

FUNDAMENTALS OF GENOCIDE AND MASS ATROCITY PREVENTION

Author's Note, 2022

Scott Straus¹

University of California-Berkeley

First published in 2016, *Fundamentals* took stock of the field of genocide and mass atrocity prevention. The book summarized the literature on definitions, causes, and, especially, approaches to genocide and mass atrocity prevention and response. *Fundamentals* also advanced a central argument, namely that significant progress on genocide and mass atrocity prevention and response was achieved in the two decades from the mid-1990s to the mid-2010s. In response to the genocide and mass killings in Rwanda and Bosnia, which were widely recognized as major international failures, there was serious thought and policy development around how to improve international, state, and society-led approaches to atrocity prevention. The changes included a stronger anti-atrocity norm, clearer doctrines and frameworks to initiate anti-atrocity policies, the creation of institutional mechanisms to develop and coordinate atrocity prevention, a more extensive range of prevention and response options, a broadening of vocabulary to name atrocities, and significant gains in accountability and justice.

Where are we now with genocide and mass atrocity prevention? What might its future be? *Fundamentals* was written before the widespread recognition of democratic backsliding and polarization around the world, before the incarceration and persecution of between one to three million Uyghurs in China, and before Russia invaded Ukraine falsely claiming it needed to be “denazified” and committing mass atrocities. How much has the world changed since the book first appeared?

One argument is that atrocity prevention is in retreat. The gains chronicled in the book could be seen as the historical product of a specific geopolitical constellation, a period without apparent Great Power rivalry, a period that thrust forward the liberal values of the United States, the European Union, Canada, Australia, Japan, some African states, some Latin American states, and other allied countries around the globe, and a period where the United Nations found a stronger footing to realize the human rights and humanitarian imperatives present in its founding. But in recent years, that appears to be changing, as suggested above. In addition to mass atrocities in China and Ukraine, as well as resurgent authoritarianism, armed conflict is again on the rise after a historic decline; great power rivalry is back; multilateral institutions, in particular the United Nations, seem more constrained. In addition, the genocide and mass atrocity prevention agenda

¹ I would like to thank Lawrence Wocher and Jennifer Ciardelli for excellent comments on an earlier draft.

proved challenging to implement and insufficient in many ways. Let's call this the "headwinds" view—one that suggests, at best, those who are committed to preventing genocide and mass atrocities will be fighting defensively to maintain the gains that were made.

A second argument is that the atrocities prevention agenda will adapt to the new geopolitical reality. Rather than the late 1990s and early 2000s period being a historical blip or aberration, the atrocities prevention agenda will not disappear. One could even argue that we are approaching a second post-Cold War low point. In the 1990s, the genocidal actions in Rwanda and Bosnia were so disturbing that they prompted a reset, a serious effort to build atrocity prevention into foreign policy and international affairs. The Holocaust gave rise, in part, to the Genocide Convention and the human rights regime. Could Xinjiang, Syria, Myanmar, South Sudan, and, especially, Ukraine be the next spur to recommit to atrocities prevention and accountability? The blatant atrocities in these cases, and the inability of international actors to generate enough leverage to prevent or stem such violence, could well prompt a renewed effort to deepen and improve, or at least safeguard, anti-atrocities institutions and commitments. Call this the "optimist's" view, one that some will dismiss as naïve.

The optimist's view would have to account for the shifting global environment, one where global nuclear powers with Security Council veto power would be in open confrontation with other global powers. The United Nations would not likely be the venue for atrocity prevention and response. Rather, we would be looking at more fragmented, anti-atrocities networks and institutions, where individual states, alliances of states, regional organizations, non-governmental organizations, citizens, and even private firms formed the core. Animating this approach would be the idea that some policymakers and ordinary people refuse to live in a world where potentially genocidal actions and atrocities proceed unchecked. They will refuse, in the end, a global politics where genocide and mass atrocities must be accepted in the name of realpolitik.

Social scientists and other academics are notoriously bad at prediction. I do not know which path will be followed, or whether there is a third or fourth path. But in the remainder of this foreword, I sketch the arguments for each of these two scenarios.

The Headwinds Scenario

In the headwinds scenario, there are arguably four major global dynamics that will reduce the saliency of genocide and atrocity prevention in international affairs.

First, the focus in many of the states that were active supporters of anti-atrocity policy and innovation has turned inward to domestic politics and issues. The rise of far-right, populist, anti-globalist movements in the United States, Australia, some European Union countries, and the United Kingdom means either that those parties will be in power or that their rivals pivot to domestic issues in order to counter the anti-globalist energy. In general, we might think of this development as *increased disinterest* in atrocity prevention within the Global North, a recentering of domestic politics and some increased hostility toward international institutions.

Second, the increasing prominence and assertiveness of China and Russia on the global stage, and regionally, increases the active resistance to anti-atrocity actions in multilateral settings.

Recent Chinese and Russian leadership have actively resisted what they perceive as violations of their sovereignty and others on human rights bases. Most anti-atrocity successes of the previous two decades took root, at least at the United Nations, through their vote abstentions rather than their votes in favor. Moreover, in the 2020s, they have committed mass atrocities. In short, we might think of this headwind as *powerful opposition* to a pro-active, anti-atrocity agenda.

Third, one of the most prominent anti-atrocity interventions, in Libya, led to negative outcomes and “buyer’s remorse”: a United Nations Security Council Resolution that was predicated on civilian protection evolved into military action that supported regime change. In general, this undermined consensus at the international level in anti-atrocity policies and reinforced concern, in particular in the Global South, about hypocrisy masquerading as ethics in international affairs. Many states are wary of how powerful Global North states use their military power abroad, in particular after the war in Iraq in 2003, and Libya confirmed a fear among some that atrocity prevention is window dressing for regime change. We might label this *declining confidence* or even *increased skepticism* in multilateral settings for coercive, anti-atrocity policies.

Lastly, there is growing prominence and attention within activist civil society and the public to other issues. Today, climate change, economic inequality, and racial justice top the agendas of those with the passion and energy to change the world. These developments make the prioritization of atrocity-focused social movements less likely. In sum, at least some of the from-below pressure that spurred policy attention and development in the 1990s and 2000s will be directed at other issues. One should not expect a “Save Darfur”-like movement soon; we might call this *low probability for an anti-atrocity social movement* to emerge.

At a minimum, increased disinterest, powerful opposition, declining confidence and increased skepticism, and declining civil society attention will make genocide and mass atrocity prevention less politically salient than in the previous two plus decades. Even more pessimistically, the agenda will go dormant, much as it did during the Cold War, and we will look back at the late 20th and early 21st century period as a somewhat fleeting moment.

The Optimist’s Scenario

A more optimistic analysis would not dispute the four headwinds outlined in the previous section. Rather, the question would be how the atrocity prevention agenda will adapt and even gain energy despite them. I see four main dynamics that would counter the obstacles.

First, institutions are resilient, and those committed to atrocities prevention in and around government will leverage existing institutions as much as possible. The geopolitical environment, as well as the post-intervention collapse in Libya, will render military interventions increasingly unattractive. But there are other levers. For example, the book chronicles extensive developments of legal accountability mechanisms, whether in the form of a standing international criminal tribunal, the International Criminal Court (ICC), ad-hoc tribunals, or domestic mechanisms. These institutions remain. Moreover, the jurisprudence is deeper, and the legal networks and expertise around these issues is more developed. In short, the accountability turn from the 1990s forward is intact. Problems of state cooperation, and related issues of custody, remain, as they did previously. And in some states, in particular in some parts of

Sub-Saharan Africa, resistance to some international criminal accountability mechanisms, notably the ICC, has grown. But still global actors continue to turn to these institutions to seek redress for atrocities.

New venues will also come into view. For example, the International Court of Justice is not designed as a human rights court, but state actors have made it one. First Bosnia, then The Gambia, and now Ukraine have filed genocide cases at the court to gain leverage on the commission of atrocities. Domestic courts in places like Germany are becoming more active in human rights prosecutions, using codes of universal jurisdiction. And many states and publics in Latin America remain fiercely committed to making a definitive break with the human rights crimes of the past. In short, these legal mechanisms look to be here to stay, and not just in the Global North.

The same principle holds for other atrocity prevention and response mechanisms. Naming and shaming is one of the oldest human rights tactics; in recent decades, the institutions engaged in atrocities documentation have multiplied. Documentation has taken root in multiple agencies within the UN system, in foreign ministries of state, and in non-governmental organizations. Sanctions may not be as effective as some policymakers and citizens hope, but nonetheless the use and sophistication of economic and other kinds of sanctions represent a palpable change from previous decades. These and other levers are likely to remain in the atrocity prevention and response bailiwick.

Second, revisionist foreign policy actors, once in power, not only have been unwilling to scrap the anti-atrocity mechanisms put in place, but, in some cases, they strengthened them. Donald Trump's administration emphasized "America First" but maintained the Atrocities Prevention Board, one of the signature institutional developments under his predecessor (albeit re-branded an Atrocity Early Warning Task Force). Moreover, Trump signed into law the Elie Wiesel Genocide and Atrocities Prevention Act in 2018, which deepened atrocity prevention in U.S. foreign policy, and which came to the president's desk after winning strong bipartisan support in the House and Senate. After Russia's Ukraine invasion, some United States lawmakers who had previously opposed the International Criminal Court, endorsed the Court as a tool to fight atrocities in Ukraine. The point is that even where one might expect a rollback of commitments to atrocity prevention that outcome has not come to pass.

Third, there may be a doubling down on the anti-atrocities norm. The brazen, public commission of war crimes and crimes against humanity in Ukraine, in particular, has produced an outpouring of shock and anger, across the political spectrum, at least in much of the Global North. The reaction is clear: these atrocities are unacceptable. In these parts of the world, the anti-atrocities norm is in play and is being reinforced. The normative language of outrage is clear: in light of what was learned in the previous two decades, public commentators are quick to reference the vocabulary of atrocities, war crimes, crimes against humanity, and genocide. Further, many policymakers and pundits have immediately referenced judicial accountability mechanisms. In other words, there is a normative, policy, and legal framework—the same framework developed in the aftermath of Rwanda and Bosnia and chronicled in this book—that sustains and legitimates the outrage. At the end of the day, policymakers and citizens believe that mass atrocities are a bridge too far, that people must stand against them. The norm is present.

At the same time, much of the world does not see the war in Ukraine in those terms. Many in the Global South, in particular, are broadly skeptical about the language of atrocities; some find the outrage hypocritical and opportunistic. They would note double standards in outrage. In this case, the victims are primarily white and Europeans. They would ask why there has not been similar outrage for the Rohingya of Myanmar, the Uyghurs of China, the Arabs of Syria, and the Nuer of South Sudan, among other cases? Relatedly, some may consider the atrocity-related discourse wartime propaganda. The real issue is that Russian leadership is challenging the West, by this argument, and so Western actors use the language of atrocities to delegitimize the Russian leadership. In other words, the objection here is that the recent moral outrage is not about atrocities per se, but rather is a normative weapon by which to counter Russia, which is standing up to the West. At the same time, the extensive documentation of Russia's brutal killings of civilians and targeting of civilian locations is likely to carry its own truth. Further, Ukrainian authorities and citizens have been at the forefront of that documentation. Their zeal to show the world the atrocities will be hard to ignore and will undermine some of the easy criticism that the outrage is hypocritical Western propaganda.

Fourth, and related to this last point, the democratization of technology will facilitate public awareness and documentation of atrocities. Social media and privatized information dissemination are not cure-alls. In Myanmar and elsewhere, social media spread hatred and misinformation. In China, sophisticated surveillance and control through technology has shut down information flows and contributed to a state of siege. But on balance, the ability to document and publicize atrocities is much greater than ever before. This technological change is likely to reinforce the anti-atrocities norm, and the various prevention and response mechanisms outlined here.

Looking Ahead

In both scenarios, atrocity prevention will slide if no one cares about these issues. Publics must demonstrate outrage at the sight of mass atrocities if we expect political and private actors to invest seriously in trying to prevent and respond to them.

Before the Russian invasion of Ukraine, one might infer the public had lost interest in mass atrocities. The mass crimes committed in Syria elicited a muted general response, as did the ethnic cleansing and genocide in Myanmar, as well as the mass violence in South Sudan, Ethiopia, and elsewhere. Even the massive incarceration and persecution of Uyghurs in China, on the basis of their identity, did not seem to move the needle very far. Before Ukraine, I would have bet money on the headwinds scenario. The best case that I envisioned was a dedicated cadre of anti-atrocity and foreign-policy professionals fighting to maintain the gains from the previous decades.

But Russia's naked aggression and atrocities in Ukraine created a sense of urgency. They turned many policymakers, commentators, and citizens back to the stance many took after Rwanda and Bosnia: namely, that these are atrocities that cannot stand and against which there must be collective action.

That said, the institutions to promote collective action in the 2020s and 2030s may look fairly different from the 1990s, 2000s, and 2010s. Under the current structure of the Security Council, China and Russia, for different reasons, may seek to contain and control the United Nations, rendering it less effective than or even as weak as it was during the Cold War. But will there be regional organizations, coalition-based alliances, private sector actors, entrepreneurial domestic actors, and non-governmental organizations to fill the vacuum? Will there be renewed interest in developing atrocity-prevention capability in regional organizations, such as NATO, the European Union, the Organization of American States, the African Union, and even sub-regional bodies, such as ECOWAS and others? Will like-minded states double down on atrocity prevention and accountability, sharing resources, information, and expertise? Will there be a renewed investment in the International Criminal Court, an effort to make it better and more effective in its investigations, trials, and jurisprudence? These are plausible outcomes.

To be sure, there are several objections to the optimist's scenario. As I write this in late April of 2022, we appear to be at an early stage of the conflict. How will this war end? Will Russia commit genocide in Ukraine and there be no consequences? Will the extensive sanctions against Russia impose great humanitarian suffering that will undermine the use of those tactics in future atrocity situations? Could the sanctions have no effect on President Putin's hold on power, also undermining confidence in these tactics? By contrast, could the outrage and isolation of Russia prompt President Putin to deploy weapons of mass destruction, leading to concern that the moral outrage against Russia was too strong and did not provide an exit ramp for the Russian leadership? Could the weapons being supplied to Ukraine be used to commit mass atrocities against Russian speakers? Could there be resistance and mass repressive violence in Russia itself? Which scenario(s) play out in this war would likely shape any future anti-atrocity agenda. Also possible is that the moral outrage of the early days of the war will wane. Policymakers and publics will become habituated to the violence against civilians; the condemnation will be muted.

As to the institutional infrastructure of atrocities prevention that was developed in previous decades, some will argue that, while the architecture remains, the political will and passion needed to animate the institutions will have dissipated. Political actors and pundits will invoke atrocities as a crutch because they feel they must express some concern, but at the end of the day they will be unwilling to put real energy or risk behind a full-throated policy. Moreover, in large parts of the world, the architecture to prevent and respond to genocide and mass atrocities remains underdeveloped. Will the will to change that status quo materialize in the current environment?

I am on the fence between the two scenarios. *Fundamentals* remains highly relevant as a useful resource for anyone interested in these issues. The text continues to offer any current or prospective booster of atrocity prevention a baseline from which to consider present and future options for genocide and mass atrocity prevention. The book chronicles the evolution of policy, tool development, institutionalization, and norm consolidation of previous decades. Those interested in protecting past gains or in expanding and adapting them to the contemporary environment can use the book as a foundation.

The phrase "never again" may seem tired and cliché, in light of the many genocides and mass atrocities that have occurred since the Holocaust. Despite the concerns raised here about double

standards and opportunistic virtue signaling, Ukraine is a reminder, at least to me, that the sentiment behind the phrase still burns intensely. That sentiment has been and will remain essential to any future mass atrocity prevention agenda. I continue to see that sentiment in my students and in the public. The issues at the heart of the book remain as pertinent as ever.

April 29, 2022
Berkeley, CA