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Promises and Pitfalls: The UN Genocide Convention and the Responsibility to Protect

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Abstract

This paper critically examines the efficacy of the United Nations (UN) Genocide Convention of 1948 and the Responsibility to Protect (R2P) doctrine in preventing and punishing genocide, and takes a critical look at both their conceptual brilliance and operational weaknesses. Despite a huge moral and symbolic authority within international law, the convention as well as the R2P doctrine have been rather ineffective in curbing genocidal violence and this study identifies the four core causes of this inefficiency – The evidentiary standard of proving specific intent (dolus specialis) of genocidal violence, the primacy of state sovereignty which complicates intervention, the absence of dedicated enforcement mechanisms and the politicization of genocide recognition. The paper argues that the failure to protect doesn't lie in normative intent but instead in structural and systemic inabilities to translate normative aspirations into actual prevention and punishment. The study ultimately states, that although the United nations has developed a vigorous normative system of genocide prevention, its actualization and implementation potential continues to be severely limited because of a variety of reasons and concludes that closing the gap between normative ideals and successful operationalisation requires not only a strengthening of institutional provisions and enforcement mechanisms, but also a radical change in the political will and accountability of the UN member states.

Keywords: United Nations (UN), UN Genocide Convention, Responsibility to Protect (R2P) doctrine, Genocide, Crimes against humanity

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1. Introduction

Originally envisioned in 1944 by Raphael Lemkin, Genocide is counted among the most egregious assaults on human rights and international law, defined as an attempt aimed at destroying, in part or in entirety, a national, ethnic, religious or racial group. It constitutes the organised destruction of an identity-based group through a deliberate effort from a coordinated collective working toward eliminating the existence of said group through mass killing, yes, but also through eliminating cultural, social and biological continuity through measures like erasure of culture, forced sterilisations and population dislocations (Lemkin, 1944; Schabas, 2009).

It was years after many harrowing events like the Armenian genocide, the Holodomor and the Holocaust, that an international community resolution was eventually codified after World War II's catastrophe in the shape of the United Nations Convention for the Prevention and Punishment of the Crime of genocide, 1948, which became the first human rights treaty passed by the United Nations General Assembly. The UN Convention was an unprecedented treaty in global law since it defined genocide as an abhorrent offence and also enunciated the responsibility of states for preventing and penalising its perpetration. This legal and ethical commitment also bestowed a certain responsibility upon global organisations, most importantly, the United Nations, to prevent and react to such horrors. It became the UN's responsibility as an organisation to anticipate early warning signs, intervene diplomatically or forcefully when required, and ensure accountability for mass atrocity crimes.

Although this normative framework for preventing genocide had been established, post-war times were characterised by recurrences of such mass atrocities - Rwanda, Bosnia and Srebrenica and Darfur, Sudan being prominent among them (Power, 2002; Totten & Bartrop, 2006). These occurrences revealed a persistent gap between normative commitment and actualisation in handling such undertakings internationally. They were not mere lapses in execution but rather indicated deeper structural deficits within the United Nations system that stymie its effectiveness in countering acts of genocide. The ineffectiveness of the UN's reaction to these human rights crises wasn't just a failure in terms of technique but an indicator of the absence of coordinated sharing of information, inadequate communication and a lack of integration between human rights vigilance and security planning, along with untimely execution of procedures since the UN's reaction proved to be delayed, disjointed and lacking in promptness.

Moreover, occurrences like these further underscore the paralysing effects of political standstills between the UN Security Council, whereby strategic priorities between permanent members are regularly delayed and derailed decisive interventions as the veto system hinders consensus, rendering the council ineffective in timely responses during crisis moments. Another aspect was the recurring use of national sovereignty as an obstacle to outside intervention, which again largely undermined potential timely diplomatic and humanitarian interventions. Consequently, despite how historic the adoption of the UN convention and subsequently the responsibility to protect (R2P) in 2005 was, institutionalised inertia and divided leadership repeatedly nullified the UN's fundamental mandate for the maintenance of global peace and protection for vulnerable people. (Global Centre for the Responsibility to Protect n.d.).

This paper emphasises the major systemic weaknesses that lead to a lack of enforcement and actualisation of the normative aspirations of the UN genocide convention-

(1) The evidentiary standard of proving specific intent (dolus specialis) of genocidal violence.

(2) The primacy of state sovereignty, which complicates intervention.

(3) The absence of dedicated enforcement mechanisms.

(4) The politicisation of genocide recognition.

The goal is not just to document failure but also to determine the causes of institutional stasis and explore avenues for serious reform.

2. Conceptual Foundations and Normative Significance

2.1 The United Nations convention on the prevention and punishment of Genocide

The first human rights treaty to be codified under international law- The UN Genocide Convention was adopted on 9 December 1948- it was envisaged directly as a result of atrocities of the Holocaust and was driven to advocacy by Raphael Lemkin.

The convention came into force in the year 1951 and has since been ratified by over 150 states. It enshrines genocide as a crime under international law and places a dual responsibility on states to prevent and punish acts of genocide. It defines genocide as "*any act committed with an intent to destroy, in whole or in part, a national, ethnic, racial or religious group, including killing, serious harm, infliction of life-destroying conditions, prevention of births, and forced child transfers"* (United Nations, 1948, Article II).

Most importantly, the convention also affirms the universal criminality of genocide regardless of whether it is committed in times of peace or war, while also stipulating that it is punishable regardless of whether it is done by government agents or by individuals. The Convention makes genocide, conspiracy, incitement, attempt, and complicity in genocide criminal. It also provides states with the power to invoke United Nations organs to initiate preventive measures, which bridges normative commitments and institutional arrangements.

The UN convention, therefore, on account of its normative standards, imposes several binding obligations on its signatories:

- States must take all measures within their power to prevent genocide, both within their territory and also abroad, once aware of potential risk.
- The states must punish and prosecute the individuals guilty of inciting, attempting, conspiring to, committing or being complicit in acts of genocide, irrespective of whether they are individuals, state actors or military officials.
- The signatory states are obliged to incorporate the UN convention into their national legal systems by empowering the domestic courts to try perpetrators.
- States must collaborate with other countries and international tribunals in bringing the perpetrators to justice.

Naturally, the convention places an obligation on the signatory states not to commit acts of genocide themselves. Along with the United Nations genocide convention, another global commitment of extremely high value in the context of genocide prevention is the Responsibility to Protect (R2P) doctrine.

2.2 Responsibility to Protect (R2P) doctrine

The R2P doctrine is a global political commitment which was unanimously adopted at the 2005 United Nations global summit aimed at preventing crimes against humanity, war crimes, ethnic cleansing and acts of genocide. The core idea that the doctrine represented was that sovereignty is a duty rather than a privilege. It is this idea that is further expanded through its three foundational pillars-

> **1**. *The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity, ethnic cleansing, and their incitement.*
>
> **2.** *The international community has a responsibility to encourage and assist States in fulfilling this responsibility;*
>
> **3.** *The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the UN Charter"* (United Nations General Assembly, 2005 World Summit Outcome).

A crucial dimension of the R2P doctrine is that it prioritises preventive diplomacy and early warning over post-facto humanitarian intervention, force and other such coercive measures should only be taken as a last resort, and the UN Security Council should approve of any military action to be taken. R2P was a landmark doctrine as it represented a huge shift from the right to intervene towards a duty to protect (Evans, 2008; Mamdani, 2010). It was a normative change in international law and diplomacy, having moral and legal authority, affecting how mass atrocities are perceived and dealt with.

Both the UN genocide convention and the responsibility to protect doctrine represent two significant advancements in the development of international norms about human life. While the UN convention defined genocide and made it a crime by establishing a legal obligation to prevent and punish it, the R2P doctrine extended this concept of genocide by integrating this responsibility with both state and international collective action. Taken together, these two represent a crucial change in morality and in law, which transformed the global landscape from the passive denunciation of atrocities to an active duty of taking actions to stop and prevent them from happening ever again.

However, as history stands, the mere existence of these frameworks has not been enough for their effective implementation. The UN genocide convention has been criticised for being invoked inconsistently or too late, as well as for having a high evidentiary burden and for lacking enforcement mechanisms. The R2P, while having a broader scope, is still non- binding, which leads to its enforcement being dependent on political will, therefore leading to selective application. In both contexts- the UN convention and the R2P- geopolitical factors, different interpretations of state sovereignty and the lack of global agreement on what qualifies as a "trigger" for intervention have frequently compromised the framework's goals.

These tensions have frequently exposed the gaps between principle and practice. From Rwanda to Srebrenica in the 1990s to the more recent cases of Syria and Myanmar, the international community has failed to take decisive actions in the face of mass atrocities (Power, 2002; Hinton, 2012; Moses, 2019). The difficulties encountered in the enforcement of the UN convention and the R2P doctrine are not only operational but, as the following section will examine, also structural, stemming from conflicts among politics, the law, and the ever-changing standards of international participation.

3. The evidentiary standard of proving specific intent (dolus specialis) of genocidal violence

According to article II of the UN genocide convention

"Genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such" (United Nations, 1948, Article II).

This phrase imports two levels of intent –

- General intent- The deliberate commission of the underlying acts (killing, causing serious harm, etc.)
- Specific Intent (Dolus Specialis)- The mental determination to destroy the targeted group.

A core legal and operational challenge stems from the requirement to prove specific intent or dolus specialis, which refers to a heightened form of specific or special mental criminal intent that goes much beyond general or even malicious intent. It means that the perpetrator not only intended to commit the act but also did so with a specific purpose and or goal. Despite having its roots in the legality principle, this high standard of proof creates substantive and procedural obstacles to accountability.

3.1 Intent is Rarely Documented

Perpetrators of a genocide rarely express outright genocidal intent in overtly written or verbalised terms. As opposed to military orders or battlefield logs that may reveal general operational goals, genocidal intent is mostly internal, coded or embedded in the larger narratives of marginalisation and exclusion. For instance, speeches with dehumanising propaganda aimed at inciting violence may be potent indicators, but decisively proving that they reflect a collective or an individual will to destroy a group remains a very significant burden.

3.2 Reliance on Circumstantial Evidence

Circumstantial evidence, such as the volume of killings and patterns of systematic destruction have been permitted by international courts to infer intent, but when civilian deaths can be ascribed to armed conflict rather than a purposeful extermination policy, defence strategies can often take advantage of this ambiguity to undermine the claim of specific intent.

3.3 Group Identity and Ambiguity

The convention defines protected groups as "*a national, ethnic, racial or religious group*" (United Nations, 1948).

However, in many contemporary conflicts, groups may overlap (for example, political and ethnic) or identities may be disrupted. Because of this, it is challenging to demonstrate that the offender's intent was hyper-fixated on a group that fits the strict definition of the UN convention rather than on regional populations or political rivals. This high bar for proving specific intent massively hinders early prevention efforts as well as prosecutions. State parties are required by the convention to both prevent and punish acts of genocide; however, until there is convincing proof of dolus specialis, states and international organisations like the UN Security Council are hesitant to declare ongoing atrocities as genocide. This situation was observed both in the 1994 Rwandan genocide as well as in the Rohingya crisis of Myanmar (ICTR, 1998; UN, 2014 Framework of Analysis). Many early warning indicators, like mass violence, incitement, targeting a group's identity, etc., were prevalent in both these cases, but the absence of clear evidence of specific intent caused a huge delay in action as the political actors attempted to evade the moral and legal responsibilities that come with the verdict of a genocide.

Another dimension lies in the fact that, since proving dolus specialis is so arduous, prosecutors frequently opt to pursue alternative charges other than that of genocide, which fall under a lower intent threshold like war crimes or crimes against humanity (Sadat, 2016; Schabas, 2001)

This can lead to successful convictions, but it denies the victims the moral and symbolic recognition of having survived a genocide and also undermines the normative framework. In many cases, even when atrocity crimes were proven, the accused genocidaires have been cleared of charges of genocide, including at the ICTY and ICC, just because the prosecution was not able to establish specific intent. Legal precedents are further complicated as prosecutors are discouraged by this judicial conservatism- a reluctance to broaden the definition of genocidal intent.

Aside from the prosecution and punishment aspect, the legal burden also substantially hinders diplomatic and humanitarian efforts, as the states and international

organisations often wait for legal confirmation before taking any robust actions, which leads to delayed interventions, failure to invoke the R2P and inadequate protection of the vulnerable population.

Requiring proof of dolus specialis has deep structural flaws in the current framework for responding to genocide, as evidenced by delayed interventions, under-prosecution and the symbolic erasure of the victims' experiences. These results show a huge discrepancy between the conventions' normative ideals and their operational value. The international community must address the legal inflexibility that has repeatedly delayed prompt action if it is to carry out its responsibility of preventing and punishing acts of genocide.

4. The primacy of state sovereignty, which complicates intervention

The idea of sovereignty affirms a state's authority over its internal affairs, wherein it is free from any external interference. However, this principle has come under scrutiny when it is contrasted with the moral as well as legal imperatives to prevent or punish mass atrocities like genocides. According to the core idea of state sovereignty, states have extensive discretion over domestic matters, including how to treat their own citizens. This can be used as a legal shield when states are complicit in genocide. Even in the face of credible evidence of mass atrocities, any international intervention that is done without state consent risks being labelled as illegal under international law unless it is explicitly authorised by the Security Council- a process that is extremely complicated and often hindered by geopolitical deadlocks and the use of veto power by the permanent members.

While the UN genocide convention obliges the states to prevent and punish acts of genocide the implementation of this has been severely restricted by the idea of sovereignty as the states often invoke Article 2(7) of the UN Charter, which prohibits intervention "*in matters which are essentially within the domestic jurisdiction of any state* (United Nations, 1945, art. 2(7))*."* In this regard, states have the power to censor evidence, influence domestic legal systems and even bar investigators from entering.

It was in order to balance the assertion of sovereignty with the obligation of the global community to prevent war crimes that the doctrine of R2P was created, which changed sovereignty from just a right to a duty. According to the R2P, the global community has a duty to take action when a state is unwilling to protect its citizens against a genocide. However, despite its normative potential, R2P is still applied unevenly based on political willpower, as both the UN genocide convention and the responsibility to protect doctrine are essentially reliant on consensus and collective actions of the international institutions like the United Nations Security Council, where sovereignty is perhaps most powerfully asserted.

4.1 The Veto as a Sovereign Defence Mechanism

The UNSC's most consequential structural impediment is perhaps the veto power, which grants its five permanent members – Russia, United States of America, China, France and the United Kingdom the ability to unilaterally block Security Council resolutions.

On initial consideration, the veto power of the permanent five (P5) states might just look like a procedural or diplomatic device. Yet, in operation, its deployment is really about protecting sovereignty. When a P5 member vetoes intervention against a state committing atrocities, it is actually defending that state's sovereignty and right to control its affairs internally—no matter if that means committing or facilitating genocide. The P5 members also veto to safeguard their own future sovereign independence by vetoing a resolution that might establish a precedent for international intervention in their own domestic affairs in the future.

Furthermore, the veto authority is exercised less in defence of the international legal principles and more to shield client states, to preserve regional influence and to prevent perceived encroachments on sovereign prerogatives even in the face of overwhelming evidence of crimes against humanity. A prime example of this is the Syrian crises as ever since the initial outbreak of the Syrian war, in the year 2011, Russia and China have exercised their veto power on about a dozen resolutions that aimed at exerting pressure on the Assad regime, this has been done regardless of the overwhelming amount of credible evidence of war crimes, chemical attacks and a widespread agenda of civilian targeting (Mamdani, 2010; Orford, 2002). Despite multiple calls for the invocation of the R2P doctrine, unified international action has failed to materialise.

Since the Security Council alone can lawfully sanction the use of force according to the UN Charter. The veto then signifies- No prevention of genocide without a great power agreement and No R2P without state acquiescence, or P5 concurrence. This not only delays or derails international action but also erodes the very credibility of international legal will, casting legitimate doubts on whether the prevention of genocide is genuinely a universal commitment and obligation or merely a selectively applied political instrument.

4.2 Sovereignty-Driven Fear of Precedent and Reciprocity

International interventions are generally not undertaken by states because of the fear that undermining another country's sovereignty today could open the doors for future interventions against themselves. This fear emanates from the rigid belief that sovereignty is sacrosanct even when it masks or enables crimes against humanity. Many emerging powers, authoritarian states and even some democracies oppose the robust application of the R2P doctrine because it might legitimise interference in what they deem to be domestic affairs.

Many governments fear a slippery slope situation wherein any measure that weakens a state's sovereignty to address a particular crisis can open the floodgates for the international community to interfere in future domestic actions like repression of dissent or any counter-insurgency campaigns as atrocities that require intervention. This logic of self-preservation, grounded in the defence of national sovereignty, often results in inaction and international fragmentation when it is most needed in the prevention of mass atrocities like a genocide.

4.3 Legal Constraints Reinforce Sovereign Impunity

Sovereignty restricts the power of international legal mechanisms such as referrals to the International Criminal Court (ICC). If a state does not accept the ICC's jurisdiction, it may simply use sovereignty to forgo cooperation and act outside international law. States can block investigators' access, refuse extradition and withhold evidence all on the grounds of sovereignty. A non-signatory state to the Rome Statute[2] finds itself nearly shielded from prosecution, aware that without the backing of the UN Security Council (which can again be vetoed), it cannot really be subjected to the law. Sovereignty thus becomes a jurisdictional firewall that prevents prosecution for genocide even when the international community recognises the crime.

4.4 Sovereignty as a Normative Counterweight to R2P

Even with the normative transformative of the R2P positing sovereignty as a "responsibility" as opposed to an absolute entitlement, this idea is nonetheless beset by conventional sovereignty-fundamentalist thinking. States remain highly suspicious of it, anticipating that R2P will be used as a masked pretext for regime change or geostrategic interference. A prime example of this was the 2011 Libya intervention, which was first justified in terms of R2P and soon became a regime-overthrowing intervention (Moses, 2019; Evans, 2008).

This tainted many states—especially from the Global South—against the doctrine's legitimacy. The backlash called for "Responsibility while Protecting" (RwP) and other sovereignty-sustaining qualifiers, but these have failed to resolve the underlying tension, and, in the end, the continued persistence of sovereignty as a ubiquitous international norm constrains the leverage of doctrines such as R2P, especially when used in politically charged situations. (Genser, 2018)

5. The absence of dedicated enforcement mechanisms

The 1948 UN Genocide Convention and the Responsibility to Protect (R2P) doctrine of 2005 stand as major moral and legal instruments to give practical implementation to the international commitment to prevent and punish mass atrocities, especially genocide but a glaring structural weakness becomes evident when one realizes that enforcement mechanisms dedicated to ensure compliance, punish violators of such laws, or require protective action have never been constituted under these legal frameworks. In this enforcement absence, so much depends on the ad hoc nature of the international reaction to genocide and without institutionalised enforcement tools, these norms largely remain as variables of aspiration.

5.1 No Automatic Intervention Mandate

Though the Genocide Convention requires states to "prevent and punish" genocide, it has no provisions for who should definitely determine if a genocide is taking place, how to actually prevent it, nor what should happen if the state refuses or neglects to carry out its duty. This legal uncertainty greatly impairs the preventive powers of the Convention.

The three key Gaps in Enforcement in this context are-

- -No designated authority to make a binding legal determination that genocide is underway.
- -No timeline for triggering international response or intervention.
- -No procedural obligation on the UN or member states to act once genocide is confirmed.

And since there is no official, neutral body designated by the Genocide Convention to determine when a genocide is occurring, countries debate and negotiate at

[2]The Rome Statute (1998) created the International Criminal Court (ICC), establishing its jurisdiction to prosecute individuals for genocide, crimes against humanity, war crimes, and the crime of aggression.

the UN Security Council or General Assembly, trying to agree by consensus or vote but this is a political process and not a legal one and everything ultimately depends on diplomatic alignment, national interests, and sometimes the vetoing power of the P5 states.

Furthermore, the Convention does not explain the meaning of "prevention." The word "prevent" sounds clear, but the Convention does not tell countries what they should do. Do they send soldiers? Do they offer help with peace talks? There is no guidance. Without clear rules, countries can choose to do nothing; they can simply claim they were not sure what the Convention expected. UN peacekeepers operate, but they are not an automatic part of the Genocide Convention. They often lack the authority or the power to act. Another main issue is that UN peacekeeping missions must receive authorisation from the Security Council. They require the host country's agreement, which usually comes from the government that may be committing the genocide in the first place. Furthermore, many missions have limited duties, so they cannot use force unless someone attacks them.

5.2 No dedicated enforcement body

In the past, when the world reacted to genocide, like in Rwanda and also the former Yugoslavia, it set up courts for a short time and for a specific event. The UN Security Council set up the International Criminal Tribunal for Rwanda (ICTR)[3] in 1994, after the genocide had happened, killing over 800,000 people, while the International Criminal Tribunal for the Former Yugoslavia (ICTY)[4] came into being in 1993 because of the terrible acts during the Balkan wars. These courts helped build international criminal law and set examples for trying genocide, but they came after the events, not before (ICTR, 1998; Schabas, 2009).

The International Criminal Court (ICC)[5] began its work in 2002 after the Rome Statute became law. This court established a permanent international judicial body. But the ICC still struggles to enforce the Genocide Convention as structural and political limitations affect this ability. The court uses its power only over states that ace pt the Rome Statute and several large countries, such as the United States, China, Russia along with India, do not accept the statute therefore the court does not reach them and even if the Security Council refers a case to extend the court's power, a veto by one of the five permanent members can effectively stop it which makes justice for victims of genocide a part of major power politics, instead of a neutral legal process.

In this way, weak enforcement mechanisms have serious practical consequences for both genocide prevention and humanitarian protection, as in the absence of definitive mechanisms, there are no agreed-upon procedures for the rapid deployment of peacekeepers or observers; therefore the diplomatic engagement is slow and diffuse, allowing atrocity to occur uncontested, and ultimately even allowing the atrocities to increase.

With weak enforcement and no consequences, the perpetrators have no fear of international consequences for extreme violence and/or acts of genocide, especially if they are in a partnership with powerful states. Ultimately, this lack of enforcement mechanisms further worsens the credibility of the Genocide Convention and the R2P, making it all the more difficult to spark public or political will for the next crisis.

6. The politicisation of genocide recognition

Selective recognition and politicisation of genocide is the uneven and politically driven manner in which states and international institutions recognise (or fail to recognise) acts of genocide. Rather than consistently applying legal definitions, the determination of a genocide, in many cases, happens based on a quasi-political evaluation of which losses to a population or national grouping are great enough to be catastrophes. Thus, some charges of genocidal intent result in acquittals, while in other cases, even after much evidence, massacres remain unpunished or minimally punished. This contradicts the Genocide Convention, the Responsibility to Protect (R2P) and international law in general, and establishes an international norm whereby justice is about politics and not humanity.

6.1 Politics and Power

What gets called a genocide can depend a lot on what the powerful countries want. Big countries have a lot of say at places like the UN Security Council, and they can stop or slow down calls of genocide. For instance, the U.S. called the acts against the Rohingya in Myanmar a genocide in 2022, but hasn't done the same for the Uyghurs in China because of China's strong position and veto power. This makes the rule of treating everyone the same uneven and the determination of atrocities just tools for foreign plans (Moses, 2019; Hinton, 2012).

[3] A UN court established in 1994 to prosecute individuals responsible for genocide and serious violations of international humanitarian law in Rwanda.

[4] A UN court established in 1993 to prosecute serious crimes committed during the conflicts in the Balkans.

[5] A permanent international court established in 2002 to prosecute individuals for genocide, crimes against humanity, war crimes, and the crime of aggression.

6.2 The word “genocide”

Countries often don't use the word "genocide" so they don't have to deal with the legal and moral must-dos that come with it. They might call it "ethnic cleansing" or "civil unrest" to avoid acting. For instance, during the Rwandan Genocide in 1994, the U.S. and the UN tried hard not to say the word "genocide", so they wouldn't have to act on it (Power, 2002; Totten & Bartrop, 2006). This leaves a grey area where atrocities can keep happening without much trouble, especially if countries don't want to hinder their ties with other states or don’t want to get involved in lengthy legal proceedings.

6.3 Money and trade dynamics

Whether a country calls a situation a genocide can also depend on money ties and trade needs. Countries are slow to use the word if it's about a big trading ally or investor. For example, many Muslim-majority countries haven't called out or admitted China's actions in Xinjiang as a genocide, likely because of China's big investments and energy deals (Mamdani, 2010; Moses, 2019). But weaker or less connected countries, like Sudan or Myanmar, get called out more quickly, showing that not everyone is watched the same way when money and global influence are taken into consideration.

6.4 Who Controls the Story?

What gets recognised as a genocide also depends on who is telling the story. Genocides in places with little press or where news is state-controlled are often ignored on the international stage since there isn’t enough evidence, or they are not called out because the state justifies them by changing and shaping their own narratives abroad. But if an event is all over the news—often because of social media sites like X (formerly Twitter)—it's more likely to be seen and reacted to globally.

The way media shapes what the general public thinks and what governments talk about means that many acts don’t cause alarms if the world doesn't hear much about them, no matter how bad they are or that the narratives are twisted to support the justifications of genocide.

Selective acknowledgment and politicization of genocide thus represent a significant threat to the practical and normative potency of the UN Genocide Convention and the Responsibility to Protect (R2P) doctrine as upholding the integrity of the international human rights regime means that in relation to all mass atrocities, free of political or economic self-interest, the international community must stop the strategic manipulation and adopt a neutral, evidence- based and uniform standard.

7. The way forward: reforms and recommendations

While the normative goals and moral authority of the UN Genocide Convention and the (R2P) doctrine are a landmark in world history and international law, the facts remain that both have failed to effectively prevent or punish genocidal violence, which demonstrates inherent structural constraint. Addressing this will require a full agenda for reform, improving legal clarity, legislative capacity, reflecting on the potential to depoliticise recognition of genocide, and addressing the notion of timely prevention. This section communicates the important recommended actions to be taken to develop advances from the gap between aspiration and execution.

7.1 Reforming the Evidentiary Threshold for Genocide

The threshold of demonstrating specific intent to destroy a group, as a whole or in part, remains the most challenging element for prosecutors of genocide. The high evidentiary threshold can delay recognition and, in turn, delay action, and allow the perpetrators an opportunity to operate without consequences. As a result, reforms that can improve the execution of the UN Genocide Convention and the R2P doctrine must adjust the evidentiary threshold back toward a more responsive context for more accountability.

Adopt a Layered Basis of Proof

- Early Warning Signs: Incitement to violence, hate speech, discriminatory policies, systematic discrimination, and publicly seen eruptions of violence should be grounds for immediate diplomatic intervention, sanctions, and international observation. Signs like these should be immediately identified and publicly responded to.
- Accumulation of Concrete Evidence: As evidence accumulates (public announcements, orders, killing patterns, and confirmed intent), action should immediately escalate to include strong preventive measures, ICC referrals, or intervention. This mechanism would establish a continuum of response, linking prevention to prosecution, enabling timely, flexible and immediate action rather than reactive, delayed justice.

Expand the Scope of Intent Inference

Widen standards for inferring genocidal intent:

- Apply circumstantial evidence like patterns of concerted targeted violence, systematic withholding of resources, destruction of

cultural landmarks, or policies aimed at eliminating group identity.

- Codify the jurisprudence of the ICTY and ICTR to accept indirect evidence (e.g., statistical analysis, speech patterns, group-specific effects) as corroboration.
- Admit structural discrimination and economic targeting as expressions of intent, thereby acknowledging repeated harm even beyond mass murder.

Form an Independent Genocide Risk Review Panel

Establish a permanent, autonomous UN expert committee:

- Equip it with investigative authority to detect high-risk circumstances and issue timely warnings.
- Require reporting to the Security Council and General Assembly with binding recommendations for preventive diplomacy.
- Make the panel multidisciplinary (law, political science, digital forensics, regional studies), geographically representative, and immune to political intimidation.

7.2 Rethinking Sovereignty in Atrocity Prevention

In order to enhance the potency of the UN Genocide Convention and the Responsibility to Protect (R2P), there is a need for a radical redefinition of sovereignty. Absolute state sovereignty, as conventionally understood, tends to protect states against external interference even when they are unable to protect their people. The reforms below aim to reconcile sovereign prerogatives with international duties to avoid and deter mass atrocities.

Enhance Regional and Subregional Involvement

- Enfranchise regional organisations (e.g., African Union, ASEAN, EU) as first responders, so that they can coordinate regionally appropriate interventions and forward early warnings.
- Offer international technical and logistical assistance to regional action, with adequate capacity for mediation, quick deployments, or information collection.
- Legitimise regional actors' decisions and alerts in UN settings, thus engaging local expertise and legitimacy in global measures.

Implement a Veto Restraint Protocol

- Tie veto restraint to public transparency, mandating states to justify any veto in open session, subjecting decisions to global scrutiny.
- Institutionalise the "Responsibility Not to Veto" norm, obliging Permanent Members to forego their veto in mass atrocity situations where there is credible evidence.
- Make informal codes of conduct legally binding protocols via UN Charter amendments or formal General Assembly resolutions.

Clarify and Elaborate R2P Pillar Three

- Establish clear rules of engagement and escalation timetables for R2P's third pillar (prompt and decisive action).
- Establish procedural benchmarks like initial investigation, diplomatic measures, targeted sanctions, and protective forces that are adapted to the level/severity of threat.
- Ground collective action in international law, codifying routes for intervention when governments patently fail their protective responsibilities.

7.3 Establishing Dedicated and Independent Enforcement Mechanisms

The ongoing inability to prevent or stop genocides and mass atrocities is partly due to the lack of specialised enforcement tools under the UN Genocide Convention and the Responsibility to Protect (R2P) system. Without effective instruments of enforcement, these standards continue to be aspirational.

Create a Permanent UN Atrocity Response Mechanism

- Establish a standing UN rapid-response force with pre-committed troops, logistics, intelligence experts, and standby funds.
- Facilitate deployment without Security Council unanimity either through a General Assembly mandate or a standing authorisation for designated crisis triggers.
- Develop a public roster of contributing countries and assets, assuring readiness and accountability.

Extend ICC and Hybrid Tribunal Mandates

- Enable wider acceptance of ICC jurisdiction, facilitating universal ratification and cooperative practice.

- Grant regional or situational hybrid tribunals (e.g., Kosovo, Sierra Leone model) the ability for expedited prosecution, victim reparations, and truth commissions.
- Engage international legal capacity-building for local judiciaries, integrating atrocity crimes law into domestic legal frameworks.

Establish Atrocity Prevention Funding and Sanction Mechanisms

- Create Atrocity Prevention Funding and Sanction Mechanisms, along with specific UN funding channels for atrocity prevention (not strictly humanitarian assistance), with the ability to make rapid, flexible disbursement.
- Incorporate atrocity risk analyses into current global sanctions regimes: freeze assets, cut arms transfers, disrupt financial systems supporting perpetrators.
- Mandate periodic reporting of whether such measures are having an effect, with an independent assessment.

7.4 De-Politicising Genocide Recognition

To actualise the protective mandate of the Genocide Convention and the Responsibility to Protect (R2P), the international community needs to break the politicisation of genocide recognition.

Independent Fact-Finding Mechanism

- Create a permanent, independent institution in the UN, separate from the Security Council, with the mission of fact-finding and delivering legal conclusions on genocide.
- Staff the institution with international law specialists, genocide researchers, and regional representatives to ensure expertise and neutrality.
- Require Security Council and General Assembly action based on such findings.

Decentralised Regional Alerts

- Strengthen regional human rights commissions so they can issue genocide alerts and independent research to later report findings.
- Establish official UN mechanisms requiring consideration of such local findings, thus raising voices from affected regions and reducing Western-centric bias.

Transparent Criteria and Reporting

- Enact compulsive public disclosure of the justification for genocide findings, deferrals, or rejections (particularly in Security Council deliberations), guaranteeing that decision-making processes face scrutiny.
- Mandate publication of evidence, methods, and main debates, demystifying the procedural process and preventing politicised, arbitrary refusals.

Normative De-linking from Strategic Interests

- Reform UN protocols to explicitly exclude consideration of political, economic, or strategic interests in R2P activation or genocide recognition.
- Impose principles of impartiality on relevant boards and committees.
- Sanction member states that have been established to have blocked or impeded genocide responses for purposes other than the protection of human life.

Overcoming the systemic deficiencies of the Genocide Convention and the R2P norm will take more than gradual reform; it needs to transform legally, institutionally, and politically. By reframing the evidentiary tests for genocidal intent, reshaping the boundaries of state sovereignty in the presence of mass atrocities, having specific enforcement mechanisms, and shielding genocide identification from political interference, the international community can progress toward filling the gap between promise and performance. These reforms are not only necessary for the rehabilitation of the credibility of the UN's protective mandates but for the realisation of the commitment to "never again" in both principle and practice.

8. Conclusion

The Genocide Convention and the Responsibility to Protect (R2P) are landmark expressions of the international community's moral commitment to the worst of crimes. But as this paper has shown, they are also symbols of a broader governance crisis – where normative ambition is constantly being undermined by legal ambiguity, institutional inertia and political expediency. Despite their conceptual sophistication and symbolic power, both the Convention and R2P have failed in practice to prevent or punish genocide. The evidentiary hurdles of dolus specialis, the dominance of state sovereignty, the lack of coercive enforcement mechanisms and the political nature of genocide recognition create a perfect storm that renders meaningful intervention impossible.

It's no longer enough to tweak the legal frameworks or expand the monitoring mechanisms. The failures in Rwanda, Darfur, Myanmar and Syria show a systemic unwillingness – not a lack of awareness or capacity – to act decisively in the face of mass atrocities. Fixing this gap requires more than procedural reform; it demands a paradigm shift in international relations, wherein human security trumps strategic calculus. Institutional strengthening must be accompanied by structural accountability – where powerful states can't invoke or block humanitarian principles based on their geopolitical interests. Until political will is mobilised as much as political rhetoric, the Convention and R2P will remain, as this paper argues, conventions without consequence – normative achievements with no operational legacy.

In conclusion, bridging the gap between promise and performance will require a renewed commitment to multilateralism, justice and impartiality. Only then can we get closer to realising the original promise of "never again."

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