

MODULE #4 HANDOUT: CRIMINAL JUSTICE TOOLS AND RESILIENCE FACTORS

Document #1: Criminal Justice Tools for Mass Atrocity Prevention¹

Common Objective: Criminal justice prevention tools promote positive, protective relationships with the public. These relationships are based on upholding rule of law and human rights, and preventing violence and abuse of state power, particularly against vulnerable and marginalized groups.

Questions:

- Which tools are you already using? Are they effective?
- Which of these tools could be most useful to you in reducing atrocity risk?
- Are there other examples or tools you would add to or change in the **blue** Criminal Justice Tools column?

¹ This table and select prevention tools are discussed in chapter 3 of the [Guide to Criminal Justice and Preventing Mass Atrocities](#). The table's structure is adapted from Scott Straus, [Fundamentals of Genocide and Mass Atrocity Prevention](#) (United States Holocaust Memorial Museum, 2016), 135–38. Contents reflect a compilation of tools and recommendations from different sources, such as United Nations, [Framework of Analysis for Atrocity Crimes: A Tool for Prevention](#) (2014); Report of the UN Secretary-General, [Implementing the Responsibility to Protect](#), A/63/677 (Jan. 12, 2009), paras. 14, 17, 21, 24–25; Report of the UN Secretary-General, [Responsibility to Protect: State Responsibility and Prevention](#), A/67/929-S/2013/399 (July 9, 2013), paras. 30–55; Jacob Blaustein Institute for the Advancement of Human Rights, [Manual on Human Rights and the Prevention of Genocide](#) (2015), 7–8; United States Holocaust Memorial Museum, [“Lessons Learned in Preventing and Responding to Mass Atrocities”](#) (2022); United States Holocaust Memorial Museum, [“Tools for Atrocity Prevention”](#) (2022).

Document #1: Criminal Justice Tools for Mass Atrocity Prevention

RISK FACTORS (see lists on page 8)	PREVENTION MEASURE	TOOLS	CRIMINAL JUSTICE TOOLS	INTENDED EFFECT
<p>Instability: Armed conflict or political turmoil</p> <p>Weak or abusive governance structures</p>	<p>Prevent conflict</p> <ul style="list-style-type: none"> Peacefully resolve disputes Ensure fairness and equal rights Promote economic opportunities and livelihoods 	<ul style="list-style-type: none"> Conduct early warning analysis Hold spaces to foster dialogue Share power among rival groups Ensure nonviolent means to compete for power Reduce poverty or strengthen economic equity Promote inclusive growth and sustainable livelihoods Increase legitimacy of state institutions (see next page) 	<ul style="list-style-type: none"> Integrate training and education for judges, lawyers, and police in mass atrocity prevention (understanding mass atrocities, early warning analysis and risk assessment, prevention tools) Strengthen capacity in early warning analysis by dedicating resources and staff and establishing cross-agency coordination Implement community dialogues and policing, especially in vulnerable communities Pursue deradicalization strategies inside and outside justice sector Train law enforcement in de-escalation strategies Increase access to justice for vulnerable communities (e.g., minorities, economically disadvantaged, women, children, disabled) Plan ahead for emergencies Coordinate and share information with state agencies responsible for addressing root causes relating to economy, social services, youth, women, or group rights 	<p>Reduce the risk of violent conflict</p>

MODULE 4: BEFORE MASS ATROCITIES: CRIMINAL JUSTICE TOOLS FOR PREVENTION

RISK FACTORS (see lists on page 8)	PREVENTION MEASURE	TOOLS	CRIMINAL JUSTICE TOOLS	INTENDED EFFECT
<p>Instability: Armed conflict or political turmoil</p> <p>Weak or abusive governance structures</p>	<p>Promote rule of law</p> <ul style="list-style-type: none"> Increase legitimacy of state institutions 	<ul style="list-style-type: none"> Hold leaders accountable and end impunity Promote equality and equal access to law Clamp down on corruption 	<ul style="list-style-type: none"> Prosecute officials who break the law and commit serious crimes (mass atrocities, public corruption, human rights violations) Promote rule of law reform tied to atrocity risks: <ul style="list-style-type: none"> Strengthen professional ethics in the justice sector (training, enforcement of consequences for police misconduct or judicial corruption) Increase efficiency and reduce judicial delay Improve access to justice for vulnerable communities (e.g., translation, legal awareness outreach, lower costs, paralegal services) Uphold nondiscrimination and equality in administration of justice Uphold public integrity and combat public corruption 	<p>Increase public confidence in functioning of government, thereby decreasing distrust that leads to instability</p>

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RISK FACTORS (see lists on page 8)	PREVENTION MEASURE	TOOLS	CRIMINAL JUSTICE TOOLS	INTENDED EFFECT
<p>Instability: Armed conflict or political turmoil</p> <p>Weak or abusive governance structures</p>	<p>Promote rule of law</p> <ul style="list-style-type: none"> Enhance legal framework and oversight mechanisms for human rights and mass atrocity prevention² 	<ul style="list-style-type: none"> Support early warning mechanisms Empower national human rights commissions Ensure Universal Declaration of Human Rights concepts are reflected in domestic constitution and other legal frameworks Establish ombudsman for atrocity prevention Ratify international human rights treaties Ratify the Rome Statute of the International Criminal Court (ICC) Cooperate with ICC and other international and regional legal bodies Cooperate with United Nations fact-finding missions and special procedures 	<ul style="list-style-type: none"> Review existing legal framework to identify components relevant for mass atrocity prevention as well as legislative gaps Identify and engage with domestic institutions that support criminal justice oversight, such as ombudsman or human rights commission Build ties with international institutions that can help strengthen criminal justice oversight, human rights protection, and other international legal standards, such as United Nations agencies; international or regional courts, tribunals, or claims commissions; and international organizations that support justice sector reform 	<p>Strengthen legal, political, and normative mechanisms to promote human rights protections and institutionalize mass atrocity prevention</p>
	<p>Deepen democracy and restrain abuse of power</p>	<ul style="list-style-type: none"> Ensure fair, peaceful multiparty elections Institutionalize rights to expression and association Promote independent, strong civil society Safeguard independent media Preserve judicial independence Clamp down on corruption 	<ul style="list-style-type: none"> Strengthen police capacity to protect civilians and safeguard civil rights during public protests Build constructive relationship with the press Avoid intimidation or harassment of journalists and human rights defenders Open channels of communication with civil society organizations Strengthen independence of judiciary 	<p>Create mechanisms that weaken the authoritarian power of the state and that restrain escalation of atrocities</p>

² United Nations General Assembly, *Report of the Secretary-General, Implementing the Responsibility to Protect*, UN Doc. A/63/677 (2009), para. 17.

MODULE 4: BEFORE MASS ATROCITIES: CRIMINAL JUSTICE TOOLS FOR PREVENTION

RISK FACTORS (see lists on page 8)	PREVENTION MEASURE	TOOLS	CRIMINAL JUSTICE TOOLS	INTENDED EFFECT
Instability: Armed conflict or political turmoil Weak or abusive governance structures	Increase legitimacy of elections	<ul style="list-style-type: none"> Strengthen fair, transparent election management bodies Promote dialogue between competing political parties Ensure fair competition for all political parties 	<ul style="list-style-type: none"> Support judicial decisions regarding election outcomes, so long as those decisions are impartial and independent 	<p>Reduce the likelihood that an election will lead to violence</p>
	Security sector reform	<ul style="list-style-type: none"> Preserve civilian control over the military Train police on human rights, rules of engagement, appropriate use of force Train military on rules of engagement, laws of armed conflict (including necessity, distinction, and proportionality) Support disarmament, demobilization, and reintegration of former combatants 	<ul style="list-style-type: none"> Train police on human rights, rules of engagement, and appropriate use of force Train police on de-escalation strategies Enforce police codes of ethics and conduct Establish transparent disciplinary procedures for police misconduct 	<p>Encourage security officials to treat civilians with respect and protect their rights</p>
Prior violence	Promote rule of law <ul style="list-style-type: none"> End impunity and ensure justice for past victims 	<ul style="list-style-type: none"> Promote accountability for officials and other senior leaders who commit human rights violations Implement locally appropriate transitional justice processes for past mass atrocities Create memorials or establish traditions to remember victims of past violence Carry out legal and institutional reforms that signal commitment not to repeat past violence or injustice 	<ul style="list-style-type: none"> Enhance capacity in investigating and prosecuting bias-motivated violence (evidence collection and preservation, witness protection) Build capacity in prosecuting sexual and gender-based violence Support and participate in restorative justice programs Initiate a broader review of how to improve accountability across the criminal justice system 	<p>Signal to officials and society that human rights violations and mass atrocities are neither acceptable nor condoned by the state</p>

MODULE 4: BEFORE MASS ATROCITIES: CRIMINAL JUSTICE TOOLS FOR PREVENTION

RISK FACTORS (see lists on page 8)	PREVENTION MEASURE	TOOLS	CRIMINAL JUSTICE TOOLS	INTENDED EFFECT
<p>Prior discrimination against a particular group</p> <p>Transformative or exclusionary ideology</p>	<p>Reduce discrimination and promote equality</p>	<ul style="list-style-type: none"> Enforce constitutional protection against discrimination Protect human rights of vulnerable groups Ensure fair working conditions and secure economic and livelihood opportunities Provide equal access to education 	<ul style="list-style-type: none"> Enhance training on application of nondiscrimination laws and constitutional principles Promote and safeguard vulnerable groups access to justice and government services Track bias incidents Track, investigate, and prosecute bias-motivated crimes and violence Encourage diversity in hiring and promotion among police and justice system personnel so that the justice sector reflects the populations it serves 	<p>Reduce prejudice, stereotypes, and exclusion, and foster the attitudes that could restrain escalation</p>
	<p>Promote pluralism, inclusion, and tolerance</p>	<ul style="list-style-type: none"> Measures to combat incitement to discrimination or violence based on racial or religious hatred Promotion of pluralism and tolerance in presidential speeches Promotion of pluralism and tolerance in political party statements Interfaith dialogues Reconciliation programs Intercultural celebrations or public holidays recognizing diverse religious or cultural traditions 	<ul style="list-style-type: none"> Strengthen awareness of dangerous speech (e.g., through networks with civil society) Develop strategies to counter hate propaganda and combat or prosecute incitement to discrimination or violence (consistent with applicable laws and human rights, such as freedom of expression) Promote pluralism and tolerance in justice sector mission statements, public speeches, and multicultural celebrations Provide justice sector training in unconscious or implicit bias Conduct public outreach by all parts of the justice sector to diverse neighborhoods and communities Support and participate in restorative justice programs 	<p>Create an alternative framework of political legitimacy besides exclusionary nationalism</p>

Criminal Justice Tools Chart: How Warning Signs and Triggers Can Correspond to Risk Factors

Instability: Armed Conflict or Political Turmoil

- Adverse regime change
- Acts of terrorism
- High-level assassination
- Political tension arising from severe political repression
- Growth of armed opposition groups or radical movements
- Imposition of emergency laws that curtail fundamental rights
- Mobilization of the security apparatus against protected groups or individuals
- Stockpiling of weapons
- Sudden economic changes or downturns

Weak or Abusive Governance Structures

- Insufficient protections in national legal framework
- Justice sector lacking sufficient resources, representation, and training
- Lack of judicial independence
- High levels of corruption
- Removal of moderates from public service
- Limited training on human rights, humanitarian law
- Limited oversight over security sector's compliance with international humanitarian law
- Restrictions on civil society
- Restrictions on media
- Restrictions on humanitarian services
- Increased acts of violence against women and children, including sexual violence as a tool of terror
- Imposing life-threatening conditions on or forcibly displacing or transferring protected groups to camps, ghettos, or other assigned locations

Prior Violence

- Past mass atrocities (genocide, crimes against humanity)
- Record of serious human rights violations

Prior Discrimination against a Particular Group

- Marking of people or their property based on group identity
- Mobilization of security apparatus against protected groups
- Discriminatory legislation or policies (including denationalization or de facto statelessness) that limit protected group's access to equal rights or political representation
- Imposing life-threatening conditions on or forcibly displacing or transferring protected groups to camps, ghettos, or other assigned locations

Transformative or Exclusionary Ideology

- Apocalyptic public rhetoric
- Increase in inflammatory rhetoric, incitement of violence, or hate speech against protected groups
- Increased tension and polarization

Document #2: Prevention Tools in Before, During, and After Stages. While these tools are generally suited to the prevailing conditions of each stage, they could be applicable in other stages depending on context and in light of how stages can overlap. This table also appears in chapter 3 of the [Guide to Criminal Justice and Preventing Mass Atrocities](#).

BEFORE	DURING	AFTER
<ul style="list-style-type: none"> Integrate mass atrocity prevention training and education Build community relationships Conduct early warning analysis Track dangerous speech and hate incidents Respond sensitively to hate crimes and bias-motivated violence Prosecute past violence Support restorative justice Safely manage public protests Plan ahead for emergencies Promote rule of law with a focus on reducing atrocity risk (consider legal framework for prevention; access to justice; professional ethics; anti-corruption; and human rights, including nondiscrimination and economic and livelihood issues) 	<p>Protect civilians and targeted groups</p> <ul style="list-style-type: none"> Deploy emergency plans (developed <i>before</i>, for quick response and adaptability in fluid environment) Conduct public consultations and community outreach (to understand threats and protection needs, gather intelligence on perpetrators, or deescalate tensions) Ensure courts uphold fair trial rights and avoid arbitrary arrest and detention, torture, and enforced disappearances Where possible, apply personal discretion to mitigate risk and save a life <p>Apply criminal justice strategy that applies pressure or incentives to deter (potential) perpetrators</p> <ul style="list-style-type: none"> Reaffirm and enforce professional oaths to uphold Constitution, rule of law, and codes of conduct Investigate and prosecute suspected atrocity crimes Lawfully apprehend suspected perpetrators Disrupt criminal networks that enable armed groups or mass atrocities (e.g., money laundering; trafficking in drugs, arms, precious gems, persons; and illegal natural resource extraction) Establish appropriate communication and information sharing with other security agencies, media, and nongovernmental organizations Seek cooperation with international organizations and fact-finding missions 	<p>Develop transitional justice approach, which may include</p> <ul style="list-style-type: none"> Criminal trials (domestic, hybrid, international) International non-prosecutorial legal bodies (International Court of Justice, international claims commissions, United Nations human rights committees and special procedures) Fact-finding or truth-telling mechanisms Restorative justice Reparations Lustration/vetting Memorialization Rule of law reform <p>Draw from tools used in the before and during stages to help establish security and reduce ongoing or renewed risks</p>

Document #3: Combined List of Resilience or Mitigating Factors with a Focus on Criminal Justice³

Sources of resilience are the factors that help avoid, mitigate, or counter risk. They constitute the conditions that contribute to peace and stability.

General Sources of Resilience⁴

SOCIAL COHESION	<ul style="list-style-type: none">• Religious, ethnic cohesion• Social, economic, and political inclusion
GOOD GOVERNANCE	<ul style="list-style-type: none">• Strong rule of law• Transparent and functioning democratic system• Constraints on the power of the chief executive
ECONOMIC STRENGTH	<ul style="list-style-type: none">• Trade openness• Equality of economic opportunity• Sustained economic growth

Additional Factors Relating to Good Governance and Civil Society

The United Nations Framework Analysis for Atrocity Crimes cites as a risk factor “an absence of mitigating factors.”⁵ These mitigating factors describe conditions relating to democratic governance, the strength of civil society, and international engagement:

- Early warning mechanisms to prevent mass atrocities
- Strong, organized, and representative national civil society
- Support from international civil society
- Independent and diverse national media
- International media access
- Resources and allies to protect targeted groups or individuals
- Willingness of or incentives for parties of conflict to engage in dialogue
- Openness or establishment of political or economic relations with other states and international organizations
- Support from neighboring countries or regional organizations to protect populations

³ This information also appears in chapter 2 of the [Guide to Criminal Justice and Preventing Mass Atrocities](#).

⁴ Table adapted from Stephen McLoughlin, *The Structural Prevention of Mass Atrocities: Understanding Risk and Resilience* (New York: Routledge, 2014), 63.

⁵ United Nations, [Framework of Analysis for Atrocity Crimes: A Tool for Prevention](#), 15.

MODULE 4: “BEFORE” MASS ATROCITIES: CRIMINAL JUSTICE TOOLS FOR PREVENTION

Systemic Capabilities

United States Government Conflict and Atrocity Assessment Frameworks identify specific attributes of governance, civil society, and targeted groups that support resilience.

COMITY	Availability of social entities and institutions promoting tolerance and peaceful resolution of disputes
FLEXIBILITY	The system’s ability to change, including the speed and the degree of adjustment
DIVERSITY	Variety of actors and approaches that contribute to the performance of a system’s essential functions
ADAPTIVE LEARNING	Integration of new knowledge into planning and execution of essential functions
COLLECTIVE ACTION AND COHESION	Mobilization of capacities to jointly decide and work toward common goals
SELF-RELIANCE	Capacity to self-organize and use internal resources and assets, with minimal external support ⁶
TARGETED GROUPS CAN ADVOCATE FOR THEMSELVES⁷	<ul style="list-style-type: none">• Deploy methods of civil resistance• Counter propaganda• Diversify media reporting• Initiate efforts to resolve underlying conflicts• Build alliances with moderates in the perpetrator group or third parties• Conduct nonviolent protests• Document and publicize the threat or actual atrocities• Take legal action

⁶ [Interagency Conflict Assessment Framework](#) and USAID, [Conflict Assessment Framework](#), Version 2.0, (June 2012), 22.

⁷ USAID and US Department of State, [Atrocity Assessment Framework](#), (2015), p. 5. The Atrocity Assessment Framework was prepared by the US Department of State’s Bureau of Conflict and Stabilization Operations and USAID’s Center of Excellence on Democracy, Human Rights and Governance.