Seeing Atrocity Crimes as Processes, Not Single Events
An Interview with U.N. Special Advisor Adama Dieng

YJIA: While at Yale you spoke about the importance of managing diversity in order to prevent conflict. Can you talk a bit more about how you support member states in achieving this? Is this something you are currently working on within the Central African Republic?

Dieng: Almost all societies have diverse populations. Divisions between national, racial, ethnic, and religious groups and tensions fueled by past and present patterns of discrimination are among the key risk factors for conflict and atrocity crimes. Managing diversity constructively and building resilient, inclusive, and transparent societies is crucial for the prevention of violent conflict as well as atrocity crimes, which we define as genocide, war crimes, ethnic cleansing, and crimes against humanity.

My office supports Member States in preventing atrocity crimes through our ongoing engagement on these issues; by raising awareness about the causes of, and precursors to atrocity crimes, the measures that can be taken to prevent them, and through our capacity building program. For example, we provide technical assistance to Member States and regional organizations on early warning and response mechanisms. Since 2010, the office has provided support to the Regional Committee of the International Conference on the Great Lakes Region (the ICGLR) on the Prevention and Punishment of Genocide, War Crimes, and Crimes against Humanity and all forms of Discrimination. Through this forum we have also supported the establishment of national committees by several of the Member States of the ICGLR, including Tanzania, Kenya, Uganda, Zambia, and South Sudan. These committees, while they face challenges, can play an important role in preventing future atrocities. We have also supported the initiative of Member States to establish national focal points on the prevention of genocide and on the responsibility to protect and to create regional...
networks that can offer support to their members. We have much to learn from the initiatives of those States that are trying to integrate the prevention of atrocity crimes into the work of their national administrations.

In preparation for the 2013 report of the Secretary-General on the responsibility to protect, which focused on the primary responsibility of States to protect their populations and what this entailed, my Office undertook a broad consultative process with Member States and civil society. The result was a comprehensive collection of best practises and recommendations, which could help Member States in fostering inclusive and resilient societies and in managing diversity.

Concerning the Central African Republic, we have been monitoring developments there since 2011. I am deeply concerned about the deteriorating security situation, the breakdown of law and order and the widespread, unchecked serious human rights violations and abuses against the civilian population, which are increasingly taking on sectarian elements. This is particularly tragic as people of different religions and beliefs have lived peacefully together in the Central African Republic until now. I have stated before that it is time to act in a decisive manner if we are to prevent a descent into hell in this country. I, together with my colleagues from the Office of the High Commissioner for Human Rights and the Office for the Coordination of Humanitarian Affairs, alerted the Security Council about our concerns at an Arria-formula meeting of the Council on November 1st. We called on the international community to take concrete measures to support the transitional government of the Central African Republic, which lacks the capacity to prevent atrocity crimes. In addition, I have called for the establishment of an international commission of inquiry and for accountability. I reminded the Council that the Central African Republic is state party to the International Criminal Court. My statement to the Council was widely reported in the media, which will hopefully draw more attention to this, unfortunately, often ignored crisis.

YJIA: You also mentioned that there is a lack of discussion about morality in terms of international relations and foreign policy. Do you think current prevailing attitudes toward international morality are too permissive?

Dieng: I believe, and have stated before, that the international community does not always live up to its potential when it comes to preventing atrocity crimes. Too often we find ourselves looking back and having to admit that we could and should have done better, and done more. The genocides of Rwanda and Srebrenica are two severe cases in which the international community has failed to prevent and
respond in a timely manner. And, right at this moment, in Syria we are once again seeing how a lack of response costs lives every single day. It seems that morality often has to stand back, behind other interests, and that is certainly something we need to discuss more.

Speaking about the prevention of atrocity crimes, it is interesting to note that many States — especially in the developed world — perceive prevention first and foremost as a foreign policy matter rather than a domestic concern, linked to their aid and assistance to other States. This perspective fails to acknowledge that atrocity crimes can happen anywhere and anytime, and that no State is immune to them.

**YJIA:** In times of conflict, when political and legal institutions are frail, how do you go about strengthening institutions in order to prevent further escalation of violence? Is there any process of prioritization in terms of capacity building between judicial and democratic institutions?

**Dieng:** What I would like to emphasize here is that atrocity crimes are processes, not singular events. They do not simply occur overnight, but are being foreshadowed by the presence of risk factors and early warning signs, often over a period of years. Thus, there are many opportunities to prevent crises from escalating. After they reach a certain stage, however, the options for action are both more limited and more costly.

My Office has developed a framework of analysis to assess the risk of genocide, and is in the process of expanding this framework to assess also the risk of war crimes, crimes against humanity, and ethnic cleansing. Having these analytical tools is one important step toward successful prevention, as for each risk factor identified there is an opportunity to address that risk through appropriate preventive action. I cannot stress enough the importance of remaining alert, and taking early measures for prevention.

A government’s lack of capacity to take the necessary measures for prevention is of course a risk factor in itself. And often, as history has painfully taught us, national institutions often fail completely once there is a situation of armed conflict or a situation in which atrocity crimes are being committed, particularly when the State is the perpetrator. The strengthening of both judicial and democratic institutions plays a vital role in building resilience to the risk of atrocity crimes, and international, regional as well as sub-regional mechanisms can assist with this process. We have seen, too, that post-conflict transitional justice processes, in the form of truth-seeking, individual prosecutions, reparations, and institutional reform, can be very helpful in promoting reconciliation and preventing relapse into further violence. Reviewing constitutional protections, fostering political pluralism and creating legitimacy through respect for the rule of law in all areas of government, are also important steps toward the restoration of peace and stability. There is a way out of crises. However, we should remember that responses to atrocity crimes will always be more costly and more complicated than their prevention.
YJIA: Your Office has worked with Roberta Cohen and the Brookings Institute in pioneering the idea of “sovereignty as responsibility.” Can you talk us through some of the steps you take in persuading States to adhere to this principle and the implications for the Responsibility to Protect?

Dieng: My predecessor in this position, Francis Deng, worked with Roberta Cohen to develop the concept of “sovereignty as responsibility.” They argued that sovereignty can no longer be seen as a barrier to interference, but as a charge of responsibility under which the State is accountable to its people. During periods of conflict, particularly internal armed conflict, States have often failed to take responsibility for the protection of their populations and this failure has resulted in calls for action by the international community, including through intervention, in the most serious cases of State failure.

What we should keep in mind when talking about the responsibility to protect is that it is a principle that seeks to strengthen the sovereignty of states, not weaken it. History has shown that building societies resilient to atrocity crimes reinforces State sovereignty and increases prospects for peace and stability. The international community has a responsibility to support States in this regard, and to assist States that are under stress. My engagement with States has been very positive. They recognize the logic of this argument and are looking for ways in which to build their capacity to prevent atrocities so that their societies will flourish and will not be faced with the terrible human, political, economic, and social consequences of atrocities and conflict.

I should say that the 2013 report of the Secretary-General on the responsibility to protect underlines that there is no one-size-fits-all approach to atrocity prevention. It stresses that each context is different and sets out a variety of ways in which States can live up to their responsibilities.

YJIA: The RtoP states “the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council.” Do you think this statement has contributed toward a greater reluctance of countries to publicly state a finding of genocide?

Dieng: I would not say that States are reluctant to publicly state a finding of genocide. In fact the word “genocide” is overused and often misused. We should be careful with terminology and focus instead on facts, the careful, credible documentation and reporting of developments worldwide.
reporting of developments worldwide that could increase the risk of genocide and the provision of this information to those in a position to influence policy and action in a timely manner including, ultimately, the Security Council.

It is true that some States have raised concerns about aspects of implementation of the responsibility to protect, which they see as a challenge to sovereignty. The actual wording of the commitment made by all States in paragraph 139 of the World Summit Outcome is to “take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case by case basis and in cooperation with relevant regional organisations, as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations.” You will note the very careful language in this clause. As I noted earlier, responsibility is in fact an ally of sovereignty; collective action by the international community to protect populations is not called for where a State fully discharges its sovereign responsibility to protect.

In reality, also, the Security Council is extremely reluctant to authorize the use of coercive measures, even in the most extreme cases, as we have seen in relation to the Council’s deliberations on the tragic situation in Syria.

I believe that a focus on preventive measures undertaken by Member States and with the assistance by the international community, also described as pillar I and pillar II of the responsibility to protect concept, has the potential to address existing negative perceptions, establish clarity about and build trust in the concept. The clear focus on prevention in the 2013 report of the Secretary-General on the responsibility to protect was widely welcomed by Member States. During the informal, interactive dialogue of the General Assembly on the responsibility to protect in September 2013, States also overwhelmingly agreed that the General Assembly should continue consideration of the concept and that the next report and debate should focus on how the international community can assist States in protecting their populations from atrocity crimes.

YJIA: Some, such as Prof. William Schabas, argue that the International Criminal Tribunal for the former Yugoslavia confirmed a restrictive interpretation of the definition of genocide. Do you agree? Do you think wider concerns that the 1948 Genocide Convention is too limited will be solved by the evolution of international law?

Dieng: My mandate as Special Adviser as well as the work of my Office is primarily forward-looking. Our focus is to prevent atrocity crimes from happening in the first place, rather than interpreting them based on legal categories in retrospect. While such discussions are certainly necessary and useful in terms of legal purposes and the prosecution of crimes, we have to be very careful to not hold up preventive action with discussions on terminology. When it comes to saving populations from atrocity crimes, we simply do not have that time.

YJIA: How do you respond to critics who argue that the International Criminal Justice system and the human rights discourse have become politicized, conforming to principles of neocolonialism?
It is doubtful that today the Rome Statute of the International Criminal Court would even exist had it not been for the — voluntary — support of so many African states.

Dieng: Recently, as I explained at Yale, I have been concerned about developments that indicate an undermining of the International Criminal Court. My concern especially focuses on the relationship between the ICC and the African Union. In this context it is important to note that the establishment of the ICC was in fact an African achievement. It is doubtful that today the Rome Statute of the International Criminal Court would even exist had it not been for the — voluntary — support of so many African states. Further, we should not forget that five of the eight situations currently before the Court have been referred by African States themselves.

I am, and always have been, a strong advocate for the work of the International Criminal Court, which is of critical importance for the pursuit of accountability. It is crucial to address these heinous crimes at the international level, especially in cases where national mechanisms lack the capacity to prosecute such cases, or where it is politically difficult for them to do so. I say this, bearing in mind not only the importance of ensuring accountability for past atrocities, but also because ensuring accountability decreases the likelihood of future atrocities. We should never forget that there can be no peace without justice.

YJIA: Looking forward, are you optimistic about the role of supranational legal structures in terms of the prevention of genocide? How do you think current stalemates within international institutions can be overcome? Is this where morality comes back into the picture?

Dieng: Some of the main risk factors associated with genocide are a history of genocide or other atrocity crimes against a particular population group and a lack of accountability for past atrocities. Thus, it remains extremely important to support both national and supranational legal structures and accountability processes. A fair and transparent accountability process does not only serve as deterrent, but also restores credibility in national institutions and helps with the difficult process of reconciliation in societies divided and damaged by conflict, thus reducing the risk of future atrocities.

We all have a role to play in advocating for preventive action, including national accountability processes and supranational legal structures, such as the ICC. We should engage with those actors who have concerns about the structures. Not to support accountability would be to fail the victims of atrocities.

— Interview conducted and edited by Louisa Brown.