needs to start now."⁸⁵⁶ In May, President Obama announced in a speech that

⁸⁴⁸ Ibid.

⁸⁴⁹ "In Syria, Demonstrations are Few and Brief, *New York Times*, March 16, 2011, http://www.nytimes.com/2011/03/17/world/middleeast/17syria.html?_r=0.

⁸⁵⁰ "Syria: Government Crackdown Leads to Protester Death," *Human Rights Watch*, March 21, 2011, <http://www.hrw.org/news/2011/03/21/syria-government-crackdown-leads-protester-deaths>.

⁸⁵¹ Michael Slackman, "Syrian Troops Open Fire on Protesters in Several Cities," *New York Times*, March 25, 2011, <http://www.nytimes.com/2011/03/26/world/middleeast/26syria.html?pagewanted=1&ref=syria>.

⁸⁵² Syria Revolution 2011 Facebook Group.

⁸⁵³ "Thousands March to Protest Syria Killings, *New York Times*, March 24, 2011, <http://www.nytimes.com/2011/03/25/world/middleeast/25syria.html?ref=syria>.

⁸⁵⁴ Tony Badran, "How Assad Stayed in Power – And How He'll Try to Keep It," Snapshot, *Foreign Affairs.com*, December 1, 2011.

⁸⁵⁵ CBS Face the Nation Transcript, March 27, 2011, http://www.cbsnews.com/htdocs/pdf/FTN_032711.pdf.

⁸⁵⁶ Secretary of State Hillary Clinton Press Availability, Berlin Germany, April 15, 2011, <http://iipdigital.usembassy.gov/st/english/texttrans/2011/04/20110415170103su0.7493817.html#axzz2UWpsQd6f>.

Assad should respect the will of his people and that if he did so, the United States would support reforms if the regime moved forward on them.⁸⁵⁷

Second, despite the brutality, there was a lack of international consensus on the breadth and intensity of the violence and where it might lead. Throughout the spring and summer of 2011, the violence was almost exclusively one-sided as government forces cracked down on demonstrations. On the one hand, the violence was particularly brutal and well documented. There were numerous videos uploaded to YouTube and other social medias sites recording episodes of government forces firing directly into protests as well as government snipers firing on unarmed civilians. In addition, there were widespread reports of detentions and torture that mobilized even greater protest actions around the country.⁸⁵⁸

On the other hand, while brutal, there were fewer than 100 deaths reported nation-wide per week for the first five months of the conflict.⁸⁵⁹ Throughout this first phase of violence in Syria, there was never a single “Benghazi moment” where a major mass atrocity event seemed imminent. As a result, the international response took a more gradual trajectory that included a series of statements of condemnation and a set of limited sanctions. In May, both the United States and the European Union imposed sanctions freezing the assets of key Syrian officials identified as responsible for human rights violations.

Third, the international response to the first phase of the Syrian conflict was tempered by parallel events in Libya and the challenges those events created within the Security Council—and between the United States and Russia in particular. On March 17, 2011—the same day as the first major demonstration in Dara’a demanding the release of the teenagers—the Security Council passed Resolution 1973 authorizing NATO to use force in Libya to forestall an imminent attack on the city of Benghazi. It is against this backdrop that the initial international reaction in Syria was framed. The escalation of NATO’s campaign in Libya and its linkage of R2P to regime change set the tone for most of the early discussions on what to do in Syria. Several of the Security Council members, most notably Russia and China, vehemently objected to the de facto expansion of Security Council Resolution 1973 by NATO commanders who escalated their airstrikes in order to remove Qaddafi from power.

Finally, as the violence continued throughout the summer, the hope for “Assad as a reformer” ebbed and shifted to a new hope—that Assad had lost legitimacy at home and abroad, that his time was over, and that his departure from office was only a matter of time. By mid-August the Obama administration had coordinated a diplomatic effort with several European leaders who jointly called on Assad to step down.

The rhetorical shift by Obama and European leaders was intended to increase pressure on Assad. The analytical assumption in the US government was that the pressure would eventually compel Assad to step down. As a result, US planning on Syria shifted to a focus on a post-Assad era in Syria.⁸⁶⁰ The US demand for Assad to step down, however, created a new set of problems for the United States. The major international actors with leverage over Assad —namely Russia and Iran—both objected to the demand that Assad leave office. In addition, the United States faced significant resistance from the other BRICS and other nations over yet another regime change strategy.

The US shift on Assad came less than a week before Libyan leader Muammar Gaddafi fled Tripoli as the Libyan NTC took power in Libya. The regime change in Libya intensified Russia and China’s

⁸⁵⁷ “Obama’s Middle East Speech, *New York Times*, May 19, 2011, http://www.nytimes.com/2011/05/20/world/middleeast/20prexy-text.html?pagewanted=all&_r=0.

⁸⁵⁸ Center for Documentation of Violations in Syria, <http://www.vdc-sy.info/index.php/en/>.

⁸⁵⁹ *Ibid.*

⁸⁶⁰ Former US official, interview, Washington, DC, March 9, 2015.

objections to the ongoing NATO operations in Libya and their frustration with the US policy of regime change. It also solidified Russian and Chinese position that the violence in Syria—and any resolution of it—was an internal Syrian matter. Hence, the US policy shift sealed the widening chasm between the United States and Russia and China, and thus the deadlock in the Security Council that constrained everything that followed.

Second Phase: Security Council Deadlock and Regional Diplomatic Failure

The second stage of the Syrian conflict saw a further escalation of the violence and the formation of armed insurgencies—in particular, the emergence of the Free Syrian Army—and the formation of a coordinated (albeit weak) political opposition body through the Syrian National Council. It also marked rising tensions between the United States, Russia, and China over Syria and the launch, and ultimately failure, of the regional Arab League initiatives to control the violence.

The one-sided violence through August 2011 continued to generate widespread condemnations of the regime's actions. Observers in Hama reported the existence of numerous mass graves. In one, more than 400 people were found and reported to have been killed by security services. Amnesty International reported that 88 people (including 10 children) had died in regime detention with 52 of them tortured. By early fall, the death toll doubled from roughly 350 per month during the first five months, to more than 700 per month.⁸⁶¹

The divide within the Security Council between the United States and Russia also continued to intensify. There was widespread agreement that the violence was destabilizing—indeed, Russia, Hezbollah, and Iran, concerned that Assad might be triggering a wider conflict, urged him to introduce reforms to calm the situation. But any calls for restraint from Moscow and Tehran changed when the United States urged Assad to step down. Russia's position almost certainly was driven by its own set of complex strategic calculations that included Russian President Putin's vision for Russian regional influence, Russian fears of Sunni extremism at home and abroad, and Russian control over its naval facility in Tartus, Syria. Furthermore, the United States had no response to the basic question posed by Moscow: if Assad stepped down, then who or what would replace him?⁸⁶² The opposition in Syria was deeply fragmented without any clear organizational coherency or platform and there was no obvious plan from Washington on how to resolve this.

The tensions escalated over the Security Council Draft Resolution S/2011/612. The draft, written principally by the United States, condemned the Syrian government's violence and demanded sanctions against Syria. At the time, the violence was still largely one-sided although the new Free Syrian Army had just formed and was launching its first reprisal attacks. Russia, China as well as other states objected on the grounds that the resolution focused exclusively on Syrian government violence. Furthermore, Russian diplomats warned that the draft resolution on Syria looked similar to Security Council Resolution 1970—the resolution passed as a precursor to Security Council Resolution 1973 on Libya. Hence, when the draft resolution was brought to the Security Council in early October for a vote, both Russia and China—experiencing buyer's remorse on Security Council Resolution 1970 and 1973—vetoed the resolution.

By November, more than 3,000 people had been killed during the uprising.⁸⁶³ US Ambassador Robert Ford urged the administration to cultivate ties with the newly emerging opposition forces and to aid them

⁸⁶¹ Center for Documentation of Violations in Syria: <http://www.vdc-sy.info/index.php/en/>.

⁸⁶² "Syria sanctions strategy 'unreliable' – Lavrov, *RT.com*, September 28, 2011, <http://rt.com/news/syria-sanctions-lavrov-507/>.

⁸⁶³ Center for Documentation of Violations in Syria, <http://www.vdc-sy.info/index.php/en/>.

with diplomatic and economic support—and potentially arms—to check Assad’s increasing brutality.⁸⁶⁴ President Obama was more cautious—hoping international diplomatic efforts might create a path to control the violence. With the Security Council deadlocked and the Obama administration refusing to take additional measures, the United States encouraged the Arab League to take the international diplomatic lead. The Arab League announced a four-point Action Plan that demanded a halt to all violence against civilians, release of all detainees, withdrawal of military equipment from urban neighborhoods, and open access for Arab League officials as well as international journalists to move freely throughout the country.

The Arab League initiative coincided with a major government escalation in the city of Homs. Regime forces reportedly cut off the city’s power and municipal services and, following the Security Council veto, began shelling civilian areas for the first time in the conflict. Amnesty International and Human Rights Watch reported extensively on the human rights violations and called on the Security Council to refer the Syrians crimes to the ICC.⁸⁶⁵ Then, in mid-November, the Human Rights Council’s Commission of Inquiry issued its first report in which it reported that the Syrian government had committed “crimes against humanity through summary executions, arbitrary arrest, forced disappearance, torture, including sexual violence, as well as violations of children’s rights.”⁸⁶⁶

In response to the escalation, on November 12, the Arab League voted to suspend Syria’s membership. With large numbers of refugees now pouring into neighboring states, Syria’s direct neighbors called on Assad to leave. On November 14, Jordan’s King Abdullah asked Assad to step down.⁸⁶⁷ The following week, Turkey’s Prime Minister Recep Tayyip Erdogan also called on Assad to step down.⁸⁶⁸

Despite the escalating violence, the broader international response remained deadlocked. France’s Foreign Minister Alain Juppe suggested establishing “humanitarian corridors or humanitarian zones” inside of Syria. The United States deployed the George H.W. Bush aircraft carrier to the eastern Mediterranean Sea, increasing speculation that the United States would push for some form of “no fly zone” resolution—a view further fueled by the US Embassy in Syria’s order for US embassy officials and US citizens to leave the country. Meanwhile, the Israeli press reported that a Russian warship had arrived in Syria with advisors, reportedly to offload advanced missile defense systems.⁸⁶⁹

Amid all of this, the Arab League initiative stalled. The League demanded greater access to Syria to monitor and report on the violence, but government obstruction and escalating violence, coupled with the subsequent decision to suspend Syria’s membership, limited the Arab League’s leverage. With Russian pressure on Assad, the League did secure an agreement to deploy Arab League Monitors in early December, but the monitors were hamstrung throughout their mission. The first mission visit

⁸⁶⁴ “Former US Ambassador Says He Could ‘No Longer Defend’ Obama Administration’s Syria Policy”, June 3, 2014, *PBS NewsHour*.

⁸⁶⁵ “We Live as in War,” Human Rights Watch Report, November 11, 2011, <http://www.hrw.org/reports/2011/11/11/we-live-war-0>.

⁸⁶⁶ “The Findings of the Independent Commission of Inquiry on Syria,” <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11654&LangID=E>.

⁸⁶⁷ “Jordan’s King Calls on Syria’s Assad to Step Down,” *BBC*, November 14, 2011, <http://www.bbc.co.uk/news/world-middle-east-15723023>.

⁸⁶⁸ “Turkey’s Premier Urges Assad to Quit in Syria,” *New York Times*, November 22, 2011, http://www.nytimes.com/2011/11/23/world/middleeast/turkish-leader-says-syrian-president-should-quit.html?_r=0.

⁸⁶⁹ David Lev, “Report: Russia Sent Syria Super Advanced S-300 Missiles,” *IsraelNews*, November 24, 2011, <http://www.israelnationalnews.com/News/News.aspx/150059#.UkreSLyc9AG>.

coincided with the escalation of government attacks in Homs and Daraa as well as the execution of some 70 soldiers who were killed trying to defect from the Jebel Zawiya military base.⁸⁷⁰

In response to the lack of regime support, the monitors withdrew in mid-January 2012 and the Arab League floated a new plan—"the Arab League Initiative on Syria" which required Assad to hand over power to his vice president within two weeks, start negotiations with the opposition, extend the Observer Mission, and refer the matter to the Security Council for help in international peacekeeping. Assad rejected the proposal, calling it an infringement on Syria's sovereignty and evidence of a "conspiratorial scheme."⁸⁷¹

Assad's rejection of the new Arab League initiative and the Arab League's withdrawal of the Observer Mission, turned the international policy focus back over to the UN.

Third Phase: The Second and Third Security Council Resolution Vetoes and the Descent into Full-Scale Civil War

Despite the US and Russian's deadlock at the Security Council, both countries supported various Arab League initiatives to control the violence. However, without the capabilities to leverage greater pressure on the Assad regime, the Arab League's efforts stalled and the effort then returned to the Security Council where the United States and France pushed forward on a resolution based on the Arab League conditions—a suspension of violence, withdrawal of all forces from cities and towns and a return to their original barracks, allow full and unhindered movement of Arab League monitors, and release all prisoners detained during the uprising.

Clinton said the American position was that the plan for a gradual democratic transition "represents the best efforts of Syria's neighbors to chart a way forward, and it deserves a chance to work."⁸⁷² Russia remained unconvinced. The Russian envoy, Vitaly I. Churkin, adopted a "where will it all end?" argument, telling reporters that the Security Council cannot prescribe ready recipes for the outcome of a domestic political process. "Once you start, it is difficult to stop," he said, adding that pretty soon the Security Council would start pronouncing "what king needs to resign, or what prime minister needs to step down." Russian Foreign Minister Lavrov added that it would not endorse bombing Syria like Libya if Assad refused to leave.⁸⁷³

In the end, the United States and its allies went forward with the Second Draft Security Council Resolution, and Russia and China vetoed it. The effect of this second veto is striking and changed both the intensity and pattern of violence. The violence escalated during the debate and then spiked in the immediate aftermath. Regime forces stepped up artillery shelling in Homs and other civilian areas. On February 6, 2012, UN Secretary General Ban Ki-moon issued another statement condemning the use of heavy artillery in Homs stating "No Government can commit such acts against its people without its legitimacy being eroded."⁸⁷⁴ On February 8, UN High Commissioner for Human Rights, Navi Pillay,

⁸⁷⁰ "Surge in Syrian Killings Is Reported Before Visit," *New York Times*, December 22, 2011, <http://www.nytimes.com/2011/12/22/world/middleeast/large-scale-killings-reported-in-syria-on-eve-of-arab-league-observer-visit.html>.

⁸⁷¹ "Stalemate Deals Fury and Grief in Syria," *New York Times*, January 23, 2012, <http://www.nytimes.com/2012/01/24/world/middleeast/syria-reportedly-rejects-arab-league-peace-plan.html>.

⁸⁷² Colum Lynch and Will Englund, "Clinton, Diplomats Urge Russia to Allow Security Council Vote on Syria," *The Washington Post*, January 31, 2012, http://www.washingtonpost.com/world/national-security/clinton-other-diplomats-to-urge-russia-to-allow-security-council-vote-on-syria/2012/01/31/gIQA4axafQ_story.html.

⁸⁷³ "Security Council will Never Sanction Bombing – Lavrov," *RT.com*, January 31, 2012, <http://rt.com/politics/russia-support-consider-syrians-163/>.

⁸⁷⁴ "Secretary-General, Appalled by Mounting Death Toll From Escalating Violence in Syria, Strongly Condemns Heavy Artillery Use in 'Unacceptable' Attacks," United Nations Press Release: <http://www.un.org/News/Press/docs//2012/sgsm14095.doc.htm>.

stated “The failure of the Security Council to agree on firm collective action appears to have fueled the Syrian Government’s readiness to massacre its own people in an effort to crush dissent.”⁸⁷⁵ She went on to add that “[t]he virtual carte blanche now granted to the Syrian Government betrays the spirit and the word of this unanimous decision” on R2P at the World Summit in 2005.

A week later, the UN commission of inquiry (mandated by the Human Rights Council) issued a second report on the fighting, concluding that the government had failed manifestly to fulfill the responsibility to protect and had carried out gross and systematic human rights violations; anti-government forces did so as well in a scale not comparable to the crimes committed by the regime.⁸⁷⁶ It also stated that the situation was at risk of further radicalizing the population; the only recommendation made was to continue monitoring with a view to holding the perpetrators accountable and hosting an inclusive national dialogue.⁸⁷⁷ That week, a car bomb detonated in Aleppo, signaling one of the first suspected attacks by Al Qaeda-linked forces in the conflict.⁸⁷⁸

Against this backdrop, Ban Ki-Moon appointed his predecessor, Kofi Annan, as the Joint Special Envoy of the UN and the League of Arab States on the Syrian Crisis. Building on the failed Arab League initiative, Annan developed a six-point plan that called for the Syrian government to pull troops and heavy weapons out of cities and for UN military observers to ensure compliance with it. But, with the Security Council at an impasse over how to enforce the plan, and without a clear objective for the endgame, by mid-June, the Annan plan had stalled.

The relatively rushed and careless unveiling of President Obama’s APB raised some initial speculation that the APB would establish a more robust US response to the on-gong escalation in Syria.⁸⁷⁹ From the outset, however, the atrocity prevention was only one of many interests in Syria—and often subordinated to broader strategic and practical concerns.

With the collapse of the Annan effort in June, the conflict escalated dramatically and entered a new phase: full-blown civil war. Throughout the first six months of 2012, the monthly fatality rates increased from 750 deaths per month to more than 1500.⁸⁸⁰ During the flurry of international diplomatic negotiations, the violence had been brutal but relatively low-intensity. In July, the fighting escalated into a full-on high intensity conflict with between 5,000 to 6,000 fatalities in July and August 2012. The wave of refugees increased from approximately 30,000 in January of 2012 to more than a million in the next twelve months.

See also, Rana F. Sweis, “Syrian Refugees Paint Fearful Scene of Home,” *New York Times*, February 8, 2012, <http://www.nytimes.com/2012/02/09/world/middleeast/09iht-m09-syria-jordan.html?pagewanted=all>.

⁸⁷⁵ “UN Human Rights Chief Urges Action to Halt Escalating Violence in Syria,” United Nations Office of High Commissioner for Human Rights, February 8, 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11804&LangID=E>.

⁸⁷⁶ “Report of the Independent International Commission of Inquiry on the Syrian Arab Republic,” Human Rights Council, Nineteenth Session, February 22, 2012, <http://www.nytimes.com/interactive/2012/02/23/world/middleeast/24syria-document.html>.

⁸⁷⁷ Alan Cowell and Steven Lee Myers, “UN Panel Accuses Syrian Government of Crimes Against Humanity,” *New York Times*, February 23, 2012, <http://www.nytimes.com/2012/02/24/world/middleeast/un-panel-accuses-syria-of-crimes-against-humanity.html?pagewanted=all>.

⁸⁷⁸ “Sunni Extremists May be Aiding Al Qaeda’s Ambitions in Syria, Analysts Say,” *New York Times*, February 15, 2012, <http://www.nytimes.com/2012/02/16/world/middleeast/al-qaeda-influence-suspected-in-bombings-in-syria.html?pagewanted=all>.

⁸⁷⁹ Stephanie Condon, “Obama Tackles Mass Atrocities; Spotlights Syria, Kony,” *CBS News*, April 23, 2012, <http://www.cbsnews.com/news/obama-tackles-mass-atrocities-spotlights-syria-kony/>.

⁸⁸⁰ Center for Documentation of Violations in Syria, <http://www.vdc-sy.info/index.php/en/>.

Fourth and Fifth Phases: Civil War, Chemical Red Lines, and International Dissensus

From July 2012 to July 2013, tens of thousands of people were killed and millions displaced from their homes. In July 2013, reports surfaced that regime forces were repositioning some of its chemical weapons stockpiles for possible use against rebel forces. The US administration warned that should such reports be verified, the conflict would enter a new phase and the international community would hold Assad accountable for his actions.⁸⁸¹ A month later, President Obama announced that any use of chemical weapons would cross “a red line” and change his calculus on how to respond to the war. The next day came reports from the outskirts of Damascus that more than 1,200 civilians had been killed in a chemical gas attack.

In response to the events, the administration moved quickly to threaten the use of force and to mobilize the international community for a firm response. The key challenge for the administration, however, came from the fact that after more than a decade of war in Afghanistan and Iraq, the American public and many members of Congress were decidedly against the use of American force. Furthermore, the British parliament voted against any British involvement in military action in Syria while French President Hollande withdrew his support for military action after it became clear that the French parliament would likewise object. In addition, Ban Ki Moon announced his opposition to the use of military action and “further militarization of the conflict.”⁸⁸²

The threat of force does appear to have altered the strategic calculations in Damascus. Prior to the August 21 attacks, the Syrian regime repeatedly and publicly denied that it possessed chemical weapons and denied any responsibility for their use. In addition, Russian President Putin wrote an op-ed in the *New York Times* calling the US reports of Assad’s regime use of chemical weapons as “absolutely ridiculous” and warned against any use of force outside of UN Security Council authorization. The Obama Administration, however, stepped up diplomatic and public pressure with threats of using military strikes on Syria; meanwhile, on September 10, Russian Foreign Minister Sergei Lavrov made an overture to Assad telling him that he could avert a military strike by putting Syrian chemical weapons “in the hands of monitors and agree to ultimately eliminate its massive arsenal of poison gas.” Secretary Kerry publicly agreed that Assad could avoid a US military strike if he turned over “every bit of his chemical weapons to the international community.” Later that day, Syria’s Foreign Minister Walid al-Moallem announced an agreement on a three week diplomatic effort by which ultimately Syria agreed to the dismantling of their chemical weapons arsenal. This defused the threat of international military action in Syria.

Prior to the direct threat of US military force, the Assad regime had largely ignored international entreaties to alter his behavior. The red line and the subsequent US-led concerted international pressure almost certainly compelled Assad to change his course of action. But, the red line threat also had a downside. While the gas attacks were widely condemned as stepping over a line, the widespread direct and deliberate attacks on civilians continued with conventional weapons. Furthermore, while the subsequent attacks were condemned, they did not trigger the same degree of international outrage and consensus for action.

As the violence continued, the conflict slowly morphed into a civil war with all the trappings of a regional proxy war. The United States quietly began supporting elements of the Free Syrian Army while Qatar,

⁸⁸¹ Glenn Kessler, “President Obama and the ‘red line’ on Syria’s Chemical Weapons,” *Washington Post*, September 6, 2013.

⁸⁸² “Urging political solution on Syrian crisis, Ban warns of ‘tragic consequences’ of military action,” *UN News Centre*, September 6, 2013, <http://www.un.org/apps/news/story.asp?NewsID=45786#.VwebdDYrKqk>.

Kuwait, Saudi Arabia, and other governments and individuals sent weapons to aid other rebel forces. Meanwhile, Turkey allowed its border to be transited by jihadists and others hoping to fight against Assad's regime. By the summer of 2014, ISIS emerged and launched a major offensive and took control of much of northeastern Syria and large swaths of territory in Iraq. With that, the train for prevention had effectively left the station. The international community's further attempts and failures to limit the war have not been not specific to mass atrocities and are better addressed elsewhere.

Lessons From Syria?

From this narrative, there are four main reasons why the international community was slow to respond to the early stages of escalation and almost completely ineffective in doing so:

First, the initial trajectory of violence, while brutal, was slow and incremental. Unlike Libya, throughout the first 18 months of the violence in Syria, there was never a real "Benghazi moment" that presented an imminent threat of a mass atrocity event. The regime forces largely conducted their violence and brutality under the threshold of international intervention. Initially, Assad also was widely perceived as someone who would reform given pressure, rather than someone who would escalate the violence. Once it became obvious Assad was not "a reformer," there was widespread perception that he would likely fold and give up power.

Second, after the NATO airstrikes in Libya toppled the Gaddafi regime and led to the dictator's violent death, the Syrian conflict was tied up in a particularly difficult geostrategic context. From the outset, Russia and China's frustration over the escalation of the NATO air war in Libya and the policy of regime change generated significant pushback. It locked in their opposition to expanding Security Council initiatives in Syria and made it easy for Russia to gather support behind a blocking position, while facing little scrutiny over its own strategic calculations about the situation in Syria.

Third, amid the ongoing NATO-led military operations in Libya and the corresponding financial costs and international political backlash of that effort, the Obama administration was reluctant to enter more directly—militarily and diplomatically—into another war in the Middle East. It was not clear what it would take to incentivize the regimes and the rebels to come to the table. Diplomatic leverage in the absence of credible incentives limited the broader international efforts to control the escalating violence.

Fourth, US policy (along with its European and Middle Eastern allies) backed itself into a corner by insisting on Assad's departure without presenting a strategy for political transition. The key question that surfaced at the beginning of the conflict remains today: what would replace Assad's regime if there were some external armed intervention against Assad? The fragmentation within the Syrian opposition and its failure to coalesce around a single organizing coalition or leadership limited the available options for the United States and the UN.

Within the US administration, the APB was designed to raise alarm bells and coordinate a whole-of-government response to likely mass atrocity events. By the time President Obama launched the APB in April 2012, Syria was already well on its way to descending into a full-blown civil war and commanding high level policy coordination in the United States government. In that regard, the APB provided little value added to an already robust IPC system. However, given the lessons of the slow US and international response, had the APB been in place a year earlier, perhaps it could have better signaled the dangers of Assad's brutal crackdown and the likelihood that the initial violence would escalate widespread mass atrocity violence.

While the broader geostrategic implications of the US' inability, and unwillingness, to respond to the violence in Syria extend beyond the scope of this study, it is clear from any reading of the trajectory and the scale and intensity of violence and the corresponding pressures on the politics, institutions, and security of the United States and Europe, that President Obama's proclamation that mass atrocity violence should be viewed through the lens of national security threat and imperative is confirmed by the Syrian experience.

Chapter 4. Assessment of US Atrocity Prevention Efforts and the APB

“Preventing genocide and mass atrocities is a core national security interest and a core moral responsibility of the United States [...] In the face of a potential mass atrocity, our options are never limited to either sending in the military or standing by and doing nothing. The actions that can be taken are many: they range from economic to diplomatic interventions, and from non-combat military actions to outright intervention. But ensuring that the full range of options is available requires a level of governmental organization that matches the methodical organization characteristic of mass killings.”

Presidential Study Directive 10, August 4, 2011⁸⁸³

“Noting that governmental engagement on mass atrocities and genocide too often arrives too late, when opportunities for prevention or low-cost, low-risk action have been missed, PSD-10 directed the establishment of an interagency Atrocities Prevention Board (Board), with the primary purpose of coordinating a whole-of-government approach to prevent mass atrocities and genocide. . . . [this Executive Order] continues in place the Board established in 2012 as I directed in PSD-10, sets out the support to be afforded by executive departments, agencies, and offices, and updates and memorializes the terms on which the Board will continue to operate in the service of its important mission.”

Executive Order 13729: Comprehensive Approach to Atrocity Prevention and Response, May 18, 2016⁸⁸⁴

Since coming to office in 2009, the Obama administration has had two primary goals for its atrocity prevention agenda. First, based on the recommendations of the GPTF and the subsequent internal deliberations in the run-up to PSD-10 and the establishment of the APB, the administration committed itself to elevating and institutionalizing mass atrocity prevention as a priority in US foreign and national security policy. Hence, a number of officials initiated reforms within multiple agencies and departments. These reforms aimed at socializing individuals to be more aware of atrocity prevention and ultimately aimed at mainstreaming atrocity prevention strategies into their work. The president’s APB was the engine of this institutional prioritization and socialization effort. The Board links atrocity prevention with “American values, national security interests, [and] US legal requirements” and was envisioned to bring about internal changes within the US government to improve coordination among different departments regarding its policy toward mass atrocity prevention.⁸⁸⁵ The Board was also intended to provide opportunities to study, review, and suggest revisions to laws, regulations, and practices and “provide a framework for individual agencies to sponsor their own activities” that could assist the government with preventing mass atrocities.⁸⁸⁶ Finally, the APB was envisioned to provide a “point of entry for civil

⁸⁸³ The White House, “Presidential Study Directive on Mass Atrocities,” Presidential Study Directive 10, <https://obamawhitehouse.archives.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities>, August 4, 2011.

⁸⁸⁴ White House, “Executive Order 13729: A Comprehensive Approach to Atrocity Prevention and Response.” May 18, 2016. <https://www.whitehouse.gov/the-press-office/2016/05/18/executive-order-comprehensive-approach-atrocity-prevention-and-response>.

⁸⁸⁵ Donald Steinberg, phone interview, April 2015.

⁸⁸⁶ Donald Steinberg, phone interview and email correspondence, April 10, 2015 and April 17, 2015.

society to inform US government of concerns in the atrocity prevention arena” —especially regarding cases on which the US government might not have been focused.⁸⁸⁷

The second, and perhaps most important goal of the Obama administration’s atrocity prevention efforts and the APB has been to actually prevent and mitigate episodes of mass atrocities.

With regard to the first goal, the president’s declaration in PSD-10 that atrocity prevention is a “core national security interest” does not appear to have raised atrocity prevention to a level comparable to more traditional security issues such as Weapons of Mass Destruction proliferation, terrorism, or energy security, all of which attract much greater attention and resources. This shortfall has been glaringly obvious in places such as South Sudan, where a few senior officials with strong personal ties to the new country’s elites were able to set policy without the checks and balances that would have been provided by a larger inter-agency policy community—but it has also left its mark in first-tier crises, where short-term counterterrorist reflexes and other higher-ranked policy goals left little space for pursuing longer-term atrocity prevention.

Yet, we have also seen some notable and positive changes. Our country analyses reveal that in several cases, atrocity prevention has, in fact, been elevated significantly under the Obama administration. Persistent diplomatic engagement in Kenya and with Myanmar political leaders as well as military interventions in Libya 2011 and in support of the Yezidi population in Northern Iraq in 2014 indicate a qualitative difference in political attention to potential and impending mass atrocity violence compared to previous administrations. The institutionalization of President Obama’s “Comprehensive Approach to Atrocity Prevention and Response” via Executive Order in May 2016 takes the US government’s dedicated institutional infrastructure to a new level. As a result, the Trump Administration benefits from a much improved institutional starting point to pursue atrocity prevention, if it decides to do so.

With regard to the second, much more challenging goal, our analysis reveals a mixed record, despite important progress. A major part of this assessment, obviously, is the failure to stop the killing in Syria—the most troubling and visible case of mass atrocity violence for US foreign policy for years. With an estimated 470,000 people killed and another 12 million displaced from their homes, including almost 5 million refugees, Syria is the world’s most acute humanitarian crisis and the United States and the international community have looked particularly weak in their efforts to control and mitigate the violence. Apart from Syria, however, our analysis reveals a more mixed picture. In a number of additional cases including the CAR and the renewed civil war in South Sudan, US engagement was too little, too late to be successful at preventing atrocities. At the same time, the administration’s emphasis on atrocity prevention—both in the whole-of-government APB approach and in the traditional IPC process—has likely helped to limit, contain, and control some episodes of extreme violence, as in Burundi, Kenya, and the Jonglei crisis in South Sudan. Military action in Libya 2011 and Northern Iraq in 2014 succeeded in saving tens of thousands of lives that were immediately threatened, notwithstanding the otherwise dismal record of the Libya intervention.

Across these different countries and crises, the record reveals that the administration has employed a wide range of different tools to prevent and react to atrocities—a goal Power set out in her influential 2002 book, *“A Problem from Hell,”* and helped implement in her various roles in the Obama administration.⁸⁸⁸ One of our central findings is that US atrocity prevention policy has become far more nimble and its toolkit more diverse than the simple dichotomy of standing idly by and sending in US ground troops. In fact, in contrast to much of the punditry and other public commentary on atrocity prevention, in most of the cases we analyzed a mix of different tools has been applied in each crisis,

⁸⁸⁷ Donald Steinberg, email correspondence, April 17, 2015.

⁸⁸⁸ Power, *A Problem From Hell*, XVIII.

including public pressure, directed diplomacy, peacekeeping, targeted sanctions such as travel bans and asset freezes, criminal investigations, support of international prosecutions, military assistance to local partners, and, in Libya 2011 and in Northern Iraq 2014, overt US military intervention. As we will show in more detail below, overall, the results of the case studies that we examined reveal a mixed record for both the US atrocity prevention efforts broadly and the work and role of the APB in particular.

Finally, while the APB is the most prominent innovative example of how the Obama administration works to address atrocities, there are numerous additional means through which agencies and departments have contributed to mass atrocity prevention efforts. For instance, USAID has integrated atrocity prevention efforts into their work, including through preventing, reacting, and rebuilding after mass atrocities.⁸⁸⁹

In this chapter, we examine the record to date. While we acknowledge the preliminary nature of this study and the limits of our analysis, we identify several elements of success in responding to countries at risk. Additionally, we identify two categories of challenges: structural impediments to atrocity prevention in general and structural impediments within the US government of atrocity prevention in more specific details. At the end of this chapter we present a list of key findings and set of policy recommendations.

A Note on Measuring and Assessing Atrocity Prevention

Our assessment needs to be read against the background that measuring and assessing mass atrocity prevention and mitigation is a difficult task that requires more complex answers than a simple “success” or “failure”, particularly at the level of an entire crisis.

First, prevention efforts are designed to stop the occurrence of an event or action before it begins. In this regard, successful atrocity prevention presents researchers with the task of trying to decipher and explain why mass atrocity violence does not occur. This is made even more problematic by the fact that mass atrocity violence is relatively rare—even in regional and civil wars—so its absence might be the result of many and overlapping reasons, only some of which might be attributable to atrocity prevention policies. In short, attributing causality to the atrocity prevention efforts is difficult.

Second, and related, even if we have some evidence that US or international atrocity prevention strategies helped, those strategies are often implemented within a broader set of policy priorities and instruments and it is not easy to identify the independent effects of any particular policy instrument or tool.

Third, this measurement challenge is also linked to and exacerbated by the sensitive nature of policymaking on atrocity prevention and the corresponding frequent lack of data about the policies and instruments themselves. As several of the case studies revealed, atrocity prevention efforts are often quite sensitive, particularly in the early stages of a crisis or conflict—or in the very early prevention stages. US and international policymakers and diplomats are often reluctant to advertise publicly what they are doing to pressure leaders or groups to restrain or change their behavior. The difficulty for researchers, civil society and—equally for Congress—to collect information about these efforts means that it is difficult to monitor and assess current and ongoing prevention strategies.

Fourth, if we find a case of apparent prevention failure—where violence and mass atrocities do occur—we cannot simply conclude that US and international attempts at prevention were entirely useless. After all, scale is critical in assessing mass atrocities: it makes a key difference if hundreds or thousands of

⁸⁸⁹ USAID, “Field Guide: Helping Prevent Mass Atrocities.”

people are killed. So, we still may find that US and international policies did have some residual effect and may have mitigated or altered the severity and trajectory of violence.

Fifth, as mentioned above, prevention is designed to stop an action or event before it begins. In practice, however, as a crisis escalates it is not always clear when mass atrocity violence starts. In this sense, atrocity prevention is closely linked and often conflated with atrocity reaction and response. As an analytical concept, prevention is generally seen as having a temporal dimension—in which the deeper underlying causes of violence are identified and specific action is taken to alter trajectories of events well in advance of triggering events that lead to mass atrocity violence. In contrast, reaction and response are actions taken to address imminent or ongoing episodes of violence. In many of the cases presented here, however, prevention efforts were reactions or responses to imminent and ongoing episodes.

Finally, measuring and assessing atrocity prevention can be further complicated because in many cases—Burundi and Myanmar provide examples in our study—mass killings are limited, but there are still significant and systemic human rights abuses, widespread displacement of populations, and the underlying social, political, and economic challenges that still put populations at risk of atrocities. Designating such cases as “successes” of atrocity prevention efforts is a difficult sell for policymakers.

With these prevention-specific challenges in mind, in this report we have used a comparative case method and employ a combination of process tracing and counterfactual analysis to examine the US atrocity prevention policy across nine case studies. This approach helps us overcome many of the challenges above. We have selected cases in which mass atrocity violence has occurred and when it has not, and we provide summary details to make comparative inferences.

Elements of Success in At Risk Countries

Our review of the Obama administration’s policy on the cases presented here shows that the attempts to classify entire country cases as “successes” or “failures” of mass atrocity prevention are problematic. Rather, for each country case, we have identified policies and efforts that worked and factors that hampered the atrocity prevention efforts. In some of the cases we examined, such as Myanmar and Burundi, the APB likely contributed to reduced levels, or deterred additional episodes of, mass atrocity violence. In other cases, including Libya, Iraq, Syria, and the DRC, the Obama administration had a high-level policy focus independent of the role of the APB. In these latter cases, long-standing policy and/or strategic imperatives, as well as concerns by key personalities within the NSC staff, contributed to the development of US policies or US support to multilateral approaches that likely prevented some mass atrocity violence. The following paragraphs detail some of the nuanced findings of “success” within the mixed cases under review:

Burundi

As Sarah Sewall has noted, Burundi was a case in which the APB worked as envisioned.⁸⁹⁰ It effectively mobilized the resources that otherwise would not have been available and it directed focused attention on the potential for violence. The APB’s early focus, combined with an activist ambassador, helped mobilize both resources and attention and early reaction within the administration. As with Myanmar, the regional/functional divide was tempered by strong and sustained coordination between Ambassador Liberi, the US Embassy, the Bureau of African Affairs, and the APB that began in 2013 to elevate attention in the country to the risk of election-related violence. This coordination, however, could have

⁸⁹⁰ “Charting the US Atrocities Prevention Board’s Progress: A Conversation with Undersecretary for Civilian Security, Democracy, and Human Rights Sarah Sewall, Council on Foreign Relations,” Washington, DC, March 30, 2015, <http://www.cfr.org/human-rights/charting-us-atrocities-prevention-boards-progress/p36332>.

been even stronger by decreasing the gap between senior diplomatic appointments and earlier mobilization of funding for prevention efforts.

CAR

The situation of the CAR presented one of the first real test cases for the administration and the APB to demonstrate their commitment to Obama's declaration that the prevention of mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States. After an outwardly slow start in late 2012 and throughout 2013, the United States made a comprehensive effort to respond to atrocities in the CAR, though, despite clear warning signs of a looming crisis and early involvement of the APB, major efforts only began as of December 2013, one year after the launch of Séléka's insurgency. In addition, US efforts primarily focused on imminent concerns. Less attention was given to the country's internal dysfunction and drivers of the conflict. If not addressed appropriately, internal dynamics and drivers can quickly escalate into large scale violence again.

DRC

PSD-10 and the high-level focus on atrocity prevention in the Obama administration are attributable for the shift in US policy beginning in 2012 and the current efforts to address ongoing violence. The fall of Goma in 2012 to the M23 rebels was a clear signal to the United States and the international community that DRC needed a stronger, more focused, and more robust prevention and response effort. The United States was instrumental in securing the Regional Framework Agreement and with a coordinated and combined diplomatic and military effort, the M23 was isolated and defeated. However, none of this has fundamentally changed the overall political and economic situation in and around eastern DRC, which continues to allow or even spark violence against civilians.

Iraq

The 2014 US-led response to the spread of ISIS in general and the targeting of Yezidis specifically is an example of a partially successful mass atrocity response operation. US efforts were not able to prevent mass atrocities in Iraq. ISIS committed horrific atrocities against Yezidis and other groups, including genocide, but the US intervention likely prevented a larger number of civilians being killed and injured. By responding militarily to the onslaught of ISIS and by protecting innocent Yezidi civilians, the United States drew on a number of mass atrocity prevention tools in order to realize its aims. The United States also dropped aid supplies to innocent civilians so that they could survive long enough to make it to safety. The slaughter would have likely been worse were it not for the US intervention.

Kenya

The response was widespread—the US government, other members of the international community and Kenyan actors worked together at various moments to help mitigate the escalation of violence and prevent further flare-ups. The immediate goals of a successful 2010 referendum and 2013 elections were largely achieved. These two milestones were regarded as relatively peaceful. This can in part be attributed to the election support provided by the United States and other donor partners. However, the impact of such efforts should not be overestimated for several reasons. First, several other factors may have helped to prevent a crisis in 2013, such as the consensus among Kenyans that such violence ought to be avoided in the future, the ICC indictments, and the political alignment of Kenyatta and Ruto joining forces to avoid ICC prosecution. Second, many efforts undertaken by the international community from 2008-2013 focused on assuring peaceful elections. Yet underlying drivers of the conflict have still not been addressed adequately.

Libya

The NATO-led intervention in Libya authorized under Security Council Resolution 1973 in March 2011 prevented an imminent attack on the civilian population in Benghazi. In this regard, Libya showed how the administration translated the president's clear priority of atrocity prevention in this case into acting quickly, against significant dissent in the White House and Pentagon, and pushing its allies into more intrusive and likely more effective initial military action than the no-fly zone that France and the United Kingdom had envisioned. However, the power vacuum and political chaos created in the wake of the subsequent removal of long-time Libyan strongman Muammar Qaddafi left the population vulnerable to ongoing violence amid the escalating civil war there.

Myanmar

The rapid US institutional coordination in response to the eruption of violence in May 2012 is best understood as a modest procedural success. US pressure on Thein Sein's government to control the violence likely helped prevent a major eruption of killings, but ethnic cleansing, serious human rights abuses, and poor humanitarian conditions for the Rohingya all continue, and the underlying risk factors for future mass atrocities remain unaddressed. In this case, the APB worked closely with the office of Special Coordinator for Myanmar and the NSC staff to raise the issue of violence against the Rohingya peoples in bilateral United States-Myanmar relations and in two presidential visits to the country. The coordination had both structural and personality based attributes. The early warning mechanisms worked effectively to elevate Myanmar as a priority for the APB. At the same time, the regional/functional divide was muted in this case—largely because of the efforts of Ambassador Derek Mitchell, a skilled and committed Special Coordinator, and his strong working relationships with the regional bureau, Bureau of Democracy, Human Rights and Labor (DRL), and with the NSC staff.

South Sudan

The APB showed its added value in crisis on Jonglei state in the summer of 2013. In a situation in which the violence might have otherwise been interpreted as usual cattle related conflict, the APB was able to push for more intelligence and analysis, identify atrocity risks and successfully mobilize the administration to go public and respond to the violence. The attack and targeting of the Murle tribe provided a focal point to galvanize the APB and senior level-attention to the violence. The high-level White House attention, as well as the sustained efforts within the NSC, contributed to a focused and coordinated policy that effectively mitigated the violence. That success, however, revealed a problem for the APB: with all of the focus on Jonglei state, the board did not push the US government sufficiently to put enough pressure on political leaders in Juba—something that would have been necessary to prevent the renewed outbreak of mass atrocity violence in December 2013.

Challenges of Atrocity Prevention

Our nine case studies reveal a number of instances in which atrocity prevention mechanisms have been weak or ineffective. Some of the factors that stood in the way of successful prevention are not specifically related to the US government, but relate more broadly to the fundamental challenges of atrocity prevention in general, many of them rooted in structural features of global politics and therefore unlikely to change any time soon.

Ambiguity of Early Warning Indicators

Today's early warning, forecasting, and modeling capabilities are stronger and more sophisticated than ever. The intelligence community, scholars, and NGOs have dedicated extensive resources in the past two decades to improving early warning and forecasting models. Nonetheless, evidence of impending

mass atrocity violence can often still be quite diffuse and ambiguous. In some cases like the imminent attack on Benghazi in March of 2011, there was widespread agreement in the US intelligence and policy community as well as in the international community that a mass atrocity event was imminent, and this imminence served as a powerful catalyst for atrocity prevention and response. However, cases like the threat against Benghazi in March 2011 are quite rare. More often, there is considerable ambiguity and contestation within the United States and throughout the international community over whether or not mass atrocity violence is likely. In Syria for example, the violence began as a brutal crackdown against the Arab Spring demonstrations in March 2011 and became a relatively low-intensity campaign of repression. The Obama administration initially concluded that Assad would engage in a reform effort to control the public anger and frustration fueling the protests. Once it became apparent that Assad would not reform, the administration quickly concluded that he would likely be ousted from office and set in motion planning for a post-Assad era. In the end, the United States did not fully appreciate the speed and breadth of the civil war that would follow.

There are many factors that contribute to the ambiguity of early warning. First, there is the problem of uncertainty, where information may not be clear, such as in Syria where the trajectory of violence and motivation for escalation largely rested inside Assad's inner circle and could have followed several different paths. The uncertainty could be more broadly a problem of information that is not known—as in the initial wave of violence in the CAR. Several additional elements may contribute to the lack of information: downsizing of US embassy staff, limited media exposure to remote areas where violence may be occurring, conflicting and contested information and interpretation of events, such as who is killing whom and who is the instigator, among others.

For prevention efforts in cases with longer time horizons, the existence of foreseeable “trigger events” seems to have made it easier for the United States to engage preventively in some cases: the elections in Kenya in March 2013 and in Burundi in the summer of 2015 provided foreseeable events in which violence was possible. Here, the APB engaged in advance of crisis and violence—in the case of Burundi even two years in advance. In contrast, in cases like the CAR, the triggering events that would have mobilized more attention to early warning efforts did not occur and the administration found itself responding and reacting to escalating violence rather than engaging in pre-crisis prevention.

Limits of Outside Influence

Even where the information is clear and political will exists to prevent or respond to atrocities, our case studies highlight repeatedly that there are often limits to the degree that outside actors, even if they are as powerful as the United States, can influence local conflict dynamics. Even though in each case study, we identify aspects that the US government could have done better or differently, in several cases, even such a change in policy or strategy would likely not have made a decisive difference. The leaders of a post-independence South Sudan, for example, were less susceptible to outside pressure following independence than they were when they needed the international community to ensure their independence. Outside influence in the DRC is reduced by the lack of capacity and commitment to reform within the country's leadership. In Libya, while the United States and others could have made a stronger effort to convince transitional authorities to accept a larger international role in the post-Gaddafi era, the resistance of these authorities to international security forces, for example, should not be ignored when evaluating international efforts in Libya. In Myanmar, although the United States was able to pressure the Thein Sein to control some of the violence, that pressure did not fully prevent the regime and the Rakhine State Buddhists from displacing hundreds of thousands of people, appropriating their property and denying them basic health and education. Keeping these limits to outside influence in mind is important to manage expectations and provide a thorough basis for analysis and policy response.

Geopolitical Deadlock

Related to the limits of outside influence are those situations in which the international community is deeply divided on a particular crisis or conflict. Syria is the most notable case of geopolitical deadlock. The breakdown of the Security Council consensus on Libya shortly after the NATO bombing campaign began dramatically shaped the ensuing geopolitical dynamics among Security Council members on Syria. China and Russia exercised four separate vetoes of Security Council Resolutions in the first 18 months of the conflict, effectively blocking any concerted international diplomatic or military response to the escalating crisis. Meanwhile, the Pentagon considered Syria's air defense systems along with its security and military capabilities in 2011 as increasing the potential cost of any external military options. As a result, both US and international policy moved in fits and starts with little effectiveness in slowing or curbing the violence. Similarly, the role of China and India in seeking new energy contracts with the Thein Sein government in Myanmar gave that regime an ability to deflect some of the US pressure during the spikes in violence in late 2012 and again in 2013.

No Quick Fixes

A final structural impediment to atrocity prevention in general is that long-term prevention requires concerted and sustained policies and programs to deal with the deeper underlying causes of violence. This reality morphs atrocity prevention from an effort to alter immediate events on the ground to a broader challenge of conflict prevention and resolution, stabilization, and reconstruction. In every case we examined, the United States has struggled to identify, develop, and sustain deeper responses. This is in part because of an incompatibility of sustained and long-term conflict prevention strategies with the shorter-term political and budgetary cycles, as well as the heavy reliance on the United States military in the past two decades that has been used in support of complex humanitarian emergencies.

The US Government's Challenges with Atrocity Prevention Efforts

Changing US Role in the World

US diplomacy has not fully adapted to the changing perceptions and influence of the United States after the unipolar moment. As illustrated by South African complaints about the unilateral US decision to speak out early and forcefully against a third term for the president of Burundi, US diplomatic signals are sometimes seen as closing off the political space for regional powers to deploy their own influence in ways that align with US objectives. In such cases, it may be more effective—but difficult for US policymakers—to let other actors publicly take the lead or to strategically avoid forceful engagement with globally contentious issues such as R2P. Similarly, in Myanmar, the United States engaged directly with Thein Sein, but often at contradictory and countervailing purposes from the efforts of ASEAN and other regional actors. This is not to suggest that the United States must necessarily defer to other actors, but rather to suggest that there are limits to US capacity and attention and that there may well be other resources available for stronger and more coherent efforts.

Difficulties of Strategic Political-military Integration

A major challenge for US foreign policy, including the prevention of atrocities, is the difficulty of integrating diplomatic and military tools into nuanced and effective statecraft. Once military force is on the table, the Pentagon and the combatant commands tend to dominate the policy process simply because of the structural imbalance in size between the military and the State Department. In Libya and Iraq, US and international military interventions were critical in preventing imminent mass atrocities in Benghazi in March of 2011 and stopping them on Mt. Sinjar in August 2014. Yet, military action, in and of itself, is rarely sufficient to ensure ongoing civilian protection or mass atrocity prevention. In Libya, in

particular, there was no clear follow-on strategy for the aftermath of regime change, or even an explicit consideration of the tradeoffs between pursuing regime change and enabling further diplomacy with Qaddafi after the threat to Benghazi had been neutralized. In the medium and long term, the pursuit of military action outside a political framework likely exacerbated the atrocity risks for Libyan civilians. Similarly, while the airstrikes on ISIS stopped the immediate threat to the Yezidi population on Mt. Sinjar, the Yezidis and other ethnic minority populations remain the target of systematic violence and repression by ISIS throughout the territory it controls.

Regional-functional Divide

An ongoing challenge for US atrocity prevention efforts is that the culture within the US foreign policy and national security bureaucracy remains skeptical, despite the president's orders, of treating atrocity prevention as a core national security interest in practice. US foreign policy is made, especially at the State Department, in the regional bureaus which look after US national interests in their region. Institutionally, the regional bureaus hold a privileged position over the functional bureaus, whose mandates are seen as secondary. This means that traditional political and security concerns continue to outweigh atrocity prevention priorities, which we observed in Syria, Libya, Iraq, and elsewhere.

The challenge for the APB is balancing attempts to prevent medium-term atrocity risks (about 1-3 years ahead) with responses to imminent crises, given that the urgent (imminent crises) tends to take precedence over the important (longer-term prevention). Both regional and functional experts reported that many ambassadors, desk officers, and other regional bureau officials are reluctant to engage with the APB about a country that may or may not erupt into mass atrocity violence at some point in the future, based on a risk assessment that is never as convincing as the TV images of open violence in another country in acute crisis. This is particularly problematic given that one of the key reasons for the establishment of the APB was to counteract a tendency by policymakers to focus too much on ongoing crises at the expense of prevention.

When this divide is not as deep, particularly in cases where atrocity prevention is perhaps the key policy priority for the United States, such as in Burundi and Myanmar, the regional-functional divide does not pose a problem. In fact, in both cases the regional bureaus relied on the functional expertise of CSO and DRL to help situate and identify the context of the violence and its trajectory. In Burundi, the APB elevated the attention of US policymakers and helped coordinate prevention policies and programs. The APB's work was also embraced by Ambassador Liberi and the embassy and the overall whole-of-government approach is viewed as a success to date. Similarly, in Myanmar, the APB developed a strong working relationship with Derek Mitchell while he was Special Coordinator for Myanmar and later the US Ambassador appointed there, the regional desk, and the human rights functional experts working on Myanmar in DRL. The combined effects of this strong regional/functional working relationship was the development of strong statements by the president and Secretary of State and focused effort in the run-up to elections in late 2015.

Incomplete Institutional Entrenchment of Atrocity Prevention

One noticeable element of the work of the APB and the Obama administration's efforts is that the initial initiatives—both the political and institutional development—were driven principally by Power and a small group of allies that she assembled in the early days of President Obama's first term. In her role on President Obama's NSC staff and with her support from the president for developing an atrocity prevention agenda, she directed the overall efforts behind PSD-10 and largely hand-picked the initial membership of the first APB in 2012. The benefit of this approach was to assemble a strong team of senior officials relatively quickly (traditional bureaucratic processes often take much longer) who were committed to the project. The problem, however, as several commentators suggested, was that this

approach also meant that because Power privileged personality over bureaucratic rationale in appointing members to the APB, when she and other first-generation members of the APB left their positions, their replacements in their departments or agencies were not hired for, or often well positioned to serve on, the APB. Hence, the influence and interest of second and third generations of APB members has been far more limited than the first, and negotiations over the text of an executive order to institutionalize the atrocity prevention infrastructure dragged on several years longer than its advocates had originally envisaged.

Limited Bandwidth

Since its creation in 2012, the APB has been overwhelmed by the number of ongoing, imminent, and potential atrocity situations. While new cases constantly appear on the horizon, existing ones rarely disappear. This is by design, since one of the APB’s functions is to maintain the required level of attention among the US government to maintain an effective prevention effort, even after a particular trigger event—such as a contested election—has passed. With a minimal secretariat capacity and the limited time its senior members are able to contribute to the APB’s meetings, its bandwidth is severely limited. If the Board deals with two country situations per monthly meeting, and assuming that an active US policy effort requires APB-level direction at least every three months, this limits the APB’s bandwidth to a maximum of six countries on which it can focus sustained attention. By contrast, the Global Centre for the Responsibility to Protect (GCR2P) has identified between 8-12 countries at high levels of risk at any time since 2012, not even counting medium-term prevention cases such as Burundi, which the GCR2P first mentioned in May 2015—long after the APB raised the alarm inside the US government (see Figure).

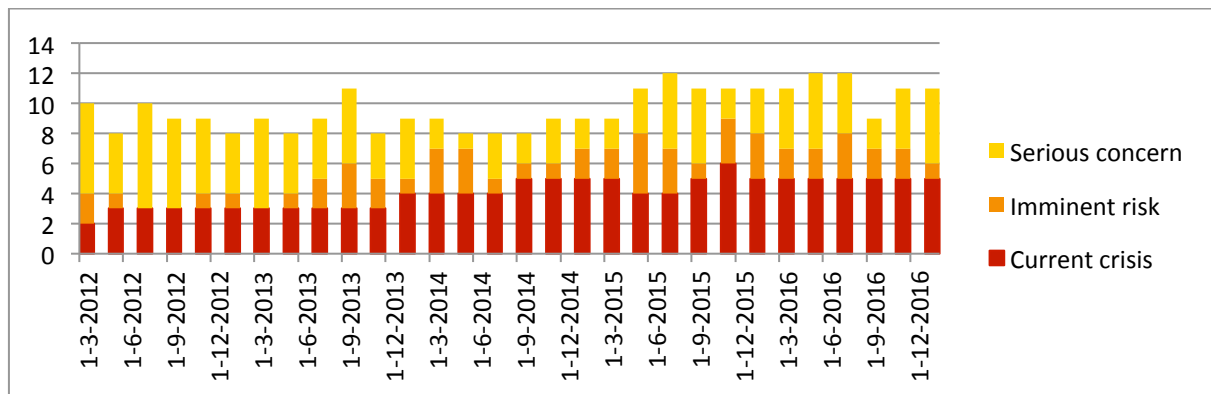


Figure: Number of simultaneous country situations highlighted by the “R2P Monitor” (March 2012 to January 2017), source: <http://www.globalr2p.org/publications/>

Limited Resources

In the CAR, the US response was slow. The United States had only a small diplomatic and USAID presence in the country, unable with limited resources to respond to rapidly moving events. The APB does not have an independent budget assigned directly to it; it therefore pulls resources from where it can. This can create tension because there is inevitably an opportunity cost to APB work. If the APB had an independent budget with funds it could disburse, it may become more valuable.

The challenge in many cases is that the resources needed to prevent an imminent attack are significantly different than the resources needed to stabilize the political, economic, and social conditions to ensure long-term protection of civilians. Hence, without its own budgetary authority and with other funds often restricted, the APB’s prevention and response capacity is often quite limited.

Risk-Averse Embassy Management

Since the attacks on the US consulate in Benghazi in September 2012, the administration has been quick to close embassies wherever the risk of violence occurred. As the former US envoy to South Sudan put it in April 2015: “Pressure from both the White House and within the Department of State has been brought to bear to close diplomatic posts entirely at the first sign of possible unrest, regardless of the diplomatic equities involved and the humanitarian programs that would suffer. Only strong push-back from within the Department has abetted this inclination.”⁸⁹¹ Not only did the United States repeatedly close its representations in Libya, but in the responses to mass atrocities in South Sudan and the CAR there were internal debates on whether or not to close down or significantly reduce embassy staff in both countries. In the CAR, the United States government decided to suspend operations of the US embassy from December 2012 until September 2014. In Burundi, only the strong advocacy by the US ambassador kept a reduced staff on the ground. In all these cases, the closure or reduction of the embassy and lack of presence on the ground limited the administration’s ability and leverage to address the situation.

Managing High-level Appointments

Next to the risk-averse management of embassies, a second pattern regarding the use of US diplomatic resources that has hampered the administration’s ability to effectively respond to atrocities relates to the appointment of US special envoys and high-level staff. As our case studies show, over the past four years, essential diplomatic posts have been vacant at precisely the point in time when they would have been most needed to ensure a strong US diplomatic effort to prevent atrocities. Regarding South Sudan, between March and August 2013, a crucial time before the outbreak of renewed civil war later that year, both the Special Envoy position for Sudan and South Sudan as well as the post of Assistant Secretary of State for African Affairs remained vacant. The post of the Special Envoy for the Great Lakes region remained vacant between February and July of 2015. This did not only have consequences for US diplomacy in the DRC, but also meant that the administration was missing its key diplomatic representative in the crisis around the election related violence in Burundi in the spring and early summer of 2015. Even though delays in senior State Department appointments is nothing extraordinary, it can be detrimental for US atrocity prevention efforts such as in the cases of South Sudan or Burundi. Bureaucratic politics on reporting lines, infighting on whether to give posts to career diplomats or political appointees or simply insufficient attention paid by the State Department’s leadership, have delayed such key appointments over the past few years.

⁸⁹¹ “Responding to the Threat of Mass Atrocities”, Ambassador Princeton N. Lyman at University of Oregon, April 9, 2015, <http://adst.org/the-stump/responding-to-the-threat-of-mass-atrocities-personalities-politics-and-principles/>.

Chapter 5. Recommendations

To the Executive Branch of the US Government

Preventing mass atrocities remains a core national security interest and a moral responsibility for the United States, not least to avoid getting drawn into military responses and exposed to the costly consequences of prevention failures. It is clear that the cumulative steps of the Clinton, Bush and Obama administrations have sensitized a growing constituency in the US government to the issues surrounding mass atrocity violence. A number of those we interviewed noted that the presidential leadership exemplified by PSD-10 has been an empowering tool to mobilize the bureaucracy in some cases. Still, the overall culture within US foreign policy and national security institutions remains predominantly ambivalent or skeptical of elevating atrocity prevention. The regional/functional divide continues to hamper coordination efforts on early warning, mobilization of resources, and response. To respond to these concerns we recommend the following:

1. Further institutionalize mass atrocity prevention and the APB

At present, the APB is an interagency process with resources pooled from various departments rather than a defined office with a delineated budget. This makes it highly susceptible to administrative reductions or suspensions in a new administration. Our analysis suggests that its overall performance to date has been beneficial to US policy by providing a forum to examine crises through a mass atrocity lens. As such, we recommend that the president and, respectively, his National Security Adviser and the relevant Cabinet Secretaries to:

- a. Announce the president's intention to maintain Executive Order 13729, including the APB, as well as high-level NSC representation for mass atrocity prevention and response, and ensure that mass atrocity prevention remains an explicit priority in the administration's National Security Strategy and other key strategy documents
- b. Compensate particular offices that service and support the APB and the APB sub-group with additional dedicated full-time equivalent (FTE) personnel lines and resources to off-set the APB work load
- c. Incentivize and compensate regional bureaus to support the APB with additional FTE or resources
- d. Improve atrocity prevention culture and incentives by tying mass atrocity prevention and APB service to promotion and professional development
- e. Establish lessons learned procedures and periodic reviews of mass atrocity prevention strategies and APB processes. This should include the creation of third party (external) review systems

2. Open up to Congress and civil society

While recognizing the need for confidentiality in the action options developed by the APB, the overall effort would be enhanced by greater disclosure of information, publication of success stories (especially including those in which non-military tools are effectively deployed), reports to Congress, and more frequent dialogue and briefings to and from civil society groups. In fact, civil society is a critical ally for the US government in pursuit of effective mass atrocity prevention—but

without open communication, it cannot serve this role as well as it could. To counter widespread fears of US military intervention in the developing world, summary disclosure of countries identified by the US government in the past four years as atrocity risk situations would make it apparent that there is in fact little or no correlation between atrocity risks and US military engagement, thus enabling the US government to communicate more openly about risks at an early stage.

3. Increase mass atrocity prevention training within each department and agency

Training is critical on two fronts. First, it enhances overall analysis and policy development. Second, it facilitates the socialization of the bureaucracy to the importance of atrocity prevention to overall US policy and goals.

4. Strengthen integration and coordination of political-military planning and mass atrocity prevention decision-making

Mass atrocity prevention planning and policy implementation remains highly segmented and disjointed across the political and military components that are primarily organized as parts of the government's diplomatic, foreign aid and national security machinery. Stronger integration and coordination is required to ensure adequate deployment of the right mix of the range of policy tools and instruments during prevention and during response phases. This coordination is also needed to strengthen the capacity to support the transitions for peace and reconciliation.

5. Launch diplomatic efforts to strengthen international capacities and strategies for mass atrocity prevention

US leadership is essential in the global effort to prevent mass atrocity violence. However, US power and capacities are limited. The United States should expand its efforts to create stronger institutions, capacities, and strategies with partners, regional, and international organizations. The United States should review its "whole-of-government" approach and the work of the APB and share its procedural and institutional lessons with other states and partners to develop strong capacity and institutions.

To Congress

1. Establish a Congressional Atrocity Prevention oversight mechanism

US policy on human rights was greatly enhanced in the 1970s and 1980s by the establishment of Congressional oversight structures. Similar permanent oversight structures should be developed to review mass atrocity prevention strategies and the work of the APB and designated to existing standing committees in both the Senate and the House.

2. Establish a formal annual reporting mechanism from the administration (the APB) to Congress on atrocity risk and prevention developments and strategies

Annual reporting on human rights, religious freedom, human trafficking, and democracy developments have enhanced US policy and have changed the institutional profile and bureaucratic culture on these issues within the State Department, and has provided Congress with information to maintain oversight and direct additional resources to areas in need. We recommend the establishment of reporting mechanisms similar to the annual Country Reports on Human Rights Practices—the Human Rights Reports—authorized under the Foreign Assistance Act of 1961 and the Trade Act of 1974 and similar to the following existing reports: International Religious

Freedom Reports, Trafficking-in-Person Reports, US Treaty Reports, Universal Period Review, and the Advancing Freedom and Democracy Reports

3. Develop flexible programming funds across all agencies and departments supporting the APB for atrocity prevention and response efforts

At present, the departments and agencies participating in the APB have limited flexibility to redirect resources to support analysis and response to a wide range of potential and imminent atrocity violence episodes. Developing flexible programming funds will enhance the analysis of countries at risk by providing flexible resources to support deep dives and the deployment of inter-agency teams in countries at risk to investigate and develop more agile and speedier response efforts.

To Civil Society

1. US advocacy groups should continue their advocacy and mobilization efforts on atrocity prevention

Even if the next president decides to maintain the APB and associated atrocity prevention efforts within the government, a critical role continues to fall to civil society to direct political attention to neglected atrocity risks and to help inform policy options. In terms of early warning and early action, US civil society has proven its power to mobilize US society in support of moral causes. Advocacy toward the administration and Congress continues to be critical even for a committed president to elevate the role of atrocity prevention in the administration's decision-making processes. In terms of information, NGO networks often have access to detailed, on-the-ground data from their local partners that embassies or the intelligence community cannot match in countries with limited strategic relevance to the United States, such as Burundi.

2. Advocacy organizations should be more self-critical about past mistakes and more nuanced about their proposals

While it is critical in an ongoing atrocity situation to not shy away from identifying and naming the perpetrators as such, some of the most high profile advocates have also shown the risks of ill-informed or excessively simplified messaging about complex conflicts. Emerging atrocity risks are never black and white—and today's potential victim may become tomorrow's perpetrator. South Sudan is a case in point: for too long, the overriding focus on the North-South conflict between Khartoum and Juba led to a dangerously uncritical attitude among many in US civil society toward the viciously divided South Sudanese leadership. A greater measure of reflection about past analyses and recommendations should help avoid all too linear ways of understanding and predicting risks.

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