

**AMERICAN BAR ASSOCIATION  
CENTER FOR HUMAN RIGHTS  
SECTION OF INTERNATIONAL LAW  
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES**

**REPORT TO THE HOUSE OF DELEGATES**

**RECOMMENDATION**

1 RESOLVED, That the American Bar Association endorses paragraphs 138 and 139 of  
2 the World Summit Outcome Document of the 60<sup>th</sup> session of the UN General Assembly  
3 (September 2005) concerning the Responsibility to Protect doctrine;  
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5 FURTHER RESOLVED, That the American Bar Association endorses the  
6 recommendations set forth in the report, *Preventing Genocide: A Blueprint for U.S.*  
7 *Policymakers* (December 2008), by the joint Genocide Prevention Task Force of the  
8 United States Holocaust Memorial Museum, the American Academy of Diplomacy, and  
9 the United States Institute of Peace.

## **ADDENDA TO RECOMMENDATION**

### **A. United Nations General Assembly World Summit Outcome Document**

A/RES/60/1 at 30 (24 October 2005), *available at:*

<http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

Paragraphs 138-139: Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared 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 organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

- B. *Preventing Genocide: A Blueprint for U.S. Policymakers***  
United States Holocaust Memorial Museum, et al. (December 2008), available at <http://www.ushmm.org/genocide/taskforce/>.

**Summary of Recommendations:**

Leadership

To the President

- 1-1. The president should demonstrate that preventing genocide and mass atrocities is a national priority.
- 1-2. Under presidential leadership, the administration should develop and promulgate a government-wide policy on preventing genocide and mass atrocities.
- 1-3. The president should create a standing interagency mechanism for analysis of threats of genocide and mass atrocities and consideration of appropriate preventive action.
- 1-4. The president should launch a major diplomatic initiative to strengthen global efforts to prevent genocide and mass atrocities.

To the Leaders of Congress

- 1-5. Congress should increase funding for crisis prevention and response initiatives, and should make a portion of these funds available for rapid allocation for urgent activities to prevent or halt emerging genocidal crises.
- 1-6. The newly established Tom Lantos Human Rights Commission should make preventing genocide and mass atrocities a central focus of its work.
- 1-7. Congressional leaders should request that the director of national intelligence include risk of genocide and mass atrocities in his or her annual testimony to Congress on threats to U.S. national security.

To the American People

- 1-8. The American people should build a permanent constituency for the prevention of genocide and mass atrocities.

Early Warning: Assessing Risks and Triggering Action

- 2-1. The director of national intelligence should initiate the preparation of a National Intelligence Estimate on worldwide risks of genocide and mass atrocities.

- 2-2. The national security advisor and the director of national intelligence should establish genocide early warning as a formal priority for the intelligence community as a means to improve reporting and assessments on the potential for genocide and mass atrocities.
- 2-3. The State Department and the intelligence community should incorporate training on early warning of genocide and mass atrocities into programs for foreign service and intelligence officers and analysts.
- 2-4. The national security advisor should create a "mass atrocities alert channel" for reporting on acute warning of genocide or mass atrocities akin to the State Department's "dissent channel."
- 2-5. The national security advisor should make warning of genocide or mass atrocities an "automatic trigger" of policy review.
- 2-6. The State Department and USAID should expand ongoing cooperation with other governments, the United Nations, regional organizations, NGOs, and other civil society actors on early warning of genocide and mass atrocities.

#### Early Prevention: Engaging before the Crisis

- 3-1. Early prevention strategies should aim to influence leaders by using positive and negative inducements, aggressive enforcement of international regimes, and fresh approaches to conflict transformation.
- 3-2. Early prevention strategies should support development of institutions in high-risk states by supporting power sharing and democratic transition, enhancing the rule of law and addressing impunity, and reforming security forces.
- 3-3. Early prevention strategies should aim to strengthen civil society in high-risk states by supporting economic and legal empowerment, citizen groups, and a free and responsible media.
- 3-4. Funding for crisis prevention in countries at risk of genocide or mass atrocities should be expanded through a new genocide prevention initiative, funded through existing foreign assistance mechanisms.
- 3-5. The State Department and USAID should enhance coordination with international partners both in terms of policy and in-country implementation.

#### Preventive Diplomacy: Halting and Reversing Escalation

- 4-1. The new high-level interagency committee-the Atrocities Prevention Committee-should meet every other month (and as needed at other times) to review the status of countries of concern and coordinate preventive action.

- 4-2. The Atrocities Prevention Committee, working with NSC staff, should prepare interagency genocide prevention and response plans for high-risk situations.
- 4-3. The secretary of state should enhance the capacity of the U.S. government to engage in urgent preventive diplomatic action to forestall emerging crises.
- 4-4. Preventive diplomacy strategies should include the credible threat of coercive measures, should avoid an overly rigid "escalatory ladder," and should not dismiss potential benefits of rewarding "bad people" for "good behavior."
- 4-5. Preventive diplomacy strategies should engage international actors who have influence with potential perpetrators, be mindful of becoming hostage to peace negotiations related to a broader conflict, and maintain consistency in messages conveyed.

#### Employing Military Options

- 5-1. The secretary of defense and U.S. military leaders should develop military guidance on genocide prevention and response and incorporate it into Department of Defense (and interagency) policies, plans, doctrine, training, and lessons learned.
- 5-2. The director of national intelligence and the secretary of defense should leverage military capacities for intelligence and early warning and strengthen links to political-military planning and decision making.
- 5-3. The Departments of Defense and State should work to enhance the capacity of the United Nations, as well as the African Union, the Economic Community of West African States, and other regional and subregional bodies to employ military options to prevent and halt genocide and mass atrocities.
- 5-4. The Departments of Defense and State should work with NATO, the European Union, and capable individual governments to increase preparedness to reinforce or replace United Nations, African Union, or other peace operations to forestall mass atrocities.
- 5-5. The Departments of Defense and State should enhance the capacity of the United States and the United Nations to support a transition to long-term efforts to build peace and stability in the wake of genocidal violence.

#### International Action: Strengthening Norms and Institutions

- 6-1. The secretary of state should launch a major diplomatic initiative to create among like-minded governments, international organizations, and NGOs a formal network dedicated to the prevention of genocide and mass atrocities.

- 6-2. The secretary of state should undertake robust diplomatic efforts toward negotiating an agreement among the permanent members of the United Nations Security Council on non-use of the veto in cases concerning genocide or mass atrocities.
- 6-3. The State Department should support the efforts currently under way to elevate the priority of preventing genocide and mass atrocities at the United Nations.
- 6-4. The State Department, USAID, and Department of Defense should provide capacity-building assistance to international partners who are willing to take measures to prevent genocide and mass atrocities.
- 6-5. The secretary of state should reaffirm U.S. commitment to nonimpunity for perpetrators of genocide and mass atrocities.

## REPORT

### **I. Introduction**

In 1948, in the wake of history's worst mass murder, the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention") in a solemn spirit of "never again."<sup>1</sup> Sixty years hence, however, genocide and mass atrocities have been inflicted again and again, often with impunity.

In response, a global consensus has emerged that, inherent in the international legal principle of state sovereignty (and thus beyond the legal confines of the Genocide Convention alone) is a "responsibility to protect" populations from genocide, war crimes, ethnic cleansing, and crimes against humanity; and that, where national governments are unable or unwilling to meet it, this responsibility falls to the international community.<sup>2</sup>

Building on this consensus, in November 2007 the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace assembled a Genocide Prevention Task Force — co-chaired by former Secretary of State

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<sup>1</sup> 78 UNTS 277 (Dec. 9, 1948). The convention defines genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group."

<sup>2</sup> The U.N. General Assembly unanimously endorsed the Responsibility to Protect doctrine in the Outcome Document of the 2005 World Summit, the follow-up session to the Millennium Summit. *See* 2005 World Summit Outcome, adopted by G.A. Res. 60.1., A/Res/60/1, paras. 138-139 (Oct. 24, 2005):

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared 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 organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

Madeleine Albright and former Defense Secretary William S. Cohen and including John C. Danforth, Thomas A. Daschle, Stuart E. Eizenstat, Michael J. Gerson, Daniel R. Glickman, Jack F. Kemp (d. 2009), Gabrielle Kirk McDonald, Thomas R. Pickering, Julia V. Taft (d. 2008), Vin Weber, and Anthony C. Zinni — to “generate practical recommendations to enhance the U.S. government’s capacity to respond to emerging threats of genocide and mass atrocities.”<sup>3</sup> In December 2008, coinciding with the Genocide Convention’s 60<sup>th</sup> anniversary, the task force issued its report, *Preventing Genocide: A Blueprint for U.S. Policymakers*, which conceptualizes an international infrastructure for effectuating more readily the Genocide Convention’s prevention mandate and the broader Responsibility to Protect doctrine.

The American Bar Association, in keeping with both its endorsement of the Genocide Convention<sup>4</sup> and longstanding commitment to advancing human rights and the rule of law, should endorse the responsibility to protect doctrine and the Genocide Task Force report’s recommendations.

## II. Historical Overview

The horrors of the Holocaust and other mass atrocities of the Second World War discredited the established order and elevated human rights as a central component of international law.<sup>5</sup> The United Nations Charter created a collective security framework to deter and repel threats to international peace and established an institutional mandate to “reaffirm faith in fundamental human rights.”<sup>6</sup> To this end, even before adopting the Universal Declaration of Human Rights, the U.N. General Assembly adopted the Convention for the Prevention and Punishment of the Crime of Genocide,<sup>7</sup> which erected a global treaty framework for identifying genocide and outlined responsibilities to be undertaken when it occurs. States Parties to the convention assume a duty to punish certain specified acts that contribute to and facilitate genocide.<sup>8</sup> Although the duty to

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<sup>3</sup> Genocide Prevention Task Force, available at <http://www.ushmm.org/conscience/taskforce> (accessed Mar. 23, 2009).

<sup>4</sup> *Reports of the American Bar Association*, Feb. 1976, Vol. 101, at 503.

<sup>5</sup> The first chapter of the United Nations Charter, called “Purposes and Principles,” includes: “[I]n promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion...” U.N. Charter. Art. 1.

<sup>6</sup> U.N. Charter, Preamble.

<sup>7</sup> United Nations Treaty Collection, Convention on the Prevention and Punishment of the Crime of Genocide, available at <http://www.unhcr.ch/html/menu3/b/treaty1gen.htm> (accessed Mar. 23, 2009).

<sup>8</sup> The Convention criminalizes genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, the attempt to commit genocide, and complicity in genocide. Genocide Convention, art. 2.



prevent genocide is less precise in its content (parties “undertake to prevent”),<sup>9</sup> the convention clearly does not deem proscription sufficient to deter genocide; preventive action is required as well. Further, this obligation is not restricted to a State Party’s own territory; as the International Court of Justice affirmed in *Bosnia v. Serbia*, the duty to prevent genocide extends beyond national borders.<sup>10</sup>

And yet, despite these legal obligations and the historical and moral imperatives on which they rest, the international community’s record of genocide prevention and punishment since 1948 has been abysmal. When genocide and mass atrocities were building in Cambodia, Rwanda, Bosnia, Iraq and elsewhere, prevention was virtually nil.<sup>11</sup> Although the U.S. and other countries mustered efforts to punish perpetrators of genocide and mass atrocities in Rwanda and the former Yugoslavia through *post hoc* international criminal tribunals,<sup>12</sup> *prevention* has failed largely for lack of will, if not outright avoidance. Indeed, genocide’s status as the world’s worst conceivable crime paradoxically has made non-intervention a relatively simple matter of arguing whether given atrocities meet the convention’s definition of genocide and thus trip its obligations.<sup>13</sup> When, finally, the North Atlantic Treaty Organization (NATO) used force in response to mass atrocities in Kosovo, the legal novelty of that successful operation, which lacked U.N. Security Council authorization, renewed calls for a more reliable legal regime for spurring genocide and mass atrocity prevention that does not — or, perhaps more accurately, cannot — rely strictly on the Genocide Convention.

The resultant conceptual framework, dubbed the “Responsibility to Protect” doctrine (also known colloquially as “R2P”), envisions collective state responsibility for preventing mass atrocities as extending beyond genocide to include protection from war crimes, ethnic cleansing, and crimes against humanity explicitly. Further, prior notions of sovereign inviolability are viewed under R2P as contingent upon the state’s fulfillment

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<sup>9</sup> Genocide Convention, art. 1. (“The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”)

<sup>10</sup> “It follows that the rights and obligations enshrined by the Convention are rights and obligations *erga omnes*. The Court notes that the obligation each State thus has to prevent and to punish the crime of genocide is not territorially limited by the Convention.” Application of the Convention on the Prevention of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Preliminary Objections, Judgment, ICJ Reports 1996, p. 616, para. 31, available at <http://www.icj-cij.org/docket/files/91/7349.pdf>.

<sup>11</sup> See generally Samantha Power, *“A Problem From Hell”: America and the Age of Genocide* (Harper Perennial 2002).

<sup>12</sup> For more information, see International Criminal Tribunal for Rwanda, available at <http://69.94.11.53/>; and International Criminal Tribunal for the former Yugoslavia, available at <http://www.icty.org/>.

<sup>13</sup> Some experts assert that the United States, for example, strenuously avoided using the word “genocide” to describe the mass killings in Rwanda in 1994 for fear it would trigger a responsibility to intervene — although the State Department also maintained that the Genocide Convention contained no such legal obligation to act. Then-Secretary of State Warren Christopher waited more than two months into the slaughter to invoke the term. Power, *“A Problem from Hell,”* at 360-364.

of its responsibility to protect persons within its borders from all these crimes; if the state proves unwilling or unable to do so, this responsibility falls to the international community through the Security Council.<sup>14</sup>

Thus the R2P doctrine places primary prevention responsibility with the national government directly affected, thereby redefining what sovereignty entails, and backs it up with concerted action if that government fails its responsibility, thereby delimiting sovereignty. Although the principle of sovereign equality underpins Article 2(7) of the Charter, which disallows the United Nations from “interven[ing] in matters which are essentially within the domestic jurisdiction of any other state,”<sup>15</sup> the R2P doctrine makes clear that even atrocities short of genocide — war crimes, ethnic cleansing, and crimes against humanity — cannot be dismissed as mere internal matters beyond the reach or responsibility of other nations. The Security Council,<sup>16</sup> which has primary responsibility for identifying and addressing threats to international peace and security,<sup>17</sup> endorsed the R2P doctrine in April 2006 when it “reaffirm[ed] the [relevant provisions] of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>18</sup>

### **III. The Genocide Prevention Task Force and the Responsibility to Protect**

While consensus has been reached regarding the existence and substance of the Responsibility to Protect, questions regarding its practical import and application remain. Chapter 6 of the Genocide Prevention Task Force report describes R2P as “the potentially most important normative advance in relation to the threat of mass atrocities since the 1948 adoption of the Genocide Convention.”<sup>19</sup> It explains the doctrine’s relevance as follows:

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<sup>14</sup> The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, para. 2.14-2.15 (December 2001), available at <http://www.iciss.ca/report2-en.asp> (accessed Mar. 23, 2009).

<sup>15</sup> U.N. Charter, art. 2(7).

<sup>16</sup> *Id.*

<sup>17</sup> U.N. Charter, art. 39. The Security Council repeatedly (albeit inconsistently) has exercised this authority to intervene where egregious human rights violations have occurred. *See e.g.*, E.g. S.C. Res. 232, U.N. Doc. S/INF/21 (1966) (declaring the situation in Southern Rhodesia a threat to international peace and security); SC. Res. 688, U.N. Doc. S/INF/47 (1991) (condemning the repression of Iraqi civilians and declaring the consequences a threat to international peace and security); S.C. Res. 794, U.N. Doc S/RES/794 (1992) (declaring the “magnitude of the human rights tragedy” in Somalia a threat to international peace and security); S.C. Res. 940, U.N. Doc S/RES/940 (1994) (authorizing the use of force in response to the “deteriorating humanitarian situation” and “systematic violation of civil liberties” in Haiti, which constitute a threat to international peace and security); etc.

<sup>18</sup> Protection of civilians in armed conflict, adopted by S.C. Res. 1674, U.N. Doc. S/Res/1674 (Apr. 28, 2006).

<sup>19</sup> Preventing Genocide, at 98.

The responsibility to protect is best understood as an important tool for moral suasion. Properly construed and carefully implemented on a case-by-case basis, the principles of responsibility to protect and nonindifference provide a strong basis for mustering political will and resources to prevent genocide and mass atrocities. The responsibility to protect is not, however, self-executing. Neither agreement to the language of the Outcome Document, nor its invocation in a particular case, creates a legal obligation to act nor sets in motion automatic action. Similarly, while parties to the Genocide Convention recognize genocide as a crime under international law, which they undertake to prevent and to punish, this has not been an effective trigger for international action. Both the Genocide Convention and the Outcome Document include a greater focus on prevention than is often noted, and *taken together, these commitments form an important part of the international framework for preventing and halting genocide and mass atrocities. . . .*<sup>20</sup>

Above all, however, the responsibility to protect “places an emphasis on early action for the prevention of atrocity crimes, which, pursued successfully, will obviate the need for non-consensual military intervention. Making these aspects of the responsibility to protect clear is a matter for adroit diplomacy at the United Nations and elsewhere.”<sup>21</sup>

The R2P doctrine thus represents a vital and widely embraced evolution in a bedrock principle of international relations — state sovereignty — for the sake of fulfilling the overriding moral imperative upon which the modern international legal system was founded — genocide and mass atrocity prevention.

The ABA therefore would be remiss not to embrace the R2P doctrine and participate in its further development. The Genocide Prevention Task Force report, discussed further below, provides a vehicle for pursuing the latter objective.

#### **IV. Preventing Genocide and Mass Atrocities— A Blueprint**

The Genocide Prevention Task Force report is comprised of six chapters, each concluding with specific recommendations to address the concerns and opportunities it identifies. Highlights of the recommendations, a complete set of which are attached to the recommendation, include:

**1. Leadership: The Indispensable Ingredient.** The Obama Administration must demonstrate that preventing genocide and mass atrocities is a national priority, and develop and promulgate a government-wide policy to this end. The task force recommends a new standing interagency mechanism for analysis of threats and coordination of appropriate preventive action as part of a comprehensive policy framework for genocide prevention. It further notes that achieving this goal “will require

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<sup>20</sup> *Id.* (Emphasis added.)

<sup>21</sup> *Id.* at 98-99.

the president to muster political will that has too often been lacking in the past.” Indeed, preventing genocide and mass atrocities “need not be seen as an add-on to the core foreign policy domain”; rather, “the means and ends of genocide prevention dovetail with other U.S. priorities, providing a rare and important opportunity for progress.” In sum, the United States “has many tools at its disposal, a wide range of options between the extremes of doing nothing and sending in the Marines.”

**2. Early Warning: Assessing Risks and Triggering Action.** The first step toward preventing genocide and mass atrocities is to build a reliable process for assessing risks and generating early warning of potential atrocities. The task force therefore recommends that the director of national intelligence initiate the preparation of a national intelligence estimate on worldwide risks of genocide and mass atrocities, and that the results be included in annual testimony to Congress on threats to U.S. national security. Acute warning of potential genocide or mass atrocities must be made an “automatic trigger” of policy review.

**3. Early Prevention: Engaging before the Crisis.** Efforts to prevent genocide should begin well before a crisis has erupted. With international partners, the United States must engage leaders, develop institutions, and strengthen civil society within high-risk countries. Doing so will reduce capacities and motivations for mass violence while increasing social and institutional safeguards. Funding for crisis prevention in countries at risk should be expanded through a new genocide prevention initiative funded through existing foreign assistance mechanisms.

**4. Preventive Diplomacy: Halting and Reversing Escalation.** Even when signs of preparation for genocide are apparent, there are opportunities to alter leaders’ decisions, interrupt their plans, and halt and reverse escalation toward mass atrocities. The task force recommends the creation of a new high-level interagency body — an Atrocities Prevention Committee — dedicated to responding to such threats. It would improve the U.S. crisis response system and better equip it to mount coherent and timely strategies for preventive diplomacy. This new committee should prepare interagency genocide prevention and response plans for high-risk situations.

**5. Employing Military Options.** U.S. leaders must consider how to leverage all instruments of national power to prevent and halt genocide and mass atrocities, including military assets. Military options are especially relevant when opportunities for prevention have been lost, but they can also play an important role in deterring and suppressing violence. The task force recommends that genocide prevention and response be incorporated into national policy guidance and planning for the military and into defense doctrine and training. The United States should redouble its support for international partners such as the United Nations and the African Union to build their capacities to deploy effective military responses to mass atrocities.

**6. International Action: Strengthening Norms and Institutions.** The United States should be a leader in preventing genocide and mass atrocities, but it cannot succeed alone. America has an interest in promoting strong global norms against

genocide so that sovereignty cannot be used as a shield. It must also make international and regional institutions more effective vehicles for preventing mass atrocities. The task force recommends that the United States launch a diplomatic initiative to create an international network for information sharing and coordinated action to prevent genocide.

As discussed below, the chapter 6 recommendation regarding an international network dedicated to information sharing and coordinated action is of particular relevance to the ABA.

## **V. An International Network for Genocide and Atrocity Prevention**

As a first step to establishing such a network, the task force recommends that the U.S. government convene a major international conference to create the network through the adoption of a statement of principles for the prevention of genocide and mass atrocities. This statement would lead to the designation of “focal points” on related issues, involving all participating governments, international and regional organizations, and non-governmental organizations (NGOs). These designated focal points would have responsibility for follow-up efforts in information sharing and the coordination of prevention strategies and capacity-building initiatives within their respective spheres of influence. The task force suggests the secretary of state designate the assistant secretary for democracy, human rights, and labor as the U.S. Government’s focal point for international coordination and cooperation on prevention of genocide and mass atrocities. On an ongoing basis, the assistant secretary would seek to kindle a robust dialogue between the U.S. government and international NGOs and work to ensure that adequate resources flow to those generating critical information for early warning.

As the national representative of the legal profession in the United States, enjoying global reach and recognition, the ABA is uniquely positioned to help catalyze organized bars worldwide to marshal the profession’s specialized skills and influence in service to the proposed network. Whatever the rule of law’s current status in a given country, lawyers typically are its champions and are often pivotal to the exercise of governmental power. Lawyers therefore can play a key role in observing, assessing, and declaring whether hostility toward discrete populations may develop into systematic violence.

Accordingly, the ABA should advise the State Department of its willingness to participate in the proposed conference and network.

## **VI. Conclusion**

Given the international community’s repeated failure to prevent and punish the crime of genocide and other mass atrocities, and in light of the ABA’s longstanding commitment to advancing human rights and the rule of law, the Responsibility to Protect doctrine and the Genocide Prevention Task Force recommendations by which it may be further effectuated merit the ABA’s support.

Respectfully submitted,

Jerome J. Shestack, Co-Chair  
ABA Center for Human Rights

Steven T. Walther, Co-Chair  
ABA Center for Human Rights

August 2009

## GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations  
(Please refer to instructions for completing this form.)

Submitting Entity: Center for Human Rights

Submitted By: Jerome J. Shestack and Steven T. Walther, Co-Chairs

1. Summary of Recommendation(s).

Endorses the Responsibility to Protect doctrine set forth in 2005 United Nations World Summit Outcome Document, under which states have a responsibility to protect their own and other populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Endorses the report, *Preventing Genocide: A Blueprint for U.S. Policymakers*, by the joint Genocide Prevention Task Force of the United States Holocaust Memorial Museum, et al., and its call for establishment of an international network among governments, intergovernmental institutions, and non-governmental organizations to identify and address conditions that otherwise might lead to genocide, war crimes, ethnic cleansing or crimes against humanity.

2. Approval by Submitting Entity.

The Center for Human Rights executive board approved this report with recommendation in March 2009.

3. Has this or a similar recommendation been submitted to the House or Board previously?

No.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

The ABA recommended U.S. ratification of the Convention on the Prevention and Punishment of Genocide in 1976. The U.S. has since ratified the convention, but no consistent policy or action on the prevention of genocide and mass atrocities has followed. This recommendation endorses the consensus international framework that the Responsibility to Protect doctrine constructs for identifying and responding to failures of sovereign responsibility in the form of gross and widespread human rights abuses.

This report with recommendation thus builds on previous policy recommendations, since enshrined in law, to advance the imperative of preventing genocide and other mass atrocities.

5. What urgency exists which requires action at this meeting of the House?

The Responsibility to Protect doctrine received unanimous endorsement from the United Nations General Assembly in the 2005 World Summit Outcome Document and from the United Nations Security Council in 2006. With the doctrine's implementation still in its formative stages, the call to action from the Genocide Prevention Task Force creates an important opportunity for ABA engagement in this burgeoning area of human rights and humanitarian law.

6. Status of Legislation. (If applicable.)

No pending legislation appears applicable.

7. Cost to the Association. (Both direct and indirect costs.)

No direct or indirect costs resulting from this report with recommendation are anticipated beyond those already budgeted by relevant entities as part of their regular activities.

8. Disclosure of Interest. (If applicable.)

Not applicable.

9. Referrals.

The report with recommendation has been referred to and is co-sponsored by the Sections of International Law and Individual Rights and Responsibilities. It also has been referred to the Standing Committee on Law and National Security, whose reply is pending.

10. Contact Person. (Prior to the meeting.)

Michael Pates, Director  
ABA Center for Human Rights  
202-662-1025  
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11. Contact Person. (Who will present the report to the House.)

Jerome J. Shestack, Co-Chair  
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## EXECUTIVE SUMMARY

### 1. Summary of the Recommendation

Endorses the Responsibility to Protect doctrine, under which states have a responsibility to protect their own and other populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Endorses the report, *Preventing Genocide: A Blueprint for U.S. Policymakers*, by the joint Genocide Prevention Task Force of the United States Holocaust Memorial Museum, et al., and its call for establishment of an international network among governments, intergovernmental institutions, and non-governmental organizations to identify and address conditions that otherwise might lead to genocide, war crimes, ethnic cleansing or crimes against humanity.

### 2. Summary of the Issue that the Resolution Addresses

More than sixty years since the world declared “never again,” genocide and mass atrocities have been inflicted again and again, often with impunity. In response, a global consensus has emerged that states have a “responsibility to protect” their own and other populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Building on this consensus, the United States Holocaust Memorial Museum and others formed a joint Genocide Prevention Task Force to generate practical recommendations to enhance the U.S. government’s capacity to respond to emerging threats of genocide and mass atrocities. The task force report, *Preventing Genocide: A Blueprint for U.S. Policymakers*, conceptualizes an international infrastructure for effectuating more readily the Genocide Convention’s prevention mandate and the broader Responsibility to Protect doctrine.

### 3. Please Explain How the Proposed Policy Position will Address the Issue

By endorsing the Responsibility to Protect doctrine and the Genocide Prevention Task Force report, the American Bar Association will, consistent with its longstanding commitment to advancing human rights and the rule of law, be able to engage directly in helping advance and effectuate the Responsibility to Protect doctrine and the Genocide Task Force report’s recommendations as appropriate.

### 4. Summary of Minority Views

No minority views or opposition have been identified.