

Integration into the State Architecture for Prevention



**National Mechanisms
for the Prevention of Genocide
and other Atrocity Crimes**

2018



Copyright © 2018
The Auschwitz Institute for Peace and Reconciliation
All rights reserved.

2 West 45th Street, Suite 1602
New York, NY 10036
+1 (212) 575-2605
info@auschwitzinstitute.org
<http://www.auschwitzinstitute.org>



The 2018 edition of the Booklet on National Mechanisms for the Prevention of Genocide and other Atrocity Crimes was published in partnership with the Yeshiva University Benjamin N. Cardozo School of Law's Benjamin B. Ferencz Human Rights and Atrocity Prevention (HRAP) Clinic. As part of their studies, Gabrielle Flaum and Lori Waichman contributed to the publication's section on institutionalization, serving as co-authors.

Cover image:

An unveiling ceremony is held by the Office of the Ombudsman of Ecuador on November 19, 2017 in the city of Atacames in the Esmeraldas province to commemorate the victims of the Casierra Case. In accordance with the wishes of the victims and their families, a memorial plaque was created as part of the broader symbolic reparations efforts being undertaken in the spirit of preventing future crimes of this nature.

In its official documentation, the Truth Commission of Ecuador concluded that Luis Eduardo Casierra Quiñónez was extrajudicially executed by state naval forces on December 8, 1999 during an incident on the Casierra family fishing vessel that also left two other crew members wounded. The surviving crew members were unjustly arrested, detained, and accused of piracy.

For more information, please see: <http://www.dpe.gob.ec/defensor-del-pueblo-devela-atacames-placa-memoria-reparacion-inmaterial-integrantes-caso-casierra-victimas-violaciones-derechos-humanos>

Photo used with permission.

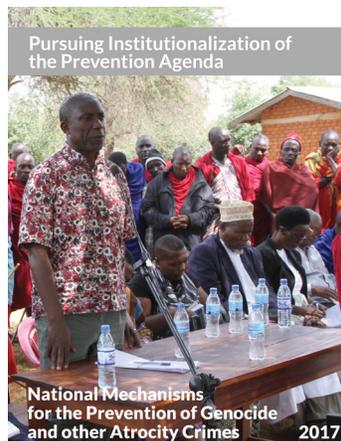
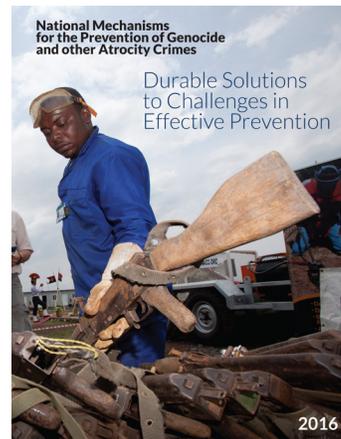
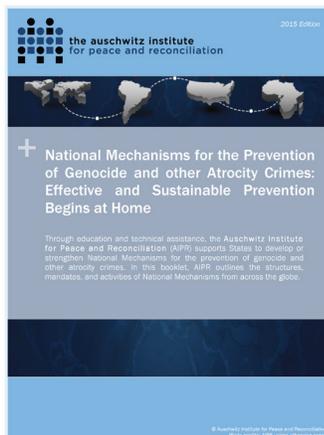
Table of Contents

Introduction.....	5
Part I: Informal National Mechanisms.....	7
Part II: Emerging National Mechanisms.....	9
The Commission for International Humanitarian Law of Costa Rica.....	10
Office of the Ombudsman of Ecuador.....	10
Kenya National Committee.....	11
Paraguay National Commission.....	12
South Sudan National Committee.....	13
Tanzania National Committee.....	14
Uganda National Committee.....	14
United States Atrocity Prevention Board.....	15
Part III: Institutionalization.....	16
Conclusion & Lessons Learned.....	20
Index.....	22

National Mechanisms for the Prevention of Genocide and other Atrocity Crimes

Integration into the State
Architecture for Prevention

For more information on the development of National Mechanisms for the Prevention of Genocide and other Atrocity Crimes, please see the previous annual editions of this booklet:



These publications, as well as others produced by the Auschwitz Institute for Peace and Reconciliation, can be found on our website.

<http://www.auschwitzinstitute.org/publications>

Introduction

Over the previous six years, the field of atrocity crimes prevention has witnessed a trend in which states around the world are employing a new approach to the development and implementation of preventive policies. The complex nature of atrocity crimes requires that measures undertaken by national governments involve multiple state bodies. Moreover, this multi-stakeholder approach is most effective when these offices work in coordination. As a result, many countries have looked to form National Mechanisms for the Prevention of Genocide and other Atrocity Crimes.

National Mechanisms are officially established bodies that include representatives from different areas of government relevant to the prevention of atrocity crimes. The term “atrocity crimes” refers to three crimes defined by international law: war crimes, crimes against humanity and genocide. National Mechanisms are created to lead the development of a coordinated national strategy for the prevention of such crimes on behalf of their government. The inclusion of representatives from all relevant areas of the state enables National Mechanisms to begin by carrying out an initial system-wide assessment of strengths and weaknesses from the perspective of atrocity prevention. Following this assessment, it is the role of the National Mechanism to support the development and implementation of the necessary preventive policies in a coordinated manner in order to bolster the state’s resilience to the risk of atrocity crimes.

National Mechanisms are vehicles through which states exercise their responsibility to prevent genocide and other atrocity crimes. This is a primary obligation under the UN Convention for the Prevention and Punishment of the Crime of Genocide, which currently has 149 state parties. Additionally, National Mechanisms may derive their initial mandates from other relevant international treaties or declarations, regional protocols, and national legislation. There is no one prescribed method for the establishment of a National Mechanism. While some national governments have created dedicated new structures with the sole mandate of preventing atrocity crimes, others have looked to pre-existing institutions to incorporate this agenda.

The composition of National Mechanisms includes representation from multiple areas of government responsible for atrocity crimes prevention. Mechanisms are also able to involve national and international civil society organizations, allowing for the provision of additional technical assistance, capacity building and output monitoring. While National Mechanisms differ significantly from state to state, four major themes consistently emerge in their mandates and activities: risk assessment and early warning, the development of training programs for their members and other civil servants, the development of policy recommendations geared toward the protection of vulnerable populations, and communications with regional and international organizations on issues related to atrocity prevention.

The Auschwitz Institute for Peace and Reconciliation (AIPR) has been fortunate in having the opportunity to track the development and work of Mechanisms in many countries around the world. This role has allowed AIPR to take a step back to examine the full process of development and institutionalization of these bodies. The current Booklet discusses the major stages of this process as seen in many states, giving examples of Mechanisms along the spectrum of development. The publication also includes lessons learned as well as a broad review of the impact of this approach on the field of atrocity prevention over the past six years.

Introduction

Previous editions of this publication have not fully conformed with this overarching development process. The Auschwitz Institute's understanding has evolved in accordance with the activities of these bodies and the challenges that have emerged over the years of this publication. As such, the 2018 edition of the Booklet on National Mechanisms for the Prevention of Genocide and other Atrocity Crimes reflects this.

The Process

The work of atrocity prevention does not often entail straightforward linear progress in policy development and implementation by governments, but rather steps forward and backward with general progression towards coordinated state action for the prevention of atrocity crimes. While the process of establishing a National Mechanism also encompasses this complexity and incongruence, AIPR has observed three major stages of development.

First, many states around the world are conducting preventive work through "informal" National Mechanisms. These structures may not be labeled as, or considered to be, National Mechanisms, but they have features that support formalization in the future such as the horizontal coordination of relevant offices on issue areas under the umbrella of atrocity crimes prevention. The second stage of this process includes what AIPR would delineate as "emerging" National Mechanisms. In this stage, a broad spectrum of Mechanisms are at different points in their development, but, at the very least, officials involved in Informal Mechanisms have taken a decision to pursue formalization of the body's structure and mandate. In this stage of emergence, bodies frequently benefit from some type of official standing through a mandate for atrocity crimes prevention from the executive branch of the government or through a regional organization to which the state is a member. These Mechanisms often have a work plan underway and are carrying out preventive programming.

The final stage of establishing a National Mechanism is institutionalization through a legislative act. None of the National Mechanisms that AIPR is currently following have reached this phase of formalization, which includes legislative backing of the mandate and structure and, importantly, a budgetary allocation to the body. However, a number of the Mechanisms have drafted and introduced bills or acts to finalize this process with their congress or parliament. These bodies include the Uganda National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, the U.S. Atrocities Prevention Board and the Paraguayan Commission for the Prevention of Genocide and Mass Atrocities. Through monitoring the efforts of Mechanisms that are approaching this stage, the importance of the legislature in prioritizing the prevention agenda of the state becomes apparent.

As mentioned above, this is not always a linear process and a government does not necessarily have to start with an Informal Mechanism. However, AIPR most commonly observes this type of horizontal coordination across government offices preceding the pursuit of a fully institutionalized National Mechanism. Thus, it is helpful to organize this progress into a process with delineated stages. This Booklet will now discuss in further detail each of the above stages and feature National Mechanisms across this spectrum of development.

Informal National Mechanisms

The work of atrocity prevention is complex and requires the expertise and support of multiple state bodies in addressing risks through the implementation of policy and programming that protects vulnerable populations. AIPR has had the distinct privilege of welcoming a diverse array of government representatives from ministries of foreign affairs, justice, defense, education, and other state agencies to its educational and training seminars for many years.

Despite the disparate missions of their home institutions, each official who attends these programs holds an important set of responsibilities related to atrocity prevention. This indicates that effective prevention can not be carried out by an individual or by a single government office. The challenge in putting comprehensive national strategies into practice, however, lies in the effective coordination of the work being done by these offices in the implementation of atrocity prevention policies and practices.

In this first stage of development towards the establishment of a dedicated body for the coordination of national prevention efforts, informal and sometimes ad hoc or irregular liaison efforts between various offices and ministries working together to address domestic risk factors and foreign policy objectives concerning atrocity prevention are convened. The following network represents one framework under which states have begun to implement these activities that may lay the foundation for the emergence of National Mechanisms.

The Global Network of Responsibility to Protect (R2P) Focal Points

The Global Network of R2P Focal Points was established in 2010 by the governments of Denmark and Ghana, in collaboration with the Global Centre for the Responsibility to Protect, to improve intra-governmental and inter-governmental efforts to prevent and halt mass atrocities. Since the establishment of the

Global Network, the Global Centre has acted as its Secretariat.

The Global Network of R2P Focal Points is comprised of governments that demonstrated their commitment to upholding the Responsibility to Protect by appointing an R2P Focal Point. These Focal Points are senior-level government officials who aim to promote R2P and mass atrocity prevention at the national, regional, and international levels, and act as a primary contact for these matters.

To date, 59 countries and the European Union – representing every region of the world – have appointed an R2P Focal Point.

One important function of an R2P Focal Point is to be a champion for mass atrocity prevention and response. The governments that appointed R2P Focal Points made a commitment to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing. To the extent possible, an R2P Focal Point monitors whether this commitment is being adequately upheld.

To fulfill their role, R2P Focal Points apply a “mass atrocity prevention lens” to their day-to-day work and initiate or support relevant programming that promotes this agenda. The following example demonstrates how an R2P Focal Point can begin to mainstream these concepts and initiate the process of developing a coordinated inter-ministerial approach to prevention.

Informal National Mechanisms

Featured example - Finland

Under the leadership of the R2P Focal Point, the Ministry of Foreign Affairs of Finland adopted a policy decision on the Responsibility to Protect in June of 2016. The policy decision affirmed Finland's commitment to the promotion of R2P and set out priorities for its effective implementation, including through promoting related areas of conflict prevention, mediation and countering impunity for serious international crimes. This now serves as a guide to Foreign Service Officers and is also used in awareness-raising and outreach with other ministries, as well as Finnish civil society.

The R2P Focal Point of Finland also convenes regular meetings of their "national R2P network," which is comprised of representatives from other departments within the Ministry of Foreign Affairs as well as representatives from other ministries (Defense, Labor, Social Affairs, and Education), research institutions, and non-governmental organizations such as the Finnish Red Cross.

At these meetings, participants share their respective achievements and challenges and discuss efforts to tackle issues of common concern. Recent topics of discussion have included domestic efforts to prevent radicalization, social exclusion, and marginalization as well as to address the plight of refugees, many of whom have escaped mass atrocity.

A growing number of states around the world, like Finland, have demonstrated a commitment to atrocity prevention and the understanding that this work must be implemented in a coordinated manner by those offices with a responsibility for addressing risk factors. While a formal decision may not yet be taken to pursue the establishment of a National Mechanism in these states, the work of R2P Focal Points lays the groundwork for such a body to be developed in the future.

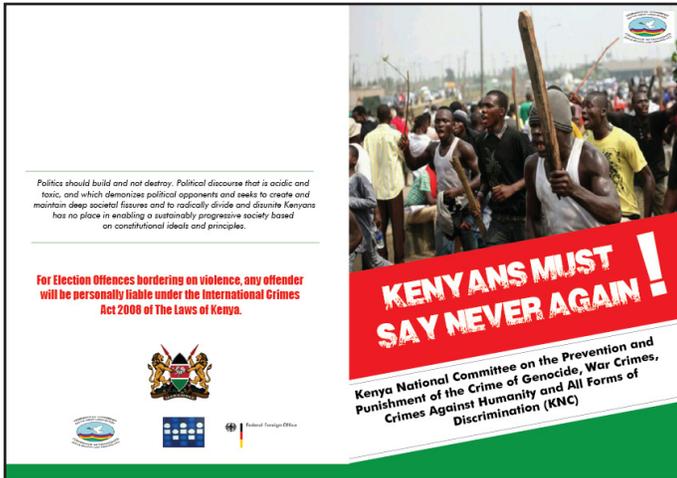


Participants of a December 2017 training seminar on mass atrocity prevention held in Guatemala City included representatives of the Office of the Ombudsman, Ministry of Governance, Ministry of Foreign Affairs, Secretariat of Social Welfare, and National Program for Reparations, in addition to members of civil society organizations and academia. Events such as these represent excellent opportunities to carry out informal inter-ministerial work on the prevention of atrocity crimes, laying the foundation for a National Mechanism.

Emerging National Mechanisms

The second stage of development encompasses a broad range of National Mechanisms. Thus far we have observed three categories of Emerging Mechanisms. First, there are those that have taken a decision to formalize the body and pursue institutionalization without administering programs. Second, AIPR has observed Mechanisms that are implementing programming, but not currently pursuing institutionalization through their legislature. Third, there are those Mechanisms that are implementing programming while simultaneously pursuing institutionalization.

The latter two categories of Emerging Mechanisms often encompass those bodies that have received an initial mandate from a regional organization or through the executive branch, for example via presidential directive. While these authorizations fall short of the final stage of institutionalization by the legislature, it is an important step in the process and allows for preventive work to be implemented while also pursuing legislative codification. Still, it is important to note that a number of Mechanisms which have had difficulty in reaching the institutionalization phase because they had not involved their legislature in the early development of the Mechanism and thus have met with resistance from lawmakers in the effort to codify something that members of the legislature had not previously been involved with.



Kenya's National Mechanism, the National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, produced and distributed pamphlets in identified "hotspot" areas throughout the country during the lead-up to the general elections held in August of 2017.

The pamphlets called upon all Kenyans to unite in the rejection and prevention of electoral violence and to aid in the spread of practices that promote peace and security before, during, and after the vote. An overview of the National Committee's composition and mandate were also included, reinforcing its preventive role in Kenyan society.

Costa Rica



The Commission for International Humanitarian Law of Costa Rica (CCDIH)

The Costa Rican government has looked to the existing body of the CCDIH to manage the agenda of atrocity crimes prevention on behalf of the state. The Commission was created by an executive order in 2004 as an inter-ministerial/inter-departmental body with an advisory role to the executive branch of the government, as well as having a mandate to implement and propagate the dissemination of International Humanitarian Law. The Commission is led by the Ministry of Foreign Affairs and Worship, and is the only inter-ministerial mechanism in Costa Rica with a mandate and competency in issue areas pertaining to atrocity crimes prevention.

The structure and membership of the Commission have remained the same since the 2017 publication of this Booklet. The CCDIH has been active over the previous year, organizing an “All-Latin-America” meeting, together with the Red Cross, on the use of arms in International Humanitarian Law on May 30-31 of 2017.

Additionally, two seminars for the wider public on International Humanitarian Law were held in May and November of 2017. In July of 2017, the Commission also organized an event hosted by the Chair of the Conference that adopted the Nuclear Ban Treaty.

In 2018, the Commission is specifically working on the adoption of new additions to the Penal Code’s section on atrocity crimes. The primary changes surround the issue of enforced disappearances, which exists under the heading of Crimes Against Humanity, however the definition has been further updated and expanded. Additionally, a category for crimes committed during international armed conflict has also been added to the Code.

Finally, the Commission will also carry out new iterations of its two seminars on International Humanitarian Law in 2018. These events will be attended by a broad spectrum of participants, including scholars, lawyers, law enforcement personnel, and students of international law and international relations.

Ecuador



Department of General Advisory, Office of the Ombudsman of Ecuador

The work accomplished by the Office of the Ombudsman in Ecuador over the previous year has served to advance and strengthen measures contributing to a better foundation for the future implementation of a National Mechanism. The success of assistance efforts extended to victims of serious human rights violations, through the implementation of memorial spaces, public apologies, and increased access to various services, has produced institutional practices for effectively confronting and working to rectify these types of problems.

Successfully fulfilling the mandate of the National Law for Reparations has generated capacity within the Office of the Ombudsman to work in new ways to protect the rights of citizens. This has driven the need to develop a new strategic institutional plan for 2017-2022. The Office for Reparations will be housed under the heading of “the right to life and personal integrity,” one of five areas of work delineated by the plan.

In addition to the provision for reparations to victims documented by the Truth Commission’s reporting, the Office of the Ombudsman is working on a variety of processes that contribute to prevention at the national, provincial, and local levels. These initiatives draw on the Ombudsman’s mandate to protect and promote the rights of citizens, combined with the duty to develop guarantees of non-recurrence related to mass atrocities.

The Office's current and planned work on guarantees of non-recurrence, which conforms to established international processes, is encompassed by the following four thematic areas:

- Development of mechanisms for early warning and risk mapping
- Development of training and education measures with civil society and public officials
- Development of recommendations for public policy and legislation
- Communications and the development of regional initiatives

These initiatives, which were being developed within the purview of the Office's Program for Reparations, will now be fully integrated into the work of the entire institution. To accomplish this, a specific planning process is being conducted to allow for the continuation of the reparations program while rapidly institutionalizing these new practices for prevention. These efforts will better enable the transition into a full National Mechanism for the Prevention of Genocide within a reasonable amount of time.

In particular, the Ombudsman's Office has focused on memory-centric processes such as public apologies. Many of these initiatives have been made possible through collaboration with the Ministry of Education, including the effort to publicize the Truth Commission Report in public schools around the country. To date, the report has reached more than three thousand students who, in most cases, were previously unfamiliar with this part of their country's recent past.

As a measure for non-repetition, the Office of the Ombudsman of Ecuador, in coordination with the Ministry of Culture and local governments has driven the creation of a number of memorial spaces. These spaces not only permit relevant institutions and the community at large to publicly acknowledge the victims and their families, but also serve as a permanent recognition of the crimes committed in support of efforts guaranteeing non-repetition.

Kenya



The Kenya National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination

As detailed in previous editions, the Kenya National Committee (KNC) has maintained its focus on the prevention of electoral violence as one of its primary functions. This reflects the specific national context in which the KNC works, as Kenya has experienced heightened levels of violence during periods leading up to, and following, significant electoral periods. The emblematic December 2007 elections, for example, inspired widespread violence, with estimates of over 1,000 killed and 600,000 displaced residents.

In advance of the most recent general elections, held in August of 2017, the KNC implemented a series of planned initiatives to pre-empt and counter potential violence in "hotspot" areas of high risk. This agenda included the organization of a two-day peace forum in Isiolo County, which had previously been identified as a region vulnerable to an outbreak of violence during the electoral period.

The event involved the participation of more than 30 key stakeholders, including community leaders, religious leaders, government officials, and residents of the surrounding area, with an emphasis on including the voices of women and youth. During the forum, community members developed strategies for the prevention of violence and the promotion of inter-communal cohesion, which included practical considerations related to the August elections. An additional two peace fora were held in Nairobi and similarly included the participation of a wide range of stakeholders including political parties, religious leaders, government officials, and representatives of civil society organizations.

Another primary pillar of the KNC's pre-election activities included the creation and distribution of informational brochures to the general public. These brochures¹ include an overview of the Committee's mandate and an appeal to the community and its leaders regarding the necessity of holding safe and stable elections. During the run-up to the elections, the KNC successfully distributed thousands of these brochures.

The 2017 general elections were conducted as scheduled on August 8. Several destabilizing events preceded and followed the election, including the death of an election official, nullification of the official results by Kenya's Supreme Court, the organization of fresh elections, and a protracted government-issued television blackout in January of 2018. According to estimates by prominent international organizations, approximately 67 individuals have been killed by outbreaks of electoral violence since the initial elections concluded in late August of 2017.²

Going forward, the KNC will continue to focus on creating national and communal cohesion with the goal of preventing future violence, both electoral and otherwise. In addition to continued advocacy for draft genocide prevention legislation, which would institutionalize the KNC as a formal body within the national government, planning efforts for a "Never Again" Memorial are continuing. Members of the KNC's Subcommittee on Memorialization have reported that, while the events of the recent election cycle will not have a significant impact on the substance of the planned memorial, they have served to increase the urgency of, and demand for, the project.

¹The contents of these brochures have been included on page 9 of this publication.

² Tom Odula, "Kenya police killed 67 opposition supporters: Rights groups," Associated Press, Oct. 16, 2017 <https://goo.gl/VLWtRL>

Paraguay



The Paraguay National Commission for the Prevention of Genocide and Mass Atrocities

Since August 2015, the legislative bodies in Paraguay, specifically the Senate, have been discussing a bill to create a National Commission for the Prevention of Genocide and Mass Atrocities. If approved, the Commission would work as an inter-ministerial mechanism to coordinate all policies, activities, research projects and reports on the prevention of atrocity crimes on behalf of the state. Its structure will allow it to have a multidisciplinary character, with active involvement by all pertinent government agencies and institutions.

The Ministries of Foreign Affairs, Interior, Justice, Education and Culture, Defense, Treasury, the Ombudsman's Office, the Judicial and Legislative Powers, the National Police, and the Paraguayan Indigenous Institute will comprise the membership of the Commission. Additionally, through formal and periodic consultations, the Commission will foster the active engagement of all civil society organizations interested in its work. According to its mandate, the Commission will be responsible for risk assessment, early warning, systematic prevention, collaboration and information exchange.

As of the date of publication of this Booklet, officials who will be part of the Commission from the Ministry of Foreign Affairs and the Office of the Ombudsman have been engaged in a process with Congress to pass a legislative bill codifying the body. According to these officials, the text of the bill has been well received as they have engaged in ongoing consultations with Congressional representatives.

The process was put on hold while Paraguay ratified the Rome Statute in the latter half of 2017, but now the consultations have resumed and the hope is to have the bill passed this year to codify the Commission. However, as 2018 is an election year, the political environment is shifting regularly. This may cause a delay in passage of the legislation, but officials will continue their lobbying effort and AIPR will monitor this process.

Further detail on the status of the Paraguay National Commission and the bill for its institutionalization will be discussed in Section III of this publication.

South Sudan



The South Sudan National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination

The humanitarian situation in South Sudan has not improved over the previous year. The ongoing civil conflict continues to destabilize conditions and limit the degree to which government institutions, such as the National Committee, can effectively operate. The crisis has produced over 2.4 million refugees and asylum seekers since December of 2013,³ with an estimated 3.6 million South Sudanese citizens experiencing severe food shortages.⁴

As in the 2017 National Mechanisms Booklet, the Auschwitz Institute consulted with two members of the National Committee, Mr. Charles Wani and Mr. Peter James Deng, to receive a comprehensive update on the Committee's efforts over the previous year.⁵ Mr. Wani is the Acting Director of the Monitoring and Inspection Department of the South Sudan Human Rights Commission and current Secretary of the National Committee, while Mr. Deng serves as a Legal Adviser at the Ministry of Justice in addition to his duties as a member of the National Committee.

Due to the extenuating circumstances created by the conflict, many of the previously identified challenges to the development of this National Mechanism remain. Notably, several members of the Committee are still forced to live in hiding or reside outside of South Sudan due to the targeted status of their ethnic group. This, paired with a severe lack of material resources, has made progress extremely difficult, especially in relation to the planned expansion of the Committee's membership.

Members who have been able to remain active have identified more robust public outreach as a priority. These initiatives would work to increase public awareness of the Committee and garner support for its work. This is a vital preparatory step to best position the body for the moment that the conflict begins to decrease in intensity.

In response to these exigent conditions, National Committee members have met with high-level staff from the Ministry of Foreign Affairs to produce a letter that has been sent to all of the institutions participating in the Mechanism. The letter outlines plans that are being enacted by the Ministry of Foreign Affairs to officially convene a Committee meeting, which will act to stabilize the body's agenda, identify new members, and facilitate regular meetings. The Committee is also in contact with the International Conference on the Great Lakes Region for guidance and assistance in this process.

³ "Operations Portal: Refugee Situations," United Nations High Commissioner for Refugees <https://goo.gl/uSCVXc>

⁴ "South Sudan Emergency Page," World Food Programme <https://goo.gl/muuW1P>

⁵ National Mechanisms for the Prevention of Genocide and other Atrocity Crimes: Pursuing Institutionalization of the Prevention Agenda, Auschwitz Institute for Peace and Reconciliation (AIPR), 2017, 18 <https://goo.gl/6jyZKA>

Tanzania



The Tanzania National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination

Members of the Tanzania National Committee (TNCPG) believe that the best route towards full legal institutionalization of the Committee is through a “need-based” strategy. Using this approach, the establishment and operation of the Center for Conflict Prevention and Response will serve as evidence of the need for legislation to lawmakers. This would create an opportunity for the TNCPG to be enshrined as a permanent organ of the state and ensure that its activities receive durable funding from the national government.

The process for establishing the Tanzania Center for Conflict Prevention and Response is still underway.⁶ A broad coalition of support has been solidified, including representatives of the Ministries of Internal Affairs, Education, Gender and Children, the national Human Rights Commission, and Office of the Prime Minister. The Ministry of Justice, for its part, has included the initiative in its official budget, which was previously a key priority.

While the TNCPG has been officially included in the national government’s annual budget since 2014, it has not been able to access the funding allocated for its operation. Without the availability of these resources, the activities of the Committee and their effectiveness in promoting a government-wide focus on atrocity prevention will continue to be limited.

In 2018, the TNCPG is planning for two events that will be held in collaboration with international partners. The first is a seminar for parliamentarians, which will be convened with the support of the United Nations Office of the Special Advisers on the Prevention of Genocide and on the Responsibility to Protect

(OSAPG). This event will cover topics related to the role of legislatures in the prevention of mass atrocities, including the establishment of inter-ministerial bodies of coordination. The second event will be held later in the year in cooperation with the Auschwitz Institute for Peace and Reconciliation and the East African Community (EAC). The TNCPG will attend, and contribute to, an educational seminar convened for EAC officials on early warning and early response, gender mainstreaming, and transitional justice with respect to genocide and mass atrocity prevention, among others.

Uganda



The Uganda National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity, and All Forms of Discrimination

While pursuing full institutionalization through the national legislature, the Uganda National Committee (UNC) is currently engaged in a number of initiatives to protect citizens from violence and prevent mass atrocities. Alongside work on the promotion of the previously discussed bill,⁷ the National Committee is meeting with members of parliament to discuss the situation of refugee communities in Uganda, particularly those originating in South Sudan, Rwanda, and the Democratic Republic of the Congo.

Similar to previous years, the National Committee has been active in developing a series of regional peace fora and implementing them as funding allows. These fora promote better communication and relations between

⁶National Mechanisms for the Prevention of Genocide and other Atrocity Crimes: Pursuing Institutionalization of the Prevention Agenda, Auschwitz Institute for Peace and Reconciliation (AIPR), 2017, 8

⁷Ibid. 10

communities in the area and also facilitate engagement with prominent religious leaders. Looking forward, the UNC is planning to hold an additional three peace fora as well as an evaluation and reflection initiative to consider changes that would maximize the outputs of these meetings.

Beyond these activities, the UNC is currently working on the compilation of a resource for practitioners entitled “Training Manual for Best Practices in Strengthening National Mechanisms for Prevention.” Committee members are also currently engaged in fundraising for permanent office space and planning for a training event that would bring the UNC together for a review of early warning and early response measures, among other relevant preventive functions.

Due in part to the difficulties being faced by the UNC on the path to institutionalization, the majority of the Committee’s current active membership is from civil society. This is problematic, as National Mechanisms must be primarily composed of officials from varying government institutions to effectively carry out its primary function of policy coordination.

In order to remedy this, a contingent of current Committee members has prioritized the organization of meetings with high-level representatives of relevant ministries. These meetings will work towards expanding membership to include a representative of the Office of the President, the Ugandan Army, and a member of the national commission on human rights, as well as reinvigorating the participation of current government members. Alongside this effort, the UNC is developing a report for the Minister of Finance, who will present it alongside many of the Committee’s accomplishments to regional government ministries in order to promote broader engagement moving forward.

Further detail on the status of the UNC and the bill for its institutionalization will be discussed in Section III of this publication.

United States



The United States Atrocities Prevention Board

The structure, membership and mandate of the U.S. Atrocities Prevention Board (APB) has not changed since the previous edition of this Booklet. Through the National Security Council, the current administration is working to sustain the APB as a useful tool in early warning and risk assessment as well as preventive policy development.

The focus of the APB continues to be on countries experiencing burgeoning crisis situations that have not yet received the full attention of the U.S. government. For this reason, the Board continues to be active in Burundi, the Central African Republic and Democratic Republic of Congo, to name some of its working areas.

Separately from the ongoing efforts of the APB, a process to draft and pass legislation to codify the U.S. government’s approach to atrocity prevention is currently underway in the U.S. Congress. Legislative bills in both the House and Senate are being considered for passage by the legislature to institutionalize this Mechanism, its funding source, and a broader commitment to atrocity prevention as a core national security interest of the United States.

Further detail on the status of the APB and this legislative process will be discussed in Section III of this publication.

Institutionalization

The members of national legislative bodies have an important and distinct role in genocide prevention that complements the work being done by their counterparts in the executive branch. To support them in their unique role, AIPR is engaged in the work of developing programs for parliamentarians on this topic. While these programs work to impress upon lawmakers the necessity of their involvement in the development of preventive measures, they also empower them with specific tools to take action and serve as platforms for the exchange of best practices.

Parliamentarians and members of congress play three primary roles in the prevention of mass atrocities. First, they are responsible for the development of legislation and initiatives at the national level, including the provision and allocation of resources for relevant activities. Second, lawmakers are able to advocate for action on domestic and international risk factors for mass atrocities. Third, legislators are responsible for supervising the implementation of policies and initiatives by the executive branch.

National Mechanisms have emerged as one of the primary vehicles through which legislators can fulfil the first of these roles. Within the broader process of establishing and fully institutionalizing National Mechanisms, parliamentarians represent an essential actor. Through the adoption of legislation, legislative bodies have the unique ability to codify National Mechanisms as permanent organs of the state, guaranteeing their sustainability, effectiveness, and longevity within the national government.

Advocates and lawmakers in Paraguay, Uganda, and the United States have begun processes of institutionalizing National Mechanisms for the Prevention of Genocide and other Atrocity Crimes. While each state's process is unique and must adapt and respond to its own historical, political, social, and cultural contexts — including histories of mass atrocity and oppression — national governments working towards the institutionalization of a National Mechanism can learn important lessons from these existing processes.

As of the date of publication, no National Mechanism has yet to accomplish full legislative institutionalization. However, as a result of the ongoing efforts and initiatives that have been undertaken by the members of these bodies to this end, a number of key themes have emerged. The following section outlines important considerations for drafting and passing legislation that works to ensure the durability of these Mechanisms through their full integration into the state structure.

Prioritize collaboration among relevant government stakeholders throughout the drafting process.

It is advantageous for those involved in the drafting process to consider the full spectrum of stakeholder interests from the outset, both before drafting begins as well as on a continuing basis throughout the process. When approached in a collaborative and inclusive manner, legislative bills that codify National Mechanisms are more likely to garner and maintain the vital, long-term support that is necessary to successfully pass legislation.

When determining which stakeholders to involve in this process, it is important to consider the configuration of the National Mechanism within each particular national context. While the range of member institutions varies depending on the specific mandate of the Mechanism in

Institutionalization

question, incorporating the concerns of the widest possible group of officials and legislators will ensure that the resulting legal framework enjoys the highest possible level of backing. Beyond simply generating support for the legislative project, this also ensures that the scope of the work done by the Mechanism is appropriate and addresses all relevant risk factors, including those of marginalized or minority communities that may not enjoy proportional representation in government.

In Paraguay, for example, the Office of the Ombudsman is one of the institutions at the forefront of advocating for full institutionalization of the National Commission for the Prevention of Genocide and Mass Atrocities. During the drafting process, the Office worked in collaboration with members of Paraguayan Congress to ensure that the resulting bill would reflect the priorities of their constituents. The Ombudsman's Office also garnered input from representatives of Executive agencies such as the Ministry of Foreign Affairs, which may serve as future members of the Commission.

Include the participation of civil society in the development of the bill and in advocacy efforts.

To the extent made possible by each state's political system, representatives of civil society should play an active role in preparing and drafting the legislation. Contributions from civil society can take a variety of forms, including offering ideas for content, contributing language, and commenting on drafts. Civil society groups bring both essential expertise and a diverse spectrum of views on atrocity prevention to the process. Moreover, they often maintain close relationships with individual lawmakers and/or caucuses and parliamentary groups, which may be useful in further consolidating support for the measure.

In the United States, the Friends Committee on National Legislation (FCNL) has served as the central representative for a network of civil society stakeholders throughout the drafting process for the Genocide and Atrocities Prevention Bill. Through the FCNL, this coalition offered concrete input on behalf of a variety of stakeholders. Furthermore, the FCNL took the lead in facilitating meetings between constituents and current members of Congress in order to gain their support for the final product.

Incorporate provisions for durable and sufficient funding allocations to National Mechanisms.

In order to ensure that adequate, reliable, and secure funding is allocated to National Mechanisms to implement their mandates effectively, the proper designations should be included as provisions in draft legislation. Ideally, appropriations for the operating budget of the National Mechanism should be made in the annual budget of the national government, as determined by the legislature. This works to guarantee the durability of the Mechanism and guard against funding being subject to shifting political currents and/or bureaucratic turnover.

If possible, the operating budget of National Mechanisms should not be drawn from the existing budgets of member institutions. Drawing operating funds from the budgets of member institutions, instead of dedicated budgetary allocations, fails to guarantee that funds will consistently be made available to the Mechanism and serves as another obstacle on the path to fully institutionalize it as a permanent governmental body in its own right. While this method of membership-based funding, as seen in Paraguay's legislative model, is more advantageous than

Institutionalization

suffering through a complete lack of funding, it should be understood as a temporary solution and not as a motivation to neglect proper budgetary allocations for the Mechanisms through distinct national-level appropriations.

The legislative project underway to codify the Uganda National Committee is an example of a proper funding structure. Funding for the National Mechanism is being sought directly from the Ministry of Finance, Planning and Economic Development. This places the Mechanism on equal footing with the vast majority of other government institutions.

Incorporate language and approaches used by past legislation codifying similarly structured bodies.

Referring to similar bills that have successfully transitioned from draft legislation into adopted law can assist in identifying key provisions and language. These examples can come from a variety of sources sharing one or more qualities with the National Mechanism. Inspiration in this regard can come from bodies that are thematically related or structured similarly.

It is important to recognize that the institutionalization of National Mechanisms is a new endeavor, for which few comprehensive precedents or templates exist. Thus, it is appropriate to reference multiple pieces of legislation for inspiration. Examples of these include inter-ministerial working groups, truth and reconciliation commissions, commissions of inquiry, and task forces. Looking internationally to states that share similar political systems or cultures with those of the drafters is also a viable option.

In Uganda, the National Committee members working on draft legislation to institutionalize the UNC studied other pieces of domestic legislation, such as the Kampala Declaration and the Uganda Transitional Justice Draft Policy. This gave them insight into the particular conventions, language, and considerations employed in the design of successful legislation on similar themes.

Consider the current political context and climate.

Despite the vital nature of their work, National Mechanisms for the Prevention of Genocide and other Atrocity Crimes are not priorities for all policymakers. Legislators are elected to represent their constituents and pursue issues accordingly. Thus, supporters of legislation for the institutionalization of Mechanisms should consider the potential for shifting political climates or changes in cultural momentum when preparing a bill for presentation to the legislature.

Equally, the amount of political will that can be committed to atrocity prevention issues at any given time is finite. Thus, minimizing competition between multiple projects is important. While there may be little concrete overlap between two proposals, they will nevertheless compete for valuable attention and consideration with a wide variety of other current legislative priorities. This may mean that worthy pieces of legislation fail to be properly considered in lieu of another thematically-related initiative.

From the outset of the project to draft legislation that would institutionalize Paraguay's National Mechanism, concerns of timing arose. Worries were voiced by contributors regarding the potential for a change in power following the elections scheduled for April of 2018. The incumbent President is not eligible for re-election, prompting concerns that a change in power dynamics could diminish the chances of previously-presented legislation being supported by the new administration and adopted by the new legislature.

Institutionalization

Equally, while the final preparations for the draft bill institutionalizing the National Mechanism in Paraguay were being made, contributors became concerned with the legislation's similarity to ongoing efforts for the domestication of the Rome Statute. Thus, a decision was made among the bill's drafters and congressional supporters to delay pursuit of its adoption.

Balance the bill's provisions with its ability to gain sufficient parliamentary votes for adoption.

When seeking the institutionalization of National Mechanisms through legislation, drafters must simultaneously ensure that the contents of draft bills are comprehensive enough to guarantee the future of the body while maximizing the possibility of passing the bill into law. The specific considerations and limitations in this regard will depend on the political context and legal system of each state.

For example, in the United States, negotiations with members of Congress led to specific changes in the draft bill pertaining to the status of the Atrocities Prevention Board. The specific concerns communicated by these legislators resulted in text being added to the legislation that would shift the configuration of the body from a "Board" to a "Task Force," as a compromise. This solution garnered further backing of the bill by certain Congressional representatives, increasing its chances of adoption.

Through an examination of the existing efforts, the Auschwitz Institute has produced this set of guidelines in order to aid new initiatives for the institutionalization of National Mechanisms and maximize the chances of success. In short, it is essential to involve all relevant government and civil society stakeholders at the beginning of the drafting and advocacy process. With regard to specific drafting considerations, the clauses pertaining to sustained funding streams, independent of the constituent members, are necessary. Drawing upon existing legislation codifying similarly structured or thematically-related bodies may prove useful in the passing of the bill. Finally, balancing the bills contents and considering political context and climate are important to maximizing the chances of legislation being passed. These recommendations are based upon the work being done on institutionalization in the three noted countries, however there are additional efforts being undertaken in other states as well.

Through this work, the role that legislatures must play in the creation and establishment of effective bodies for atrocity crimes prevention at the national level is apparent. Drafting and passing legislation to institutionalize National Mechanisms remains the most viable strategy for achieving long-term sustainability in the majority of cases. While it is important to acknowledge that none of the featured National Mechanisms have yet succeeded in obtaining full institutionalization, significant progress has been made in this regard.

Conclusion & Lessons Learned

The format of the 2018 Booklet on National Mechanisms has changed from previous editions to reflect the evolution of AIPR's understanding of the development of these bodies based on close observances from the field of national approaches to atrocity prevention that employ the National Mechanism model. This is also precipitated by the fact that, at the time of publication, the Auschwitz Institute has engaged in over four years of close monitoring efforts and, as a result, it has become important to re-evaluate the criteria and benchmarks used.

With this in mind, the current edition represents AIPR's latest effort to bring information from each of the featured bodies together to form a broad view of best practices, lessons learned, and insight into the process by which Mechanisms move from informal to fully-institutionalized bodies. This has prompted a deviation from the previous structure of the publication, which highlighted the activities and initiatives being carried out by individual Mechanisms. The current edition, while still capturing many of the bodies' efforts, instead focuses on considering the state of the global trend to prevent genocide through the establishment of National Mechanisms. In light of this shift, it is important to discuss the change in vocabulary from previous booklets due to the Auschwitz Institute's continually evolving understanding of this process.

In particular, the 2018 edition has reclassified National Mechanisms that were previously depicted as "established" bodies. These bodies were referred to as "established" because they were operating under executive authorizations or directives that enabled them to implement provisional work plans and effectively carry out preventive programming without the intention to pursue full institutionalization through the legislature at the time of publication. To better reflect the reality and necessity of the institutionalization effort, these Mechanisms are now being considered as "emerging." This does not imply a regression in the pursuit of implementation by the Mechanisms or a limit on the efficacy of their activities, but instead brings the vocabulary used in this publication in line with AIPR's understanding. The current definition of "Emerging Mechanisms" is meant to accommodate a variety of national experiences and routes to full institutionalization.

This diversity is also evident in the experiences of Informal Mechanisms. Labeling them as such recognizes that these efforts are forerunners of a full-fledged Mechanism, which situates them within the spectrum of institutionalization efforts. Doing so also allows ongoing efforts to benefit from the lessons learned by other developing Mechanisms in their region and around the world. Furthermore, it provides an opportunity to identify these efforts as a foundation for a robust and effective whole-of-government approach to preventing mass atrocity.

This is a pivotal moment in the success of the institutionalization efforts a number of the National Mechanisms featured in this publication. From the outset of AIPR's monitoring efforts, the consistent implementation of work plans and preventive programming has demonstrated the viability of the model. Despite the inherent limitations of operating without full government backing, and often at partial capacity, a number of the Mechanisms have implemented high-quality preventive programming that has contributed to the protection of vulnerable groups within their countries.

The whole-of-government approach, which works to represent all elements of society, is an integral part of comprehensive atrocity prevention, as it mirrors the all-encompassing nature of atrocities themselves. Importantly, this necessitates that the legislature, representing constituents, plays an active role in providing permanent backing to its National Mechanism. Equally, the inclusion of civil society's unique insight and expertise on grassroots-level issues

Conclusion & Lessons Learned

is essential for effective national-level operations. This provides a “bottom-up” element that complements the “top-down” approach of national-level officials.

Relative to other tools for prevention, the effort by states to develop dedicated and permanent inter-ministerial bodies is innovative. The significance of this is twofold: First, nearly all of the National Mechanisms featured in this publication have been created within the last six years. Second, the concept of an inter-ministerial or inter-departmental government body, codified by the legislature and working on the specific theme of atrocity prevention is largely unprecedented.

The Auschwitz Institute for Peace and Reconciliation remains committed to facilitating communication with any of the bodies featured in this publication in order to further collaborative projects that support the work of National Mechanisms. Through its mandate, AIPR encourages and facilitates the sharing of experiences and best practices in the development and consolidation of these Mechanisms. To this end, the Auschwitz Institute produces annual updates to this publication which reflect the development of new and featured National Mechanisms, as well as its own understanding of this process. Each annual edition of the Booklet on National Mechanisms for the Prevention of Genocide and other Atrocity Crimes can be found at: www.auschwitzinstitute.org/publications.

Booklet Index (2015-2018)

Argentina, National Mechanism for the Prevention of Genocide, 2015: 17-18

Central African Republic, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2015: 16

Costa Rica, Commission for International Humanitarian Law, 2018: 10, 2017: 12, 2016: 17-19

Democratic Republic of Congo, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2016: 5, 2015: 16

Ecuador, Department of General Advisory, Office of the Ombudsman, 2018: 10, 2017: 16-17, 2016: 21

Finland, Global Network of Responsibility to Protect Focal Points, 2018: 8

Friends Committee on National Legislation (FCNL), 2018: 17

Kenya, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2018: 11, 2017: 6-7, 2016: 6-7, 2015: 5-6

Mexico, Inter-Departmental Commission on International Humanitarian Law of Mexico (CIDIH) 2015: 12-13

National Mechanisms

Institutionalization, 2018: 23-24, 2017: 23-25

Common challenges and solutions, 2017: 23-24, 2016: 22-26

Considerations, 2017: 25-26, 2016: 24-25

Working definition, 2018: 4, 2017: 4, 2016: 3, 2015: 2

Paraguay, National Commission for the Prevention of Genocide and Mass Atrocities, 2018: 12, 2017: 11, 2016: 10, 2015: 19

Parliamentarians

AIPR programs, 2017: 21-22

Role of legislators, 2018: 16-19

South Sudan, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2018: 13, 2017: 18-19, 2016: 14-16

Tanzania, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2018: 14, 2017: 8-9, 2016: 8, 2015: 7-9

Uganda, National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, 2018: 14, 2017: 10, 2016: 9, 2015: 10-11

United States, Atrocities Prevention Board, 2018: 15, 2017: 13-14, 2016: 11-12, 2015: 14-15



the auschwitz institute
for peace and reconciliation

