Invisible or indispensable?
The role of the Special Adviser on the Prevention of Genocide and the Special Adviser on the Responsibility to Protect

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1. Introduction

When endorsing the Responsibility to Protect (R2P) in the 2005 World Summit Outcome Document, member states of the United Nations (UN) General Assembly also agreed to support the mission of the Secretary General’s Special Adviser on the Prevention of Genocide (SAPG). The post of the SAPG – created in July 2004 and held since 2007 by Francis Deng - was designed to serve as a focal point on genocide prevention within the UN system. In 2008, the mandate of Francis Deng was complemented by the appointment of Edward Luck as the Secretary General’s Special Adviser on the Responsibility to Protect (SAR2P). In 2010 the two mandates were united under the umbrella of a joint office, that now is called UN Office on Genocide Prevention and the Responsibility to Protect (hereafter ‘the Joint Office’). The initial objective behind the appointment of the SAPG, articulated by Kofi Annan in 2004, was to given an institutional form to the lessons learnt from the failures of the UN in the 1990s. Having an institutional entity focusing on genocide prevention was intended to assure early warning, as well as more effective flow of communication and advocacy, necessary to mobilize political will among member states. Despite their aspirations to serve as “catalysts” on genocide prevention and consensus builders on the R2P, the two Special Advisers have been criticized for their limited visibility and the lack of “a firm place in relevant policy deliberations”.

The two Special Advisers and the Joint Office are under researched elements of the UN system. A few studies have been devoted to the SAPG, but there is a lack of research dealing with the SAR2P and with recent developments of the Joint Office. The paper addresses this research gap, arguing that the work of the two Special Advisers and of the Joint Office can serve as a starting point for analyzing the development and diffusion of the

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1 see 2005 World Summit Outcome (GA Sixtieth session Agenda items 46 and 120) cl A/RES/60/1 para. 140
3 On the terminology used in this paper: the terms ‘atrocity crimes’ and ‘mass atrocities’ refers to the four crimes to which the R2P applies, genocide, war crimes, crimes against humanity and ethnic cleansing, and relates to their definitions in the relevant conventions and jurisprudence of international criminal law. Since the crime of genocide (which also is an atrocity crime) has been dealt with separately in various contexts, it is also referred to separately.
4 see United Nations Secretary and Ban Ki-Moon, 'Letter dated 31 August 2007 from the Secretary-General addressed to the President of the Security Council' () United Nations Security Council; S/2007/721
5 see Early warning, assessment and the responsibility to protect, Report of the Secretary-General United Nations General Assembly (Sixty-fourth session) A /64/864 para.17
R2P in the UN system, that is addressed by this conference panel. In this context, the paper focuses the question how to assess the work of the two Special Advisers: **To what extent do they live up to their mandates and to external expectations? What are constraints to their work and how do they contribute to atrocity crime prevention at the UN-level?** This paper is mostly based on primary UN documents on the Special Advisers and the Joint Office and on expert interviews, that were conducted in New York and Washington DC in February and March 2012. Among those interview partners who agreed to be identified by their name or organisation are UN staff members from different departments, such as the Department of Political Affairs (DPA), the Department of Peacekeeping Operations (DPKO), and the Joint Office, in particular the SAPG, Francis Deng. Moreover, interviews were conducted with representatives of memberstates at the UN, such as the Netherlands, Germany, Rwanda, Sweden and the United Kingdom. Finally, the third group of interviewees consists of members of Non Governmental Organisations (NGOs) and academics, such as the Global Centre for the R2P, the International Coalition for the R2P, the Stanley Foundation, Genocide Watch, and the US Institute of Peace. Interview partners from the academic field are for instance Andrea Bartoli, Sheri Rosenberg and Thomas Weiss.

This paper explicitly takes an empirical and explorative approach and is work in progress in the sense that the systematic analysis of all interviews through a qualitative content analysis is not completed, yet. Therefore, the findings presented in section 3 should be read as preliminary ideas and tendencies that have been identified, but that have to be tested against a thorough qualitative content analysis\(^8\) of all interview material.

The paper proceeds in two main parts: In a first section, the background and the structure of the Joint Office are presented. Based on this, a second part discusses the potentials of the mandates of the two Special Advisers and the extent to which they have been fulfilled so far.

### 2. Background and development of the Joint Office

#### 2.1. Need for a focal point on genocide prevention

Despite a rhetoric of “never again” and wide support by states for the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (*hereafter Genocide Convention*), the second half of the 20\(^{th}\) century witnessed a number of large scale atrocity crimes and genocides. The overall record of the UN in reacting to these crimes – not even mentioning their prevention – is devastating. Besides the omnipresent issue of political will, indispensable for action being taken by the Security Council in such crisis situations, there were other institutional shortcomings within the UN system that have facilitated inaction and failure. One of these problems was the lack of an institutional entity focusing on genocide and atrocity

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\(^8\) Out of the multitude of different approaches to this method, the author’s approach is largely based on Margrit Schreier, *Qualitative content analysis in practice* (Sage, Los Angeles, Calif. [u.a.] 2012)
crimes in the UN system. An early initiative to create such an entity can be found in the 1985 'Whitaker report', proposing “the establishment of a new impartial and respected international body whose special concern would be to deal over-all with genocide”.

The importance of a focal point on genocide and atrocity crimes was underlined in 1994 by the Rwandan genocide. Although the failure of the UN was mostly due to the inability to mobilize political will among member states, one can argue that this was at least in part due to an ineffective *processing* of available information and usage of early warning signs from the field. One example illustrating this point is the 1993 report by a UN Special Rapporteur warning against acts of “intercommunal violence (...) against Tutsis in the overwhelming majority of cases”. Containing clear warnings against atrocity crimes, this report was not used in a way to mobilize political will.

Fragmentation and ineffectiveness of the UN to address genocide and mass atrocities continued after Rwanda. As reported by Gregory Stanton, the President of the NGO Genocide Watch, during the crisis in Timor-Leste in 1999, there was “literally nobody to call” within the UN system. In a paper presented at the 2004 Stockholm International Forum, Stanton further elaborated on the problems of the institutional structure of the UN with regard to genocide and atrocity crimes. He states that the *Interdepartmental Framework for Coordination Team* dealing with these issues, consisted of representatives from thirteen departments and agencies, with completely different mandates and methodologies, and that none of them would assume the responsibility to take the lead in questions of atrocity crimes. Moreover, he points out that the UN in New York and the UN’s Human Rights apparatus in Geneva were not very well connected, and that there was a lack of communication from the Framework Team to the meetings of the Under-Secretary Generals who could have given more political leverage to their findings. Moreover, Stanton criticizes the lack of conceptual understanding of genocide and atrocity crimes as compared to other

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11 see Interview with Dr. Gregory Stanton.
12 Stanton lists the following thirteen agencies: the Department of Political Affairs (DPA), the Department of Peacekeeping Operations (DPKO), the Office for the Coordination of Humanitarian Affairs (OCHA), The UN Development Program (UNDP), The UN High Commissioner for Human Rights (UNHCHR), the Food and Agriculture Organisation of the UN (FAO), the UN High Commissioner for Refugees (UNHCR), the UN Children’s Fund (UNICEF), the World Food Program (WFP), the World Health Organisation (WHO), the UN Department of Economic and Social Affairs (DESA), the Department for Disarmament Affairs (DDA), the International Labour Organisation (ILO), the World Bank and the International Monetary Fund (IMF). See Gregory H. Stanton. ‘Create a United Nations Genocide Prevention Focal Point and Genocide Prevention Center’ (January 2004) Options Paper for the Stockholm International Forum on Genocide Prevention
threats to the peace.¹³ These points of criticism illustrate the fundamental problems that existed in the UN system with regard to genocide prevention.

At the end of the 1990s, the need to "[i]mprove the early warning capacity of the United Nations, in particular its capacity to analyse and react to information"¹⁴ on atrocity crimes gained momentum within the UN system¹⁵ and within the NGO community, dealing with these questions.¹⁶ This took place against the background of developments in related fields, such as International Criminal Law. The ad hoc tribunals on Rwanda (ICTR) and the former Yugoslavia (ICTY) gave rise to a large body of jurisprudence, enhancing the substantive understanding of genocide, war crimes and crimes against humanity.¹⁷ At the same time, an increased interest in prevention of armed conflict¹⁸ and protection of civilians in armed conflict (PoC), became observable in UN debates.¹⁹ Stating the obvious, one needs to bear in mind that the 2001 report by the International Commission on Intervention and State Sovereignty (ICISS), that coined the term “Responsibility to Protect” was issued during the same period of time.²⁰ Thus, one can argue that this constellation constituted a window of opportunity to create an entity dealing with genocide and atrocity crimes.²¹

At the occasion of the tenth anniversary of the Rwandan genocide in April 2004, Annan presented a five point Action Plan to Prevent Genocide.²² Such an action plan “involving the whole UN system”²³ had already been requested by the 1999 report on Rwanda. The five points presented by Annan underline the link between genocide prevention and the above

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¹³ see ibid
¹⁵ In addition to the ‘Carlson report’ on Rwanda, the Secretary General’s report on the fall of Srebrenica underlined the drastic failures and the need for improvement in the UN system. See Report of the Secretary-General pursuant to General Assembly resolution 53/35, The fall of Srebrenica (Fifty-fourth session) cl A/54/549. The need for reform was also stressed in the ‘Brahimi report’. See Report of the Panel on United Nations Peace Operations United Nations Security Council and United Nations Security Council (GA 55th session) cl A/55/305; S/2000/809 para 6(d).
¹⁷ see Alexander Zahar and Göran Sluiter, International criminal law : a critical introduction (Oxford Univ. Press, Oxford [u.a.] 2007) 109-218 Out of numerous examples, one milestone in this context is the Akayesu case, being the first case decided based on the Genocide Convention and defining rape as an act of genocide. See International Criminal Tribunal for Rwanda, Chamber 1, The Prosecutor vs. Jean-Paul Akayesu, Case No. ICTR-96-4-T, decision of 2 September 1998, http://unictr.org/Portals/0/Case%5CEnglish%5CAkayesu%5Cjudgement%5Cakay001.pdf (30 May 2012)
¹⁸ see Prevention of armed conflict, Report of the Secretary-General (General Assembly, Fifty-fifth session) cl A/55/985; S/2001/574, The appointment of the Special Adviser on the Prevention of Genocide was also explicitly based on Resolution on the role of the Security Council in the prevention of armed conflicts (4360th meeting) cl S/RES/1366 (2001)
¹⁹ For an overview of the thematic debate on PoC in the Security Council, that were initiated in 1999, see Security Council Report, Protection of Civilians in Armed Conflict, UN documents, chronology http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.4012213/k.481A/Protection_of_Civilians_in_Armed_ConflictbUN_Documents.htm (30 May 2012)
²¹ This idea was also raised in an Interview with a representative of a New York-based NGO.
²² see Action Plan to prevent Genocide cl SG/SM/9197; AFR/893; HR/CN/1077
mentioned agendas, making reference to the “prevention of armed conflict”, the “protection of civilians in armed conflict”, the fight against impunity, the enhancement of “early and clear warning” and finally “the need for swift and decisive action” in escalating situations.  

The decision to appoint a Special Adviser on the Prevention of Genocide that Annan presented in the action plan, had already been alluded to in his speech at the Stockholm International Forum in January 2004. There Annan announced the creation of an Advisory Committee on the prevention of genocide, as well as the appointment of a Special Rapporteur, to

“make clear the link, which is often ignored until too late, between massive and systematic violations of human rights and threats to international peace and security.”

These early documents on the SAPG make clear that this post was intended by the Secretary-General to be the missing link between different parts of the UN system, coordinating action at different levels, from early warning to reaction, and reaching out to actors outside of the system. Therefore, the paper argues that the appointment of the Special Adviser can be seen as a starting point of an institutional crystallization of efforts on genocide prevention and also - at a later point in time - of the R2P.

Having discussed the background that permitted the creation of the SAPG, the following section presents the structure and the further development of the office, as well as the mandates of the two Special Advisers. As to the latter aspect, the paper discusses in particular the potentials that can be identified in the mandates.

2.2. The idea takes shape: the development of the Joint Office

In 2004, Juan Méndez was appointed the first Special Adviser to the Secretary-General on the prevention of genocide.  

His position was part-time, at the rank of an Assistant Secretary-General, with only two staff members. On 1 August 2007, Méndez was replaced by Francis Deng, whose five year term will end on 31 July 2012. With Deng’s appointment, the mandate was upgraded to a full-time position at the level of an Under Secretary –General. Among other positions held by Deng throughout his long career, was his role as UN Representative on Internally Displaced Persons. In this context, through political work and academic publications, Deng contributed to a debate on R2P avant la

24 Action Plan to prevent Genocide cl SG/SM/9197; AFR/893; HR/CN/1077
25 Genocide is Threat to Peace requiring string united Action, Speech delivered to the International Forum in Stockholm cl SG/SM/9126
27 see Letter dated 7 December 2007 from the President of the Security Council addressed to the Secretary-General cl S/2007/722
28 see Francis Deng, Making an impossible Mandate possible: The Challenge of Preventing Genocide and Mass Atrocites: End of Assignment Note (New York)
29 see Letter dated 7 December 2007 from the President of the Security Council addressed to the Secretary-General cl S/2007/722
lettre, most notably in his 1996 work on 'sovereignty as responsibility.' Hence, thematically Deng seems to have been a very appropriate applicant for this position. In 2006, the members of the Advisory Committee on the Prevention of Genocide were appointed by the Secretary General. Despite, or maybe because of the appointment of very distinguished individuals, the Advisory Committee has remained a mostly symbolic body so far, acting under the radar of public visibility.

On 21 February 2008, Edward Luck was appointed Special Adviser on the R2P (SAR2P), at the level of an Assistant Secretary-General to complement and strengthen the work of the office of the SAPG. This appointment can be seen as an expression of the continuing opening of the mandate of the SAPG towards mass atrocities, beyond the narrow focus of genocide. Moreover, the mandate of the SAR2P can be seen as an attempt to anchor the at the time still young and fragile concept of R2P within the institutional structure of the UN. As Ban Ki-moon pointed out in December 2007, “[r]ecognizing the fledging nature of the agreement on the responsibility to protect” Luck’s mandate focuses on “conceptual development and consensus building.”

As mentioned earlier, the Office started with very limited resources to address an ambitious mandate. Year after year, the resources and the number of staff members slowly increased, also due to advocacy and support by NGOs and interested member states. Opposition against the establishment of the Office and thereby implicitly against the R2P became obvious in the 2010 debate in the General Assembly’s Fifth Committee on the budget of the

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31 see Deng, Francis M., et al. (ed), Sovereignty as Responsibility, Conflict Management in Africa (Brookings Institution, Washington, DC 1996)
32 see Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Secretary-General on the implementation of the Five-Point Action Plan and the activities of the Special Adviser of the Secretary-General on the Prevention of Genocide United Nations General Assembly (Seventh session, Agenda item 2) A/HRC/7/37 para 13
33 Members of the Advisory Committee were: David Hamburg (Chair), Monica Andersson, Roméo Dallaire, Zackari Ibrahim, Gareth Evans, Roberto Garretón, Juan Méndez, Sadako Ogata, Desmont Tutu and Francis Deng by virtue of his office. See ibid para 13
34 Interview with a staff member of the OGPR2P.
35 see Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Secretary-General on the implementation of the Five-Point Action Plan and the activities of the Special Adviser of the Secretary-General on the Prevention of Genocide United Nations General Assembly (Seventh session, Agenda item 2) A/HRC/7/37 para 14
36 see United Nations Secretary and Ban Ki-Moon, ‘Letter dated 31 August 2007 from the Secretary-General addressed to the President of the Security Council’ (United Nations Security Council; S/2007/721, see as well Letter dated 7 December 2007 from the President of the Security Council addressed to the Secretary-General cl S/2007/722
37 see United Nations Secretary and Ban Ki-Moon, ‘Letter dated 31 August 2007 from the Secretary-General addressed to the President of the Security Council’ (United Nations Security Council; S/2007/721
38 see ibid
39 ibid
40 ibid
41 see interviews with Naomi Kikoler and interviews with representatives of the missions of the Netherlands, Sweden, UK and Rwanda.
Office. The joining the offices on genocide prevention and the R2P was driven by political and practical reasons, as it has also been the case before, when the two mandates were established separately. Today, the Joint Office has twelve staff members, but also two vacant positions. Some changes can be expected when Francis Deng will leave office at the end of July 2012. Having given the basic factual information on the development and structure of the Office, the following section discusses the potentials that can be identified from the mandates of the two Special Advisers.

3. Potentials, achievements and shortcomings of the two Special Advisers

3.1. Mission impossible? Potentials of the two mandates

In his end of assignment note, Francis Deng states that

Although genocide is one of the most heinous crimes that humanity is expected to prevent, stop and punish, it is also a highly sensitive issue. Genocide evokes denial on the part of both perpetrators and those who are called upon to intervene. (…) From the start, I was aware that I was undertaking a mandate that was virtually impossible, but one that must be made possible.

Since genocide as the ‘crime of crimes’ has long been “mystified”, and hidden behind the walls of state sovereignty and legalistic debates, the SAPG was indeed facing a huge challenge to serve as a focal point and as a leading figure in an open exchange of information on this topic for the UN bureaucracy and member states. Bearing in mind the opposition of a considerable number of member states against the R2P at the time of his appointment, Edward Luck’s mandate to build consensus on the R2P, was not an easy task either.

Nevertheless, the paper argues that both mandates bear considerable potentials for contributions to a more effective prevention of, and reaction to atrocity crimes. These potentials can be found in the written letter of the mandates, but also in the expectations articulated concerning the ways in which these mandates should be filled with life. As will be argued later, this second point is strongly related to the personality of the Advisers.

The mandate of the SAPG is based on Security Council resolution 1366(2001). This resolution acknowledges

42 See Global Responsibility to Protect, ACABQ and Fifth Committee negotiations on the Joint Office, January 2011.
43 See interview with staff member of the OSAPG.
44 See interview with staff member of DPA.
45 See interview with staff member of the OSAPG.
46 Francis Deng, Making an impossible Mandate possible: The Challenge of Preventing Genocide and Mass Atrocities: End of Assignment Note (New York) (emphasis added)
47 see Interview with Francis Deng
48 An example is the reluctance to use the word ‘genocide’ in the context of Rwanda in 1994. see Luke Glanville. ‘Is “genocide” still a powerful word?’ (2009) 11(4) Journal of Genocide Research 467
50 Resolution on the role of the Security Council in the prevention of armed conflicts (4360th meeting) cl S/RES/1366 (2001)
“the lessons to be learned for all concerned from the failure of preventive efforts that preceded such tragedies as the genocide in Rwanda (...) and the massacre in Srebrenica (...) and [resolves] to take appropriate action within its competence, combined with the efforts of Member States, to prevent the recurrence of such tragedies.”

Moreover, in resolution 1366(2001), the Security Council

“[e]xpresses its willingness to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General and in this regard, encourages the Secretary-General to convey to the Security Council his assessment of potential threats to international peace and security with due regard to relevant regional and subregional dimensions, as appropriate, in accordance with Article 99 of the Charter of the United Nations;”

The Security Council also

“[i]nvites the Secretary-General to refer to the Council information and analyses from within the United Nations system on cases of serious violations of international law, including international humanitarian law and human rights law and on potential conflict situations arising, inter alia, from ethnic, religious and territorial disputes, poverty and lack of development and expresses its determination to give serious consideration to such information and analyses regarding situations which it deems to represent a threat to international peace and security;”

These rather dry-sounding provisions bear immense potentials for the mandate of the SAPG. A first potential for a more effective prevention of reaction to genocide and mass atrocities lies in the acknowledgement by the Security Council that situations of mass atrocities can amount to a threat to the peace, that then can trigger action (art. 39 UNC). This brings with it the potential of the SAPG to be the missing link between the world of Human Rights and Mass atrocities, and the world of peace and security.

A second potential can be seen in the strengthening of the link between the Secretary-General and the Security Council. At least on paper, the provisions of resolution 1366 read as a statement by the Security Council that it resolved to no longer close its eyes and remain inactive in situations of genocide and atrocity crimes. The SAPG is invited to serve as an early warning capacity through the Secretary-General and to raise the red flag in such situations. As will be argued later, the implementation of this relationship of cooperation and the receptiveness of the Council to information provided by the Special Advisers through the Secretary-General has turned out to be highly problematic in practice.

Based on the provisions of resolution 1366, the mandate of the SAPG comprises four main elements:

1. to collect “existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide”

51 ibid Preamble
52 ibid para 5 (emphasis added)
53 ibid para 10 (emphasis added)
54 For an overview of the relationship between the Secretary-General and the Security Council, see James Cockayne and David M. Malone, ‘Relations with the Security Council’ in Simon Chesterman (ed), Secretary or General? The UN Secretary General in World-Politics (Cambridge University Press, New York 2007) 69
2. to serve as “a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention potential situations that could result in genocide”;
3. to communicate “recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide;”
4. to “liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations capacity to analyse and manage information relating to genocide or related crimes.”

In the following, the paper discusses the potentials of the SAPG along the lines of these four tasks.

As to the first aspect of his mandate, the collection of information, the Special Adviser and his staff can draw on information from the whole UN system, but also from sources outside the system. Information that can be gathered from the different actors is of relevance to the work of the SAPG with regard to different phases of a conflict that could risk to escalate to genocide. Information given by actors with a broader Human Rights or development agenda can be helpful to understand and recognize structural causes of potential of genocide and atrocity crimes. These actors include for instance the UN Development Program (UNDP) or the World Bank, but also the Special Representative for Children in Armed Conflict, the High Commissioner for Refugees, or the Special Representative on Sexual Violence in Conflict, or the Office of the High Commissioner for Human Rights (OHCHR). Concerning the collection of information on Human Rights situations in general, the SAPG can also draw on a considerable number of Human Rights treaty bodies and special procedures. In cases of imminet crises, the SAPG can rely on information from operational departments and specialized agencies that have at their disposal specific databases, crisis indicators and mandates to respond to emergency situations. The UN Children’s Fund (UNICEF) and the Department of Peacekeeping Operations (DPKO) for instance have 24-hour situation centres in New York that receive information from field operations. Information can also be gathered from the parts of the UN system delivering humanitarian aid, such as the Office for the Coordination of Humanitarian Affairs (OCHA). For other aspects of information gathering,

56 ibid On the early warning aspect of the mandate, see Lawrence Wooncher. ‘Developing a Strategy, Methods and Tools for Genocide Early Warning, Report prepared for the Office of the Special Adviser to the UN Secretary-General on the Prevention of Genocide’ (26 September 2006)
58 ibid
59 These Human Rights treaty bodies include for instance the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International convention on Economic, Social and Cultural Rights, and the Convention against Torture, Inhuman or Degrading Treatment or Punishment, see Prevention of Genocide, Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General United Nations General Assembly (10th session) cl A/HRC/10/25 para 44-55
61 see Early warning, assessment and the responsibility to protect, Report of the Secretary-General United Nations General Assembly (64th session) cl A /64/664 para 9
the SAPG can rely on the Department of Political Affairs (DPA), the Office of Legal Affairs (OLA), or the Department of Public Information.\textsuperscript{62} Besides these thematic UN agencies and departments, the SAPG can also draw on information from Special Envoys to specific countries or regions, as Kofi Annan in the current crisis in Syria. In addition to these diverse sources of information, the Office can rely on information from member states, regional and subregional organizations, and non state actors. In particular, the Office has close relationships with the Global Centre for the R2P.\textsuperscript{63}

In a case like Rwanda, it would now be the job of the Joint Office to collect this information and push inside the system – through different channels of communication – to make sure that it is not ignored. Of course, this does not ensure that action is taken, but it disqualifies the excuse of ‘not having known’ about the risks.

This leads to the second aspect, the “significant potential for strengthening early warning mechanisms to prevent potential situations that could result in genocide” that the Human Rights Council attributed to the SAPG.\textsuperscript{64} The function to \textit{serve as an early warning facility} covers different points in time, reaching from root cause prevention, awareness raising, and capacity building to warnings in imminent crisis situations. As it is not the job of the SAPG to determine whether a certain situation amounts to genocide, he can have access to countries that would otherwise shy away to cooperate with someone who has the word ‘genocide’ on his business card.\textsuperscript{65} The aspect of early warning underlines the diverging expectations towards the SAPG and his office. Whereas some expected them to serve as an “NGO within the UN system”, and to be very outspoken in alerting in crisis situations,\textsuperscript{66} others expected them to engage in more long term preventive measures of quiet diplomacy.

As to the third aspect of access to the Security Council, the SAPG has the potential to be an \textbf{entity that bridges the world of human rights with the world of security}. As the representative of an NGO phrased it, the access to the Security Council created the possibility to

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“cut through all the time consuming rounds that normally you have to do, and alert the Council or at least try to make a point with it, and mobilise it to act in cases of extreme violations and life loss.”\textsuperscript{67}
\end{quote}

However, as will be shown below, this equation is not complete without the factor of political will. In practice, the formal access to the Security Council is limited.

\textsuperscript{62} on the potential roles of the different UN departments, see Annual Report of the United Nations High Commissioner for Human Rights and Report of the Office of the High Commissioner and the Secretary General, Efforts of the United Nations system to prevent genocide and the activities of the Special Adviser to the Secretary-General on the Prevention of Genocide, Report of the Secretary-General United Nations General Assembly (tenth session, Agenda item 3) A/HRC/10/30 para 13-25
\textsuperscript{63} see Interview with Deng, Interview with Naomi Kikoler.
\textsuperscript{64} Promotion and Protection of all Human Rights, Civil, Political, economic, Social and Cultural Rights, Including the Right to Development United Nations General Assembly (Seventh session, Agenda item 3) A/HRC/7/L.26 Preamble
\textsuperscript{65} see Interview with Francis Deng.
\textsuperscript{66} See Interview with representative of a New York-based NGO.
\textsuperscript{67} See Interview with representative of a New York-based NGO.
The final aspect of **liaising within the UN system** underlines the idea of the SAPG as a focal point and a facilitator of debate, bringing into the latter the perspective of genocide and mass atrocities. Here, one can mention the convening function of the SAPG and the potential for interdepartmental cooperation that lies in this job. One expectation that has been raised, concerns the idea of mainstreaming genocide prevention and the R2P in the UN system. Such an advocacy for a prominent position to these topics could be conducted within the interdepartmental structures of the UN.

As outlined above, the focus of the mandate of Edward Luck is on “conceptual development and consensus building”. As his mandate is not based on a Security Council resolution, some have argued that the SAR2P lacks legitimacy. However, the paper argues that there is a huge potential in this more independent position. As Stanton puts it, Luck could have “the best of both worlds” in order to shape the discourse on atrocity crimes and R2P, by being an academic, but also part of the UN system at the same time. The potential of Luck’s mandate is one of integrating the R2P in institutional and operation contexts across the UN system by preparing the Secretary General’s the annual reports on the R2P. Another expectation towards this mandate consists in the faster mobilization of political will for action in certain situations, based on consensus building within the system. Considering these elements, one can argue that his mandate, although not linked to a lot of resources, bears a great flexibility.

Having discussed these different aspects of the two mandates, the paper argues that the mandates of both Special Advisers contain the potential to make a contribution to a more effective prevention of genocide and mass atrocities within the UN system, and become the long missing focal point on genocide and mass atrocities. In the following section, the paper will discuss the achievements and shortcomings of the two Special Advisers.

### 3.2. Assessing the work of the two Special Advisers and the Joint Office

The analysis of the work of the two Special Advisers and the Joint Office is based first of all on the mandates, addressing the question, to what extent they have been able to fill them with action and gain visibility inside and beyond the UN system. A second aspect that is also important, concerns is the extent to which the two Special Advisers and the Joint Office have lived up to the expectations of UN agencies, member states and NGOs. The assessment is based on UN reports on the work of the Office, documents issued by the Office, but also on expert interviews, conducted with UN staff members, representatives of national delegations and NGOs.

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69 see Interview with Gregory Stanton.

70 see Interview with a staff member of DPKO.
3.2.1. Collecting and filtering Information

As argued above, the Office has the possibility to draw on information from a wide range of sources within and beyond the UN-system, and to filter and prioritize it. As argued by the Secretary-General, the challenge in this context is not the lack of relevant information, but to ensure that the United Nations acts as one in the flow and assessment of information. (…) Preventing the four specified crimes and violations requires full utilization of the information gathered and the insights gained by existing United Nations entities, not the relabeling or duplication of their work.\(^{71}\)

One specific challenge for the Office consists in adding an atrocity or R2P lense to the information which is not gathered through such a lense by other actors from the system. The paper discusses two main aspects of this work on information collection: firstly the analytical approach to the information available to the Office through the ‘Analysis Framework’, and secondly the ways in which information is exchanged within the system.

The Analysis Framework (AF)\(^{72}\) was developed in cooperation with experts in the UN system\(^{73}\) and with genocide scholars, such as Harff, Rosenberg and Schabas. The Framework is based on the definition of genocide, as stated in art. II Genocide Convention, and consists of eight categories of criteria that the Office uses when processing information, in order to determine whether there is a risk of genocide in a given country. These eight criteria comprise structural factors, such as inter-group relations and structural discrimination, political, economic or other factors that could motivate powerful actors to perpetrate genocide, as well as the existence and effectiveness of domestic legislation to prevent genocide in a given country, for instance by protecting vulnerable groups and holding perpetrators accountable. Other structural factors include the presence of arms and other infrastructure necessary to perpetrate genocide. These structural factors of the AF are complemented by dynamic factors, including gradual or sudden changes of circumstances that could facilitate or trigger genocide, such as legislative acts or unconstitutional changes of government. Finally, the perpetration of acts that are considered elements of the crime of genocide, as well as evidence of the mens rea of genocide\(^{74}\) are considered as factors in the AF.

\(^{71}\) Early warning, assessment and the responsibility to protect, Report of the Secretary-General United Nations General Assembly (64th session) A/64/864 para 10
\(^{72}\) see Analysis Framework United Nations Office of the Special Adviser on the Prevention of Genocide
\(^{74}\) referring to article II Genocide Convention, which stipulates: “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:
(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole
In the Joint Office, information from the field is not only filtered, analysed and processed along the lines of these criteria, but also based on regional competences of the desk officers. Combining a certain regional expertise with this analytical framework, seems to be a promising approach. The AF has also been used by other departments, such as DPA \(^{75}\) and by regional organizations, as the African Union. \(^{76}\) Bearing in mind the large amount and the diversity of information that the Office has to deal with, the AF permits a structured and focused approach to this information. Moreover, as a representative of the Global Centre for the R2P pointed out, the AF increases the legitimacy of the Office’s work and prevents that certain countries are being dealt with, based on mere “gut instincts” or political biases. \(^{77}\) In this sense, the AF can be seen as a contribution to the de-mystification of genocide \(^{78}\), by addressing more palpable elements that can lead to genocide.

Overall, the establishment of the AF as a clear analytical approach to genocide, and as filter instrument for information is seen as a success of the Office by interviewees, as well for instance by the Human Rights Council. \(^{79}\) However, there are also more critical voices on the AF. One former staff member of the Office, who had been involved in drafting the first version of the AF, stated in an interview, that the Office should rather focus on some of the dynamic factors of the AF, such as the motivation to perpetrate genocide, and not overstretch its limited capacities by working also on the structural factors. He stressed the fact, that these structural factors, as for instance discrimination in educational systems, are also being monitored by other actors, such as the OHCHR. This interview partner stressed the point that the value added by the Office could lie in such a more specific and narrow approach, and not in a potential duplication of structures. The paper argues that such a division of labour between the Joint Office and the OHCHR would need a close interdepartmental cooperation.

With the establishment of the Joint Office of the two Special Advisers, the Office started to adapt the AF, by trying to include not only genocide, but also the three other crimes to which the R2P applies, meaning war crimes, crimes against humanity and ethnic cleansing. \(^{80}\) This process has revealed to be very difficult, in particular with regards to war crimes, and has not

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75 see interview with staff member of DPA.
76 see The role of regional and subregional Arrangements in implementing the Responsibility to Protect, Report of the Secretary-General United Nations General Assembly and United Nations Security Council (GA 65th session) cl A/65/877; S/2011/393 para 27
77 see interview Naomi Kikoler
78 see Interview with Francis Deng
79 see for instance interview with a staff member of DPA, see The role of regional and subregional Arrangements in implementing the Responsibility to Protect, Report of the Secretary-General United Nations General Assembly and United Nations Security Council (GA 65th session) cl A/65/877; S/2011/393 para 2-12.
80 Even though ‘ethnic cleansing’ is not a crime formally defined under International Law.
been completed, yet.\textsuperscript{81} Thus, the Office cannot be considered to be operational as an analytical focal point on all R2P-related crimes. However, in order to become more operational on these aspects, the Office is engaged for instance in a cooperation with a research project, led by Sheri Rosenberg on thresholds and criteria how to recognise risks of these crimes on the ground.\textsuperscript{82}

A second aspect, allowing to assess the Office’s performance in collection of information is the exchange of information with other actors. As pointed out by interview partners, this flow of communication is not efficient to the same degree with all actors. Whereas the exchange of information with DPKO works well mostly with regard to countries, where there is a UN Peacekeeping mission, it is not always easy concerning other situations.\textsuperscript{83} The exchange of information with DPA was described as mostly positive, but as too often ad hoc, depending on personal relations between desk officers and in general as not systematic enough.\textsuperscript{84}

As stated by a staff member of the Office, the Office issues a weekly report to other actors in the UN system. These reports however, are confidential and not accessible to the public. Therefore, it is difficult to assess the effective flow of information.

\textbf{3.2.2. Building capacity and raising the red flag}

Based on the collection, filtering and processing of information through the lense of the AF, a second potential of the Office is to act as an early warning system within the UN. As argued above, this can consist in raising the red flag in actual crisis situations, but also in engaging in more structural, long term preventive measures, including capacity building, awareness raising, advocacy and outreach to member states and NGOs.

Concerning the structural aspects of early warning and prevention, the Office has done a lot of work. Country specific case studies\textsuperscript{85} and thematic projects\textsuperscript{86} have been conducted, as well as training seminars for UN staff members and representatives of member states to raise awareness on issues related to atrocity crimes and R2P.\textsuperscript{87} In addition to that, the two Special Advisers have led missions to a number of countries and participated in conferences. Moreover, they have worked on their outreach to regional and subregional organizations\textsuperscript{88}

\textsuperscript{81} see interview with a staff member of the Joint Office.
\textsuperscript{82} See Interview with Sheri Rosenberg.
\textsuperscript{83} see a staff member of DPA.
\textsuperscript{84} see Interview with a staff member of the Joint Office.
\textsuperscript{85} Case studies on constructive diversity management in South Africa and Nigeria have been conducted by the Office in cooperation with the NGO Fund for Peace. see http://www.un.org/en/preventgenocide/adviser/projects.shtml (1 June 2012)
\textsuperscript{86} A project on “dangerous Speech on the way to genocide” was conducted in 2010, by the Office in cooperation with Dr. Benesch, a senior researcher at the World Policy Institute.
\textsuperscript{87} see ibid para 14 see also Interview with Sheri Rosenberg, who conducted on of these trainings for the Office.
\textsuperscript{88} see ibid para 40
and have established close relationships to NGOs, such as the Global Centre for the R2P\textsuperscript{89} and the International Coalition for the R2P.\textsuperscript{90} Although these activities have gained a certain visibility within the UN system and among interested member states and NGOs, different aspects of their work on early warning have been criticized. Whereas some interviewees expressed their appreciation for the educational dimension of the work of the Office,\textsuperscript{91} most of them criticized the trainings. A civil society representative stated for instance that this work could be outsourced to NGOs:

“They could support other people doing the training, but (…) they should use their political capital in a different way. And that is more the bilateral engagement with states.”\textsuperscript{92}

This point illustrates a reoccurring line of conflict, between the advocacy role of the Office and their modest operational capacities.\textsuperscript{93} Moreover this aspect is crucial concerning the visibility of their work. If they stay at a pure ‘meta level’ of advocacy and networking, they might be more effective, but less visible than by engaging in trainings, missions and project work.

As to the tip of the iceberg, meaning the warning against escalating or already escalated crisis situations, the two Special Advisers have issued 18 public statements since 2008.\textsuperscript{94} More concretely, during the post-electoral crisis in Kenya in 2007/08, the SAPG meetings with Kenyan representatives in New York and gave recommendations on action to be taken to the Secretary-General.\textsuperscript{95} However, the policy of the Office concerning their statements is subject to harsh critique by NGOs, for being very cautiously formulated and not timely, in the sense that they would warn against a risk, \textit{prior} to the escalation of a situation.\textsuperscript{96} On the other hand, some interviewees showed understanding for the rather low tone of the statements, underlining that the statements are subject to approval inside the UN, before publication.\textsuperscript{97} This aspect illustrates a reoccurring difference in the assessment of the Office. Whereas some criticize

\textsuperscript{89} see Interview Naomi Kikoler
\textsuperscript{90} See interview with Megan Schmidt and Rachel Shapiro.
\textsuperscript{91} see interview with a Latin American diplomat.
\textsuperscript{92} see interview with Naomi Kikoler
\textsuperscript{93} see interviews with a staff member of DPA, a representative of a New York-based NGO and interview with a representative of the Netherlands at the UN.
\textsuperscript{95} see Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Secretary-General on the implementation of the Five-Point Action Plan and the activities of the Special Adviser of the Secretary-General on the Prevention of Genocide United Nations General Assembly (Seventh session, Agenda item 2) A/HRC/7/37 para 28
\textsuperscript{96} see interview with a representative of a New York-based NGO
\textsuperscript{97} see Interview with Naomi Kikoler
the Office for not being an “inhouse NGO”, others accept that the Office is acting within the constraints of the UN bureaucracy.

Besides the assessment of the work that is visible in public, one also needs to bear in mind that a lot of the work of the two Special Advisers and their Office, especially on country situations, is not visible. For instance, as one interviewee explained, the staff members of the Office assign country situations to categories. Depending on the urgency of a threat of mass atrocities, they are put into “green, orange and red boxes”. However, due to the political sensitivity of the issue—*which country would want to be known publicly as a risk candidate for mass atrocities?*—the Office does not communicate which country figures in which category. This shows, that the Office acts as part of the UN system and according to rules of diplomacy, and not as an “inhouse NGO”. As such an actor, the Office would not hesitate to be more explicit. It thereby has frustrated some of the expectations, notably by the NGO community.

This links to the important aspect of personalities. Almost all interviewees stressed the particular personality of Francis Deng and his approach to genocide and mass atrocities. This aspect is discussed in greater detail in section 3.2.5.

### 3.2.3. Dealing with the powerful: bringing information to the attention of the Security Council

One of the main potentials of the Office, according to the mandate of the SAPG is the access to the Security Council. In the original proposal, the post had been presented as one of a Special Rapporteur, who would have had direct access to the Security Council. However, based on its current mandate, the Special Advisers can only access the Council through the Secretary General.

As pointed out by one interviewee, the relationship between the Special Advisers and the Security Council “is not an automatic one”, as the Security Council is “a political body that chooses”. Formal access of the SAPG to the Security Council has been very problematic. As several interviewees stated, the first SAPG, Juan Méndez was literally kicked out of the Security Council Chamber once in 2006 in a debate on Darfur. As reported by Stanton, the US Ambassador to the UN at the time, John Bolton, did not want the SAPG to be present in the room. Ever since, the formal access of the Special Advisers to the Council has been

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98 see for instance interview with Thomas Weiss.
99 See interview with staff member of the Office.
100 See interview with staff member of the Office.
101 see Genocide is Threat to Peace requiring string united Action, Speech delivered to the International Forum in Stockholm cl SG/SM/9126, on this aspect, see as well Lawrence Woocher. ‘Developing a Strategy, Methods and Tools for Genocide Early Warning, Report prepared for the Office of the Special Adviser to the UN Secretary-General on the Prevention of Genocide’ (26 September 2006) 3, fn 11
102 Interview with staff member of DPA.
103 Interview with staff member of DPA.
extremely difficult. The negative position of the Council is underlined by the fact that there is no thematic open debate in the Council, neither on the R2P nor on genocide prevention. Nevertheless, the R2P has often been discussed in thematic debates on PoC.

Faced with this hostile position of some Council members, assessments of the ways in which the Special Advisers deal with this, vary. Most interviewees argue that the Special Advisers should push harder and should take more risks of being dismissed. In this context, an interviewee pointed out that it is inherent to these mandate, that the Advisers have to cope with rejection by powerful states.

As access to the Council as a collective actor is difficult, the Special Advisers have taken the initiative to meet with every upcoming Presidency of the Security Council. As pointed out by a staff member of the Office, the quality of the interaction varies according to the country involved. However, as pointed out by the representative of the mission of the UK to the UN, the SAPG approached the Office at short notice, when the priorities for the one month of Presidency in March 2012 had already been decided upon in London.

In the assessment of most interviewees, Juan Méndez receives better grades in pushing for access to the Security Council than Francis Deng and Edward Luck. However, as one interviewee pointed out, this could also be due to the fact that Mendez had more support from the Secretary-General at the time, Kofi Annan, who had created the post of the SAPG. The current Secretary-General Ban Ki-Moon is criticized, for instance by Thomas Weiss as “someone who does not want to push, who is never in the lead and who does not give enough support and vision to the posts of the Special Advisers.

Based on the interviews and also on the lack of appearance of the Special Advisers in formal records of Security Council meetings, the paper assumes that the potential of formal interaction with the Security Council has not been fulfilled by the Office so far. Nevertheless, there seems to be a better relationship on a bilateral between the two Special Advisers and individual member states of the Security Council.

As summarized by a representative of an NGO:

“Ed [Luck] and Francis [Deng] are not the kind of people that push very hard in general. And that is a problem. At the same time, there is only so much you can push in some of these settings. Juan Mendez pushed and pushed and pushed, and he was more successful. But it left a very bad taste in a lot of Security Council members’ mouths to have that type of approach. And at the end of the day, these are diplomatic environments, political environments, and there is a cost and benefit that comes from pushing in a certain way. And just because you brief does not mean that you will see action.”

An NGO representative showed understanding for constraints that do not allow the Office to push harder, taking into account the politics and the tactical elements to the relationship with the Security Council. On the other hand, Thomas Weiss, opposes such an understanding.

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104 see Interview with Thomas Weiss
105 see Interview with a representative of the UK at the UN
106 Interview with Thomas Weiss
107 Interview with Naomi Kikoler
position for institutional constraints. He states that one of the few weapons that international
civil servants have, is to be outspoken. He gives examples of Special Advisers that have
been very outspoken and successful, such as Jan Egeland, the former Under-Secretary-
General for Humanitarian Affairs and Emergency Relief Coordinator.\footnote{108}
As in the field of early warning, here again the different expectations towards the Office as
an "in-house NGO" versus an instrument of quiet diplomacy becomes obvious. Moreover,
these examples underline once again the importance of personality in these positions.
To conclude on the relationship with the Security Council, the paper argues that the potential
articulated in resolution 1366 (2001) has not been filled with life. The Security Council as a
collective has been reluctant to receive the Special Advisers and they have not opted for
open confrontation, but for diplomacy and advocacy behind the scenes, often in a bilateral
setting.

3.2.4. Liaising within the system: finding a standpoint and reconciling priorities
The fourth aspect of the mandate of the SAPG relates to a liaising function of the Special
Adviser within the UN system. The potential with regard to this aspect can be seen in the
Special Advisers and the Office as a focal point, a convener and partner to the diverse actors
of the system. This idea was supported, for instance by the Secretary-General in his 2010
report, where he encourages the Special Advisers to assume a convening function, stating
that

\textit{"[w]hen the Special Advisers, based largely on information provided by, and in consultation with,
other United Nations entities, conclude that a situation could result in genocide, war crimes, ethnic
cleansing or crimes against humanity, they provide early warning to me and, through me, to the
Security Council and other relevant intergovernmental organs. If the situation persists, and if
national authorities are manifestly failing to protect their populations from these crimes, (…) I will
ask the Special Advisers to convene an urgent meeting of key Under-Secretaries-General to
identify a range of multilateral policy options (…)"} \footnote{109}

As states by Lawrence Woocher, this idea was a reduced version a more ambitious plan to
have the SAPG chairing a standing inter-departmental structure, comprising the other Under-
Secretaries.\footnote{110} However, none of the proposals for a leading role of the two Special Advisers
in cases of atrocity crimes has been followed up upon. Thus, one can argue that they have
not seized the opportunity that was given to them, to take the lead and establish their position
among the other actors in the system more firmly.
The quality of the relationships with other actors varies for several reasons, as for instance
the different approaches of different departments and agencies to civilians protection. For
DPKO and humanitarian actors, such as OCHA, the principles of neutrality and action based

\footnote{108 see interview with Thomas Weiss}
\footnote{109 Early warning, assessment and the responsibility to protect, Report of the Secretary-General (Sixty-fourth
session) cl A/64/864 para 18}
\footnote{110 see Interview with Lawrence Woocher.}
on host state consent are fundamental. For them, the idea of non-consensual protection in an R2P framework is difficult to integrate into their work.\textsuperscript{111}

In addition to these difficulties, when the Office was first created, the other agencies and departments were skeptical and acting in defense of their respective turf. As reported by some interviewees, this was the case in particular for the OHCHR, as there had been plans of placing the Office within OHCHR and not as an independent entity.\textsuperscript{112}

While the relationship with DPA is seems to be close, as reported by some interviewees, the Office’s relationship with DPKO seems to be one of benevolent ignorance. This claim is supported by the fact that even for the expert on PoC within DPKO, the Office is not very visible and interactions are not frequent and meaningful.\textsuperscript{113}

Moreover, especially in the beginning the mandate Francis Deng’s was seen with skepticism by UN agencies and member states, due to the “G-word”\textsuperscript{114} in his title. However, this early skepticism has been calmed down by the way in which Deng conceptualized genocide.\textsuperscript{115}

Besides the liaising with UN agencies, based on the mandate of the SAPG the Office also has the potential to be a close partner for member states. In this context, Luck and Deng are interacting closely with the ‘Group of Friends’ of the R2P. This informal group, chaired by the Netherlands and Rwanda is a platform for debate on issues related to genocide prevention and R2P. In addition to the bilateral contacts of the Office with member states, they are active in this multilateral forum.

\section*{3.2.5. Shaping conceptual understandings and fostering consensus}

Whereas the previous sections have focused on the four aspects of the mandate of the SAPG, this section focuses on the more conceptual part of the Office, that can be found in the mandate of the SAR2P. The potential here lies in shaping the understandings of UN agencies, member states, NGOs and the public opinion of genocide, atrocity crimes and the R2P. In this context, the distinct strategies adopted by Luck and Deng deserve closer consideration.

Focusing on the crime of genocide, Francis Deng has developed his own approach of “de-mystifying genocide and looking at it as an extreme form of identity related conflict”.\textsuperscript{116}

Stressing the importance of a positive understanding of ‘sovereignty as responsibility’, Deng defined genocide “in a way that people can relate to it”.\textsuperscript{117} Formulating it in terms of diversity

\textsuperscript{111} see interview with Micheal Heller-Chu
\textsuperscript{112} see Interview with Gregory Stanton, and interview with Lawrence Woocher.
\textsuperscript{113} see interview with Micheal Heller-Chu
\textsuperscript{115} See Interview with staff member of the Stanley Foundation.
\textsuperscript{116} interview with Francis Deng.
\textsuperscript{117} See Interview with staff member of the Stanley Foundation. See Interview with Francis Deng.
management, he has made genocide something that is more “digestible” for states. In a way, Deng’s conciliatory approach, that can be considered a crucial aspect of his personality, and that is criticized harshly in relation to the Security Council, is appraised by many interviewees in the area of consensus building. Engaging in quiet diplomacy, Deng succeeded in keeping channels of communication open, even with those member states that might have been more skeptical in the beginning. As phrased by a staff member of DPA, by getting member states involved, “the Office has punched over its weight”. Focusing on the conceptualization of genocide and ways to operationalise it for advocacy purposes, Francis Deng had to address numerous connotations and preconceptions of this ‘crime of crimes”, a task that according to the interviewees, he managed with great success. Edward Luck, on the other hand, has the mandate to further develop the more recent concept of R2P and to build consensus among member states. One of the main challenges for him, has consisted in deliniateling the R2P from the concept of ‘Humanitarian Intervention’. For instance in preparing the annual reports of the Secretary-General on the R2P since 2009, Luck has seized this opportunity by shaping the terminology and the understandings of R2P that are today dominant among politicians and academics. However, a lot of conceptual work remains to be done, such as the enlargement of the Analysis Framework to all four R2P crimes and the cooperation on a clearer understanding within the UN of the differences between similar, but distinct concepts, as R2P and PoC. The paper argues that greater clarity on overlaps and differences in this context could facilitate communication and cooperation for instance with DPKO. This need for conceptual clarification is ever more important, as an increasing number of Peacekeeping missions have a mandate to protect civilians. Nevertheless, one can say, that in terms of conceptual development, the two Special Advisers have made considerable contributions to a thematic field that was not very well defined and made understandable, beyond purely legal definitions.

Another aspect in this context, is the idea of mainstreaming an atrocity crime and R2P perspective in the UN system. This approach means that every UN department and agency not only understand what is meant by these crimes and how they differ from other forms of Human Rights violations or threats to international peace and security, but that they also always keep mass atrocities in the back of their head. What seems like a straightforward idea, is not unproblematic in practice. As has been reported by some interviewees, the attempt to mainstream mass atrocity prevention and R2P, meaning to insert them in existing mind sets and strategies of political mediation or peacekeeping can lead to conflicts of

118 See Interview with staff member of the Stanley Foundation.
119 See interview with a staff member of DPA.
120 The most famous example in this context is the “Three Pillar” approach to the R2P. See Implementing the responsibility to protect (Sixty-third session, Agenda items 44 and 107) clA /63/L.80
121 This impression was reinforced by the interview with Micheal Heller-Chu.
interest. In this context, a staff member of DPKO with experience in the field stated that the objective to foster peace in a given conflict situation can be undermined by addressing risks of atrocity crimes, such as structural discrimination of minorities at the same time.\textsuperscript{122} A similar example was given by one interview partner concerning DPA. In a given crisis situation, the Joint Office wanted to send a fact finding mission on the ground, but DPA opposed this, as they did not want to see their political mediation process being “messed up by atrocity talk”.\textsuperscript{123} A commonly known example of a similar conflict of interests and purposes, between humanitarian aid and international criminal justice was the expulsion of humanitarian NGOs from Sudan after the indictment of President Bashir by the International Criminal Court.\textsuperscript{124} To conclude on this aspect, the paper argues that the two Special Advisers, based on their own personalities have made use of the limited resources at their disposal, not only to conceptually develop the concepts of genocide prevention and R2P, but also to stay connected with memberstates throughout this process. However, when looking at these concepts in the context of other concepts that are important in the field of civilian protection in a broader sense, it becomes obvious that they have not succeeded in mainstreaming, in the sense of making their topics priorities on other departments agendas.

4. Conclusion

The aim of this empirical and explorative paper was to assess the work of the Office on Genocide Prevention and R2P. It addressed this question by presenting the background of the Office as well as the potentials of the two Special Advisers based on their mandates and on expectations articulated by other actors.

The paper has shown that based on its access to information from within and beyond the UN system and based on the Analysis Framework, the Office has the potential to add a specific analytical perspective on genocide and atrocity crimes to the gathering and processing of information on crisis situations. Moreover, the two Special Advisers are positioned at a point within the UN system, where they have the potential of strengthening the link between the world of Human Rights and the world of peace and security, and to serve as catalysts for the mobilisation of political will. Finally, the paper also discussed the potential of the two Special Advisers to serve as a focal point and as conveners of discussion and exchange of information at the interdepartmental level.

In a second step, the paper critically discussed these potentials, confronting them with assessments gained from interview material and the analysis of primary document. Although, as stated earlier, findings are preliminary, some interesting tendencies can be identified from this analysis.

\textsuperscript{122} see interview with a staff member of DPA
\textsuperscript{123} see interview with a staff member of the Joint Office.
One of them concerns the diverging expectations towards the Office, along the conflict line of ‘inhouse NGO’ vs. ‘quite diplomacy’. This aspect relates to the question of the position of the Office as an actor within and according to the rules of the UN bureaucracy or as an advocacy body, taking the risk to be rejected by actors within the system. As shown above, assessments of this point are divergent, and personality-related factors are of great importance.

A second preliminary finding to assess the contributions of the Office to a more effective prevention of atrocity crimes concerns the focus of their work. Here, the paper identified a line of conflict between advocacy at the ‘meta level’ vs. operational efforts despite limited resources. In this context, the Office still needs to find its place, in order to function in a complementary way with other UN departments and to avoid overlaps.

A third aspect that deserves further research concerns the mainstreaming of the R2P within the UN system, and more specifically the conflicts of interests and grown conceptual understandings that can emerge, for instance between R2P and consensual peacekeeping, PoC or political mediation processes. When analysing the diffusion of the R2P in the UN system, these relations of tension at the conceptual, institutional and operational level need to be taken into account.

Finally, on the question of visibility, the paper comes to a twofold conclusion. On the one hand the Office is not very visible, firstly because it engages in large parts in prevention (How do you see that an atrocity crime has not being committed?). Moreover, a lot of the work that is done by the Office is politically sensitive and takes place behind the scenes. Here, a comparative analysis of the work of the two Special Advisers and the ways in which other Special Advisers implement their mandates, could be a fruitful idea for further research. On the other hand, while this could be valid arguments to drop the idea of visibility and aim for efficiency behind closed doors, the paper agrees with those who argue, that in a field that is as sensitive as the area of atrocity crimes, public visibility, outreach and sometimes public outcry from actors inside the system are indispensable for mobilising political will for action. And this, in the end, should be the final purpose of an entity as the Joint Office.

125 Thanks to Ellen Reichel for this idea.
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