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Dealing with "Enablers" in Mass Atrocities: A New Human Rights Concept Takes Shape

George A. Lopez



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The horrific mass atrocities of recent decades have increased the pressure from citizens and policymakers alike to make confronting such killing sprees a foreign policy priority for the United States and like-minded nations. This idea is bolstered by the emergence of the principle of the responsibility to protect (R2P) in international action. Recently this principle was put into practice via Security Council resolution 1973, which authorized the enforcement of a no-fly zone to protect endangered civilians in Libya in March 2011.

But as the different responses to the Libyan and Syrian crises make clear, there are startling inconsistencies in U.S. and international reaction to governmental slaughters. This is partly explained by the complexity of the phenomenon itself and the multiple challenges to mounting a successful response to such atrocities. But also contributing to inconsistency and inaction is the sad reality that concerned governments lack practical tools and structures to mobilize when tyrants begin their killing. This invariably situates military intervention as the only option for concerned outsiders, and the call for militarized response increases as the killing of innocents spreads.

In this brief paper I argue that a social science contribution to the development of tools that can deter, hamper, or halt violence against civilians should be a new conceptualization that labels particular activities and actors as foci for policy responses as early as possible once signs of government violence begin. Identifying such initial actions would be a new data gathering and human rights monitoring category as informed by this concept. At the close of the paper I comment on recent actions taken by the Obama administration to structure action for atrocities prevention.

Focusing on "Enablers"

One potentially effective approach to reducing mass killing is to constrain both the means used to commit these atrocities and those who provide these means. Because mass atrocities are organized crimes, crippling the means to organize and sustain them—money, communications networks, and other resources—can disrupt their execution. A key element of their organization that is particularly relevant to international responses is the role of third parties. History has shown that perpetrators are seldom able to carry out these crimes on their own. Rather, they are dependent on direct or indirect support from external actors—governments, commercial entities, and individuals—whose goods and services enable them to wage attacks against civilians.

While atrocities vary in cause and method, and perpetrators are generally both creative and

resourceful, we can identify a core set of activities that enable and sustain the violence. By developing approaches to target the third parties engaged in those activities, it may prove possible to decrease or disrupt the perpetrators' access to the necessary means. This may, in turn, alter their calculus for committing atrocities against civilians. Targeting the enablers and their products is not a panacea. But it should lead to a better understanding of the dynamics of atrocities and present a practical lever with significant untapped potential to halt the world's worst crimes.

Positing and Operationalizing the Definition

There appear at least three essential elements to enabling: (1) A third party provides resources, goods, services, or other practical support—directly or indirectly—to the perpetrator of ongoing atrocities; (2) This support is a critical ingredient that enables or sustains the commission of the atrocities, without which the atrocities would not have taken place to the same extent; and, (3) The third party knows or should have known about the atrocities and about the ways in which its goods or support were likely to contribute to the commission of these crimes.

The type of support identified in element (1), might take the following forms:

(A) Providing the means that are used to commit the atrocities directly, including:

- weapons (small arms and light weapons; heavy weapons; chemical and biological weapons)
- ammunition
- military equipment
- personnel (private security forces; paramilitary forces)
- other instruments (heavy vehicles; bulldozers)

(B) Offering goods and services that indirectly facilitate or sustain atrocities, including:

- transportation by air or sea of products used to commit or coordinate violence
- vehicles (trucks and other land vehicles)
- fuel
- technology and communications equipment (satellite phones; cell phones; computer hardware and software)
- air support
- facilities (buildings; warehouses; training stations)
- technical assistance
- information (tip-offs; target lists)
- havens, communications routes, and other geographical support

(C) Providing general support that materially builds or sustains the capacity of the perpetrator to commit atrocities. This includes engagement in illicit extraction or trafficking of natural resources that generate revenue for the perpetrator.

In this initial formulation, I have chosen to limit "enabling" to a focus on easily detectable material resources. For now I do not extend to the provision of moral support or "political cover," however real and significant those realities are in the enabling of those who brutalize their own citizens. Since these latter factors do not constitute practical support as described above, and they are more difficult to quantify and interdict. But as the Syrian crisis illustrates, when a significant Security Council actor, in this case Russia, and/or a powerful regional power, in this case Iran, provides such "cover" it is a great aid to a tyrant.

Some Data—or at least Real World Examples—Captured by the "Enablers" Concept

Countries, commercial entities, non-governmental groups, and individuals each may be enablers. In the case of countries, examples include the situation in Darfur, Sudan, where transfers of arms by China, Russia, Chad, and other governments or state-owned entities to government and rebel forces have helped sustain the violence against civilians for eight years. There are many other examples in the recent past in which third party governments provided weapons to their allies or proxies even when it was clear they were being used to commit crimes against humanity. Countries involved in questionable trading chains or opaque transshipment practices involving weapons, vehicles, or other forms of equipment may also be enabling atrocities in less direct ways.

In the case of commercial entities, the range of enabling activities is potentially very broad. In Nigeria, multinational oil companies have faced lawsuits after being accused of hiring abusive security forces in the Niger Delta.

In Darfur, the supply of Toyota trucks accessed by rebel groups has been essential to their capacity to commit widespread attacks on civilians. A UN Panel of Experts on Sudan reported that Al-Futtaim Motors Company, the official Toyota dealership in the United Arab Emirates (UAE), was, along with second-hand dealers in UAE, the source of "by far the largest number of vehicles that were documented as part of arms embargo violations in Darfur" That dealership "declined or replied . . . in a perfunctory manner" to three requests by the panel for information about buyers of the trucks identified in Darfur. [Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan (S/2009/562), ¶ 158.]

State and commercial actors may also function as go-betweens, thus playing an important, indirect role as enablers. During the Rwandan genocide, even after a UN arms embargo sought to stop the flow of weapons into that country, arms continued to arrive routed through nearby countries and facilitated by international corporations. A 2009 SIPRI [Stockholm International Peace Research Institute] study revealed that more than 90 percent of air cargo carriers used by international organizations and humanitarian agencies to transport crisis response supplies were also named in open source reports on arms trafficking. Individual business people can be instrumental as suppliers or middle-men: international arms merchant Viktor Bout is a famous example, but others include the Dutch businessman convicted of providing chemical components that Saddam Hussein's regime used against Kurdish civilians.

Countries and commercial actors also act as enablers when they are engaged in the exploitation of natural resources that generate revenues for the perpetrators, thereby sustaining their capacity to abuse civilian populations. Examples include eastern Congo, where windfalls from the illicit mineral trade fuel the rebels' pursuit of arms and thus contribute to atrocities against civilians. In recent times, which the West hopes are now in the past, the military rulers of Burma derived massive export earnings from their gem mines, which helped to finance their brutal repression of that country's citizens.

Approaches for Halting Enablers

Various efforts to halt or punish enablers—without calling them by that name or viewing them as a distinct set of actors—already exist. The approaches governments choose, therefore, must take those into account and could build on those efforts. Usually state actors will likely be most susceptible to approaches by other governments, international organizations, and regional organizations. Because the relationships between the U.S. and governments that act as enablers are

likely to be complicated—and often may not prioritize human rights—we need to be realistic as well as creative about pressure that the U.S. government could apply. Commercial actors will likely be sensitive to approaches from those governments and international and regional organizations too, as well as from consumers and other market-based forces, whether acting on their own, through guideline initiatives, or through non-governmental organizations.

The mildest existing approach emphasizes information: in situations in which enablers are involved unwittingly or are particularly susceptible to concerns about negative publicity, shining a critical spotlight on their role may be sufficient to get their attention. Some entities—particularly multinational corporations with strong presences in the U.S. or Europe—may then be open to new commitments to transparency and due diligence standards to protect human rights.

For example, at least one company investigated for the October 2009 Panel of Experts report on violations of the arms embargo in Darfur was willing to cooperate and fully disclose its relationships in Sudan in order to ensure compliance with UN sanctions. On the other hand, as we have seen through the ongoing role of countries such as China and Russia in the crisis in Darfur, even in the face of public protest in the U.S. and internationally, public attention alone is often insufficient. While this approach might be a useful first step, over-reliance on it may risk oversimplifying complex situations, thereby limiting success.

A stronger and more concerted approach, but one that pertains only to commercial actors, involves the range of mechanisms that has emerged over the past decade to engage corporations in more responsible practices that protect human rights. A number of these efforts involve the U.S. and other governments, and civil society actors have played a key role in each case. One example is the Kimberley Process, which brings together governments, corporations, and civil society in an effort to regulate the diamond trade. Others include the Voluntary Principles, the OECD Guidelines, and the UN Global Compact.

The work being done by the UN Special Representative on Business and Human Rights is also noteworthy in this regard. And efforts by non-governmental actors to provide guidelines to businesses include the Red Flags project, which identifies potential legal liabilities in high-risk situations. This investigative and regulatory work can be augmented by publication and dissemination of these findings by those who share the need for or desire to expose such behavior. These certainly include the UN Panels of Experts, but also an array of non-governmental agencies. These and other initiatives may provide a foundation and entry points for addressing commercial enablers of atrocities.

A yet tougher set of approaches to both state and non-state actors involve the myriad political, economic, or legal mechanisms that can be used against countries, commercial entities, or individuals to deter or dissuade their actions. In its bilateral relationships, the U.S. can bring pressure to bear on enabling governments through public or private condemnations; by suspending business or cultural exchange programs; by withdrawing diplomatic representation; by reducing aid and other forms of support; or by implementing a wide range of other tools.

The U.S. can also pursue targeted, smart bilateral sanctions, or work through the UN Security Council to impose these multilaterally. As seen in the cases of arms embargos in Darfur, Congo, and Cote d'Ivoire, the enforcement of sanctions is a separate challenge, at least as important as their imposition. New regulations specifically targeted at certain commercial entities or activities may be useful. In situations in which there is evidence that enablers are engaged in illegal behavior or have violated international law (including human rights law), it may be possible to pursue international

criminal indictments, sanctions and other legal measures against them.

Despite the general sentiment among governments and non-governmental entities that sanctions rarely work and that they impose hardships on ordinary citizens but not their tyrant targets, evidence for the past decade runs contrary to such claims. For example, the quick decision of the U.S. and EU to impose financial freezes on Libyan governmental funds and the private assets of the Gaddafi family and its supporters in February 2011 was significant. These sanctions were then fully globalized and made more powerful by SC resolutions 1970 and 1973.

According to current estimates, \$36 billion in Libyan funds were locked down in the first week of sanctions. By cutting off nearly half of Gaddafi's usable funds, the international community immediately denied the dictator the money he needed to import heavy weapons, hire mercenary soldiers, or contract with elite commando units. This situation stands in stark contrast to the seeming unending supply of weapons and fighters available to Assad in Syria at the moment.

Undoubtedly the fall of the Libyan regime would not have occurred without an armed rebellion and NATO's military support. But sanctions played a considerable role in degrading both the regime's firepower and its support among Libyan elites. The conflict between Gaddafi's forces and the rebels would have been longer and deadlier without the sanctions. In fact, I would argue that it was because of these funding constraints that Tripoli was not destroyed in an all-out battle, since the regime simply did not have the needed firepower to engage in battle.

Whether addressing commercial actors or states in a given situation, information about third party identities and what role they are playing is critical. By enhancing its intelligence gathering and analysis related to enablers and drawing attention to it at the outset of government violence, the U.S. and other concerned governments should be able to better assess the levers that can be employed to target enablers. Including information on third party actors in intelligence reports on atrocity situations and in interagency discussions about policy options may be useful approaches. The U.S. could also seek to engage international partners in information-sharing to supplement its own intelligence sources on enablers and to help enlist others in the effort to halt these assisting agents of mass atrocities.

Institutionalizing an "Enabler" Concept

As the situation in Syria attests, despite varied efforts to prevent or intervene in them, mass atrocities continue to occur. Although we do not yet know the exact contours of this assistance, it is a good bet that some of Mr. Assad's firepower is enabled and sustained by material provided by such actors as Russian and Iranian firms and agencies, as well as non-governmental sources for hire in the wider community.

Efforts to stifle Assad's firepower or those of other brutal dictators have seen mixed results for several reasons, but among them are the absence of a coordinated and coherent approach and the insufficient understanding of the role of third parties. While a number of organizations are doing useful work on these two factors, a systematic effort to establish a common theme and approach to address the range of enablers has been lacking. The enabler concept helps to fill that gap with analysis that draws together and builds on these disparate efforts.

But the political realities of government action necessitate that the enabler concept—and other new approaches—become institutionalized within government. This critical step was achieved—at least in part—on April 23, 2012, when President Obama announced the establishment of the Atrocities Prevention Board (APB) and other measures. This new board assembles senior government officials

across nearly a dozen government agencies, and is scheduled to meet regularly to identify and respond to atrocity threats. It will also help manage the wider foreign policy bureaucracy, and recommend changes when needed, to ensure a more effective and cohesive response.

As if to signal the entrance of U.S. policy into a new era of dealing with enablers, President Obama also implemented targeted economic sanctions against high-tech companies abroad whose technologies empower regimes to kill their own people. The president's executive order places restrictions on visas and travel as well as asset freezes on such companies and those who control them. These are practical—and potentially powerful—tools that can undermine the presumed success of state repression as it begins. These sanctions can also force governments to reassess their odds of success in continuing their collective killings as their supplies dwindle over time.

In addition to sanctions, the Obama administration has also challenged companies to develop ways to empower people in civil society, rather than repressive governments, by helping ordinary citizens gain access to certain computer and communication products that emphasize networking. The executive order indicated that research grants are available to incentivize such new approaches to product management and responsibility.

I have argued here that in situations in which atrocities are ongoing, efforts to halt these crimes should take into account the role of enablers and subject them to sustained attention and the maximum possible pressure. The enabler concept focuses attention on those individuals, commercial entities, governments—or some combination thereof—that assist and sustain crimes against humanity. The creation of the APB and other measures provide a governmental commitment to employ the enabler concept and some hope for more effective curtailing of the worst abuses of civilians.

Portions of this paper are drawn from various memos and concept papers developed by the author with staff members of Human Rights First in the formation of their work on enablers and crimes against humanity in 2009 and 2010. The collegueship of Ann-Louise Colgan, now of the U.S. Institute of Peace, and Julia Fromholz, now of the U.S. Department of State, is gratefully acknowledged, as is the research work of Eric Eggleston.