



**General Assembly**

Distr.  
GENERAL

A/HRC/7/37  
18 March 2008

Original: ENGLISH

---

HUMAN RIGHTS COUNCIL  
Seventh session  
Agenda item 2

**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\***

---

\* Late submission.

## Summary

The present report is submitted pursuant to Human Rights Council resolution 6/104 of 28 September 2007, and follows an earlier report to the Commission on Human Rights (E/CN.4/2006/84). The report provides an update on developments concerning the United Nations framework for the prevention of genocide, a description of the activities of the Special Adviser of the Secretary-General on the Prevention of Genocide and addresses the need to strengthen the capacity of his office to discharge the mandate more effectively.

The report refers to developments in the overall United Nations framework for the prevention of genocide. Developments in the implementation of the Secretary-General's Five-Point Action Plan to prevent genocide indicate some of the progress made in developing a culture of prevention within the United Nations system, including improved coordination in the response of different United Nations entities. The need for more efforts in strengthening the capacity of the system for effective prevention in a timely manner is however noted. Reference is made to recent reports of the Secretary-General on the prevention of armed conflict (A/60/891), the protection of civilians in armed conflict (S/2007/643) and the rule of law (A/61/636-S/2006/980).

The report also briefly covers the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, as embodied in the 2005 World Summit Outcome (General Assembly resolution 60/1). On 21 February 2008, the Secretary-General announced the appointment of a special adviser to work on the development of ideas relating to paragraphs 138 and 139 of the World Summit Outcome to assist the General Assembly to continue consideration of the responsibility to protect.

The report covers the establishment of the Advisory Committee on the Prevention of Genocide and its contributions to the work of the mandate.

The report also covers the mandate and activities of the Special Adviser on the Prevention of Genocide. With regard to responsibilities and methodology, emphasis is placed on the importance of ensuring that the work of the Special Adviser is adapted to the challenges of prevention on the ground. This includes the four inter-related initial areas of focus of the mandate: protecting populations at risk; accountability; humanitarian assistance; and addressing the underlying causes of conflict.

While upholding the well-established normative framework and legal principles enshrined in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, in order to facilitate cooperation with the States to promote early detection and prevention, the Special Adviser remains committed to an approach that recognizes and fully respects the sovereignty of States and sees sovereignty as a positive concept of State responsibility, to protect those under its jurisdiction, respect their human rights and seek international support when needed. Constructive engagement and transparency are key principles for interaction and cooperation with Member States.

In the report, emphasis is placed on raising awareness of both generic and specific situations, through consultations with States, with the United Nations agencies and departments and with other organizations, including members of the civil society.

Reference is also made to the Special Adviser's activities relating to individual countries. However, in recognition of the sensitive nature of the mandate, the Special Adviser only makes public references to specific situations where that could contribute effectively to addressing the concerns. Mention is made of the Special Adviser's recent activities with regard to post-electoral violence in Kenya, including dispatching staff to the country and the recommendations he made to the Secretary-General following the missions. Under thematic activities, note is made of a series of governmental, intergovernmental and non-governmental actors with whom the mandate engages with a view to strengthening collaborative approaches to the prevention of genocide.

In outlining the challenges posed and the opportunities raised in the prevention of genocide, the United Nations has experienced difficulty in giving priority to the recognition of the risks of large-scale violence and to acting early enough to ensure timely and effective prevention. The Special Adviser could make a significant contribution by ensuring that risks of large-scale violence are promptly recognized and the opportunities raised for United Nations agencies, departments and programmes to play an effective preventive role.

**CONTENTS**

	<i>Paragraphs</i>	<i>Page</i>
I. INTRODUCTION .....	1 - 4	5
II. DEVELOPMENTS CONCERNING THE UNITED NATIONS FRAMEWORK FOR THE PREVENTION OF GENOCIDE .....	5 - 15	5
A. Five-Point Action Plan to prevent genocide .....	5 - 10	5
B. Responsibility to protect .....	11 - 12	7
C. Advisory Committee on the Prevention of Genocide .....	13 - 15	7
III. MANDATE AND ACTIVITIES OF THE SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE AND MASS ATROCITIES .....	16 - 32	8
A. Responsibilities and methodology: challenges and opportunities .....	16 - 17	8
B. Update on the activities of the Special Adviser .....	18 - 32	8
IV. CONCLUSIONS .....	33 - 35	12

## **I. INTRODUCTION**

1. In April 2004, on the tenth anniversary of the Rwandan genocide, the Secretary-General announced a five-point action plan for the prevention of genocide.
2. In a letter dated 12 July 2004 (S/2004/567), the Secretary-General informed the President of the Security Council of his decision to establish the mandate of Special Adviser on the Prevention of Genocide. In his reply of 13 July 2004 (S/2004/568), the President indicated that the Council had taken note of that decision. The Secretary-General appointed Juan Méndez as the first Special Adviser, effective 1 August 2004.
3. In its resolution 2005/62, the Commission on Human Rights requested the Secretary-General to make available to the Commission at its sixty-second session a report on the implementation of the Five-Point Action Plan and on the activities of the Special Adviser. In March 2006, the Secretary-General submitted a report (E/CN.4/2006/84) on the implementation of the Plan and the activities of the Special Adviser.
4. The Secretary-General appointed Francis Deng as successor to Juan Méndez, effective 1 August 2007. On 28 September 2007, in its resolution 6/104, the Human Rights Council requested the Secretary-General to make available to the Council at its seventh session an updated report. The present report is submitted pursuant to that request. The report provides an update on developments concerning the United Nations framework for the prevention of genocide and a description of the activities of the Special Adviser.

## **II. DEVELOPMENTS CONCERNING THE UNITED NATIONS FRAMEWORK FOR THE PREVENTION OF GENOCIDE**

### **A. Five-Point Action Plan to prevent genocide**

5. In his report of 7 April 2004 (E/CN.4/2006/84), the Secretary-General outlined a Five-Point Action Plan to prevent genocide, which included (a) preventing armed conflict; (b) protection of civilians in armed conflict; (c) ending impunity through judicial action in both national and international courts; (d) early and clear warning of situations that could potentially degenerate into genocide and the development of a United Nations capacity to analyse and manage information; and (e) swift and decisive action along a continuum of steps. Updates on the implementation of the Plan are provided in a series of reports by the Secretary-General.
6. Developments on preventing armed conflict, point (a) of the Five-Point Action Plan, are presented in the progress report of the Secretary-General on the prevention of armed conflict (A/60/891). According to the report, a culture of prevention was evolving at the United Nations and considerable progress had been made at both the international and the national levels, with new tools and mechanisms being developed. Noting that there nonetheless remained a gap between rhetoric and reality, the Secretary-General examined the potential for operational and structural prevention and introduced the concept of systemic prevention, involving measures to address global risks of conflict that transcend particular States. The report also contains a review of efforts to strengthen the capacity of the United Nations and the gaps that needed to be addressed so that the Organization could better fulfil its preventive mission.

7. A progress report on the protection of civilians, point (b) of the Five-Point Action Plan, is provided in the sixth report of the Secretary-General on the protection of civilians in armed conflict (S/2007/643). The report contains a description of progress and challenges in implementing the framework for the protection of civilians laid out by the Security Council in its resolution 1674 (2006), including the denial of life-saving access to civilians in need; the practice of sexual violence in conflicts and its devastating impact on individuals and communities; the critical need to address more consistently the impact of conflict on housing, land and property; and the importance of eliminating the humanitarian toll of cluster munitions. The report ends with a set of key actions for the consideration of the Council, all aimed at further strengthening the protection framework in areas that require more prompt and systematic action.

8. An update on ending impunity, point (c) of the Five-Point Action Plan, is provided in the report of the Secretary-General entitled “Uniting our strengths: enhancing United Nations support for the rule of law” (A/61/636-S/2006/980). While progress is noted, the report highlights acute needs with regard to the rule of law and transitional justice expertise in conflict and post-conflict societies. The centrality of the rule of law to the Organization had resulted in many parts of the system becoming engaged in a wide range of rule of law activities. Early in 2007, the Secretary-General established the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General, to ensure quality control, greater policy coherence and coordination. The rule of law unit was established also to support the Deputy Secretary-General and the Group in carrying out and implementing their functions.<sup>1</sup> The unit provides a central address for the rule of law to strengthen and rationalize United Nations rule of law capacities among various departments, agencies, funds and programmes by serving as the focal point for system-wide rule of law activities to ensure coordination and coherence; develop system-wide strategies, policy direction and guidance; and to enhance partnerships between the United Nations and the many other actors engaged in the rule of law.

9. “Early and clear warning” and “swift and decisive action”, points (d) and (e) of the Five-Point Action Plan, are not the subject of a specific report, although the issues are taken up in the multiple reports on the activities of many United Nations entities, including those of the Special Adviser. The situation in Kenya (see also paragraph 28 below) following the elections of December 2007 is the most recent example of a crisis and international reaction thereto. The response from the international community appears to have been strong and concerted, in comparison to actions on previous country situations, although it is too early to determine the long-term effectiveness of the response. Based on initial indications, the Special Adviser notes that there were some early warnings within the United Nations system with regard to a potential crisis in the context of the elections. However, warnings may not have received adequate recognition or response. The situation in Kenya offers the opportunity for a case study to draw lessons learned for the purpose of improving early warning and swift and decisive action.

10. The post of Special Adviser on the Prevention of Genocide and Mass Atrocities was described as one element of the early and clear warning component of the Five-Point Action Plan (see also section III below).

---

<sup>1</sup> The establishment of the Group and the unit was endorsed by the General Assembly in its resolution 62/70 of 6 December 2007.

## **B. Responsibility to protect**

11. The 2005 World Summit Outcome (resolution 60/1) adopted by the General Assembly at the High-level Plenary Meeting of its sixtieth session includes a section on responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, in which Member States declared that each individual State had the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity (para. 138). Member States recognized that the international community, through the United Nations, also had a responsibility to assist States to meet their protection obligations and to respond in cases of manifest failure (para. 139). The Assembly emphasizes early warning, prevention and support from the international community in helping States build the capacity to protect. It is noteworthy that, in the resolution, the Assembly expressed full support for the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.

12. When announcing the appointment of Francis Deng in May 2007, the Secretary-General stated that he was also exploring ways to strengthen United Nations efforts on the responsibility to protect. On 21 February 2008, the Secretary-General announced the appointment of Edward Luck as Special Adviser. The focus of the Special Adviser's work will be the development of ideas relating to paragraphs 138 and 139 of the 2005 World Summit Outcome to assist the General Assembly to continue consideration of the responsibility to protect. To that end, the Secretary-General requested Edward Luck to help develop proposals, through a broad consultative process, to be considered by States Members of the United Nations.

## **C. Advisory Committee on the Prevention of Genocide**

13. In May 2006, at the suggestion of the Special Adviser, the Secretary-General established the Advisory Committee on the Prevention of Genocide to provide guidance and support to the work of the Special Adviser and contribute to the broader efforts of the United Nations to prevent genocide. The Committee is composed of distinguished individuals with diverse backgrounds related to conflict prevention, human rights, peacekeeping, diplomacy and mediation.<sup>2</sup>

14. The Advisory Committee met at Headquarters in New York, in June and October 2006 and in September 2007, subsequently submitting confidential reports and recommendations to the Secretary-General.

15. Among other points, the Advisory Committee concluded that the Special Adviser would benefit from a broader title that would more readily facilitate examination of situations of massive violations of human rights and international humanitarian law prior to genocide; should be able to address situations where the risk of genocide or other crimes against humanity is longer term rather than imminent; should have a direct formal reporting line to the

---

<sup>2</sup> The Committee is composed of: David Hamburg (Chairman), Monica Andersson, Zackari Ibrahim, Gen. Roméo Dallaire, Gareth Evans, Roberto Garretón, Juan Méndez, Sadako Ogata and Archbishop Desmond Tutu. By virtue of his office, Francis Deng is also a member.

Secretary-General; should have a full-time rather than part-time position, at the rank of Under-Secretary-General rather than Assistant Secretary-General; and should receive adequate resources. The Committee is expected to meet again in the third quarter of 2008.

### **III. MANDATE AND ACTIVITIES OF THE SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE AND MASS ATROCITIES**

#### **A. Responsibilities and methodology: challenges and opportunities**

16. In his letter to the President of the Security Council dated 12 July 2004 (S/2004/567), the Secretary-General listed the responsibilities of the Special Adviser as follows:

(a) 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;

(b) To act as a mechanism of early warning to the Secretary-General, and through him to the Council, by bringing to their attention situations that could potentially result in genocide;

(c) To make recommendations to the Council, through the Secretary-General, on actions to prevent or halt genocide;

(d) 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 regarding genocide or related crimes.

17. While the methodology of the Special Adviser must be based on these responsibilities, it must also be designed to respond to conditions on the ground. With the experience acquired in the first three years of the mandate of the Special Adviser, and taking into consideration the 2005 World Summit Outcome and the ongoing nature of United Nations reform, the Special Adviser is in the process of developing his strategy and methodology to identify and address existing gaps and utilize opportunities in the United Nations method of response to specific country situations. The Special Adviser has also engaged in a process of informal consultation with United Nations agencies, departments, Member States and civil society organizations.

#### **B. Update on the activities of the Special Adviser**

##### **1. Initial focus**

18. During his initial years of activity, the Special Adviser found that the prevention of genocide seemed predicated on acting comprehensively in four interrelated areas: (a) the protection of populations at risk against serious or massive violations of human rights or humanitarian law; (b) the establishment of accountability for violations of human rights and humanitarian law; (c) the provision of humanitarian relief and access to basic economic, social and cultural rights; and (d) the initiation and support of steps to address underlying causes of conflict through peace agreements and transitional processes (E/CN.4/2006/84, para. 9).



## **2. Constructive engagement and awareness-raising**

19. While upholding the legal framework and principles of the Genocide Convention of 1948, in order to facilitate constructive engagement with Member States and promote cooperation in early detection and prevention, the Special Adviser is committed to an approach that recognizes and respects the sovereignty of States and sees sovereignty as a positive concept of State responsibility to protect those under its jurisdiction, respect human rights and seek international support when needed. Constructive engagement, consensus-building and transparency are fundamental tools of the mandate of the Special Adviser in international efforts to support States in preventing large-scale violence and genocide.

20. Raising awareness of generic and specific situations is a preventive measure that could be taken in collaboration with academic and research institutions, human rights and humanitarian organizations and others concerned with the prevention of genocide and mass atrocities. Awareness-raising is conducted through a process of country and regional consultations, as well as discussions within the United Nations system. The Special Adviser sees his role as that of a catalyst in engaging Governments and other actors constructively to take preventive action. The Special Adviser also aims at exploring regional approaches that promote increased United Nations collaboration with regional actors to ensure prevention.

## **3. Prevention as a priority**

21. Situations involving massive and serious violations of human rights and international humanitarian law do not creep up unexpectedly, but are, in most cases, predicted and reported upon by Special Rapporteurs, non-governmental organizations, the media and sometimes Member States themselves. There has long been a problem, however, in collating this early-warning information, bringing it promptly to the attention of the United Nations and ensuring that it is given due attention by both the Secretariat and United Nations decision-making bodies. Perhaps the most severe challenge has been to ensure that a situation is given utmost priority.

22. The report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda (S/1999/1257) indicated that political interests were given priority over the need to respond to genocide, war crimes, ethnic cleansing and crimes against humanity. The report, as did the General Assembly and Security Council in subsequent resolutions, acknowledged that such behaviour was wrong and should never be repeated. Nevertheless, since 1994, in various situations stretching across all continents, millions of people have been killed, severely injured or forced from their homes under circumstances including war crimes, ethnic cleansing and crimes against humanity, as well as allegations of genocide. Indicators that these crimes or acts were imminent were ignored, or given inadequate or late responses. As in the case of Rwanda, prevention was not given sufficient priority. A strategic contribution by the Special Adviser could involve ensuring that risks of large-scale violence are understood and given due priority.

## **4. Opportunities and preparedness for prevention**

23. Prevention can imply different things, depending on how a problem is analysed and at what stage it is addressed. Effective preventive responses to genocide, war crimes, ethnic

cleansing or crimes against humanity may require attention to humanitarian, political or human rights, or developmental and environmental factors, according to each situation. All these factors are currently addressed by Member States and non-governmental organizations, as well as by specialized United Nations agencies and departments with expertise in the programming areas, such as the rule of law, human rights, political affairs, good governance, humanitarian assistance and development. Human rights treaty bodies and special rapporteurs also play an important role in addressing aspects of these thematic areas and in specific countries. Collectively, these various mandates can be said to cover every substantive aspect of prevention of large-scale violence that a given situation might require; and yet, in practice, allegations of genocide, war crimes, ethnic cleansing and crimes against humanity continue to be made.

24. There has been a gap in the preventive response on the ground. United Nations entities with the expertise and capacity to act preventively are often not provided with the authorization from Member States or the resources to support in-country prevention adequately and in a timely manner. In some instances, the State authorities concerned may not have realized the gravity of the emerging problems. In other instances, actors within the United Nations system may not have recognized their particular role in the prevention of large-scale violence and consequently do not engage with State authorities or amend their existing programmes and strategies in a way that would help in prevention.

25. The wide range of factors that contribute to the prevention of genocide, war crimes, ethnic cleansing or crimes against humanity require the whole of the United Nations system to have a common understanding of the risks and to engage collaboratively in prevention. In critical situations, it is essential that not only do the authorities in the State concerned share this understanding, but also that Member States collectively engage in common efforts of prevention. The Special Adviser notes that the clearest element in situations where United Nations prevention has been somewhat successful is where there is consensus among Member States and with the United Nations on the problems and the concerted action needed in response. A strategic contribution of the Special Adviser could be to foster consensus-building where there is a risk of large-scale violence.

## **5. Country focus**

26. Since the report of the Secretary-General in March 2006, the Special Adviser has continued to monitor situations worldwide, relying on information from other parts of the United Nations system as well as from governmental and non-governmental sources. In recognition of the sensitive nature of the mandate, the Special Adviser only makes public references to concerns in specific States where such references would be particularly useful in addressing concerns.

27. Action by both the former and current Special Advisers has included country visits by the Special Adviser or his staff, meetings with government representatives or other interlocutors, and, when a more public role of the Special Adviser is warranted, statements to the press. The Special Adviser has written notes, containing recommendations for action, to the Secretary-General on numerous situations.

28. More specifically, in the immediate wake of the violence that followed the elections in Kenya in December 2007, the Special Adviser closely monitored developments, assessing the

potential for escalation of violence and the need for preventive action. Central to the Special Adviser's assessment was the ethnic factor in the violence, the extent to which it was organized or instigated and the risk that it become genocidal. In January 2008, the Special Adviser held a meeting with the Permanent Representative of Kenya to the United Nations in New York to discuss the situation and to inform the Government of his intention to send staff to Kenya to gather first-hand information, an initiative which was welcomed by the Ambassador. In a presidential statement of 6 February 2008 (S/PRST/2008/4), the Security Council also welcomed the Special Adviser's focus on Kenya and requested to be informed of his findings. The Special Adviser has conveyed his findings to the Secretary-General, including recommendations for preventive actions.

## **6. Consultations and thematic focus**

29. Since assuming his office in August 2007, the Special Adviser has maintained an extensive process of engagement and consultation with Member States, most commonly through their permanent representatives, heads of agencies, departments and programmes within the United Nations and other staff members, to explain his approach to the mandate and to share information and concerns. Several permanent missions have hosted discussions on the prevention of genocide and the related responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The Special Adviser has also met with interlocutors of regional organizations, including the African Union and the European Union.

30. The Special Adviser has remained in close contact with academic institutions and non-governmental organizations at both the international and national levels to exchange views on country situations and thematic issues. In addition, he and his staff have attended conferences, participated in numerous events and made public presentations. In December 2007, the Centre for Conflict Resolution, the International Peace Academy and the office of the Special Adviser convened a round table in Stellenbosch, South Africa, on the theme "Prevention of genocide and the responsibility to protect: challenges for the United Nations and the international community in the twenty-first century".

31. Other examples of specific activities include participation in a panel in a conference organized by the Carter Center on the theme "Faith and freedom: protecting human rights as common cause", in September 2007; a presentation at the annual meeting of the special representatives and envoys of the Secretary-General, in October 2007; participation in a conference organized by the United Nations University and the International Crisis Group on the prevention of mass atrocities, in October 2007; attendance at an inter-faith conference on christian response to genocide, in November 2007; opening remarks at a seminar organized by the Department of Public Information entitled "From Kristallnacht to today: how do we combat hatred?", in November 2007; an address to the Africa Committee of the New York Bar Association on the work of the genocide-prevention mandate, in January 2008; a presentation to the board of the Jacob Blaustein Institute on the mandate; participation in a workshop on the theme "Effective global conflict-prevention strategy in Africa: the role of the Security Council", in November 2007; a public lecture at the University of California, Long Beach, including students, faculty and community representatives, in February 2008; and participation in a meeting of genocide scholars, representatives of research institutions and members of civil society engaged in genocide-prevention programmes, organized by the United States Institute of Peace to support the mandate, 3 March 2008.

32. Within the United Nations system, the office of the Special Adviser maintains regular contact with the Executive Office of the Secretary-General and all those whose mandates are relevant to his own, including the Department of Political Affairs and the Office of the United Nations High Commissioner for Human Rights, as well as with human rights special procedures and treaty bodies. At the meeting of the Advisory Committee in September 2007, representatives of various agencies, departments and programmes participated and shared information on ways in which their units could cooperate with the Special Adviser. A follow-up meeting will be held in the near future.

#### **IV. CONCLUSIONS**

33. By definition, it is difficult to assess the impact of prevention activities. At a minimum, noting the increasing emphasis by United Nations departments on the prevention of crises and on lessons learned, the Special Adviser intends to cooperate closely not only in prediction and prevention activities, but also in assessing the quality and effectiveness of the prevention of genocide.

34. Fundamental contributions to prevention by the Special Adviser could involve ensuring that concerns falling within the scope of the mandate are given due priority within the United Nations, and that opportunities are open for United Nations agencies, departments and programmes to play a preventive role. With regard to both contributions, a key challenge in the past has been ensuring that action is taken early enough to be genuinely preventive. Raising awareness within the United Nations as well as among Member States and regional groups of States is a useful way to prepare for future problems, and is a preventive action in and of itself. The initial focus of the Special Adviser's mandate on protecting populations at risk, accountability, humanitarian assistance and addressing the underlying causes of conflict remains a valuable basis for analysis. And, lastly, recognizing the sovereignty of a State as the basis for its responsibility, provides a framework for effective engagement.

35. The Special Adviser will continue to work closely with the relevant United Nations operational agencies, departments and programmes, avoiding duplication of activities and filling protection gaps. Efforts will continue to be made towards developing a strategy and methodology that address challenges on the ground. The Special Adviser will continue to monitor and report on situations to the Secretary-General and Member States, as appropriate, and to act as a catalyst for wider international collaboration to promote collective action for a more effective prevention of genocide.

-----