

UN AGENDA ON PREVENTION OF HUMAN RIGHTS VIOLATIONS

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Prevention costs less than cure. This wisdom has been recently mainstreamed in the UN system. Prevention lies at the core of the UN reforms. The UN prevention agenda has incorporated the domains of peace and security, development, humanitarian assistance, and human rights. The UN preventive diplomacy has comprised briefings, monitoring bodies, “quiet diplomacy” within the UN Security Council, the UN development group, the UN Secretariat, the World Bank group, the UN office for the coordination of humanitarian affairs, etc. In 2018, a group of states proposed to extend prevention to the UN Human Rights Council – to operationalise its mandate to prevent human rights violations. The views on the operationalisation of prevention have diverged. Human rights and conflict caucus under the leadership of Germany suggested using the full preventive potential of the UN human rights instruments by a stronger link between Geneva and New York – through the briefings by the UN Human Rights Council special procedures at the Security Council. The Like-Minded Group recommended to refrain from the review of the existing mandates of the UN bodies and rather to enhance technical assistance and capacity building of states to address the root causes of crises. A few states expressed concerns that prevention might serve as an umbrella for the military component of responsibility to protect. Surprisingly, the agenda has not been suspended: the stakeholders do not quit the agenda and engage constructively in negotiations on the prevention tools. The research puzzle of the article is that while the interrelation of peace and security with human rights might bring a cumulative effect, such an interrelation could also mix the mandates of the UN principal organs and cause the deep structural review of the UN. This article aims to reveal the variety of tools in the UN prevention agenda. What is prevention at the UN system? What are the tools that could be launched for the prevention of human rights violations?

Keywords: United Nations; Security Council; Human Rights Council; responsibility to protect; right to development; prevention.

Acknowledgements. The research project is funded by the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation), GRK 2225/1 “World politics”. The author gratefully acknowledges the support for the project.

ПОВЕСТКА ООН ПО ПРЕДОТВРАЩЕНИЮ НАРУШЕНИЙ ПРАВ ЧЕЛОВЕКА

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Предотвратить болезнь дешевле, чем ее лечить. Эта мудрая мысль пронизывает недавние инициативы в системе ООН. Идея предотвращения лежит в основе реформирования организации. Повестка ООН в области предотвращения затрагивает вопросы обеспечения мира и безопасности, развития, гуманитарной помощи и прав человека. Превентивная дипломатия ООН включила брифинги, мониторинговые структуры, “тихую дипломатию” в рамках Совета Безопасности ООН, группы ООН по вопросам развития, Секретариат ООН, группу Всемирного банка и Управление ООН по координации гуманитарных вопросов и других структур. В 2018 г. группа государств предложила задействовать предотвращение в рамках мандата Совета ООН по правам человека. Позиции участников по этому вопросу разошлись. Коалиция “Кокус по правам человека и конфликтам”, возглавляемая Германией, предложила использовать

Образец цитирования:

Бояшов АС. Повестка ООН по предотвращению нарушений прав человека. Журнал Белорусского государственного университета. Международные отношения. 2020;2: 9–18 (на англ.).

For citation:

Boyashov AS. UN agenda on prevention of human rights violations. *Journal of the Belarusian State University. International Relations*. 2020;2:9–18.

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потенциал правочеловеческих инструментов ООН через обеспечение взаимодействия Женевы и Нью-Йорка путем брифингов мандатариев спецпроцедур Совета ООН по правам человека в Совете Безопасности. Группа единомышленников рекомендовала воздержаться от пересмотра существующих мандатов органов ООН и усилить инструменты технической помощи и наращивания потенциала с согласия государств, чтобы разрешать конфликты на начальной стадии. Некоторые страны выразили опасения, что предотвращение нарушений прав человека может стать лишь ширмой для задействования силового компонента ответственности по защите. Удивительно, но данные переговоры не были прекращены: заинтересованные стороны не отказываются от повестки и ведут конструктивные переговоры по конкретным инструментам предотвращения. Исследователю следует следующая проблема: в то время как переплетение вопросов мира и безопасности с вопросом соблюдения прав человека может дать кумулятивный эффект, оно также может изменить мандаты главных органов ООН и повлечь глубокие структурные изменения в организации. Автор предпринимает попытку выяснить, что представляет собой предотвращение в системе ООН и какие инструменты могут быть задействованы для предотвращения нарушений прав человека.

Ключевые слова: ООН; Совет Безопасности; Совет по правам человека; ответственность по защите; право на развитие; предотвращение.

Благодарность. Исследовательский проект поддержан Немецким научно-исследовательским обществом, группа 2225/1 «Мировая политика». Автор выражает признательность за поддержку проекта.

Introduction

This article aims to answer the research question about the tools and mechanisms that could serve the purpose of the prevention of human rights violations. The relevance of this question is determined by the recent initiatives in the UN system to interrelate the mandate on peace and security of the UN Security Council (SC) with the mandate of the UN Human Rights Council (HRC) to prevent human rights violations. The UN system could face deep structural reforms or even cease to exist depending on how actors and relevant stakeholders agree on the operationalisation of prevention. For example, the recent proposals by Germany to establish communication channels between the UN SC and the UN HRC are based on the overlap between the prevention of conflict and the prevention of human rights violations that are the mandates of the UN SC and the UN HRC respectively¹. These initiatives could bring the cumulative effect to dealing with crises, however, raise high risks of either reviewing the status of the UN HRC or reforming the institution-building of the UN SC (and thus opening the Pandora box of

reviewing the UN Charter), or even develop a new concept of humanitarian intervention or a military component of responsibility to protect (R2P). The conflict prevention of the UN has been largely operationalised, which is not the case of the prevention of human rights violations – the respective mandate of the UN HRC has no concrete tool and mechanism. Would the prevention of human rights violations mean the inclusion of non-state actors in the activities of the UN SC? How to differentiate the prevention of conflict from the prevention of human rights violations? What are the possible tools and a wider context of UN preventive diplomacy?

To answer these questions, the article deals with the following objectives. At first, the article explores the genesis of UN preventive diplomacy. Further, it examines the agenda on prevention within the UN SC, the UN development group, the UN Secretariat, the World Bank group (WBG), the UN office for the coordination of humanitarian affairs. Finally, the article investigates the main proposals on the prevention mandate of the UN HRC.

Genesis of the UN preventive diplomacy

The agenda of the prevention of human rights violations is held at the UN HRC in Geneva because the prevention of human rights violations is one of the mandates of the UN HRC. The constitutive document of the UN HRC which is the UN General Assembly resolution 60/251 stipulates in para 5f that the UN HRC shall “contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies”. At the same time, the broader prevention agenda of the UN system incorporates the mandate of the UN SC to prevent conflicts, plus, a few other dimensions of

prevention within the UN development group, the UN Secretariat, the WBG, the UN office for the coordination of humanitarian affairs.

The prevention agenda of a few UN bodies includes a scale of concrete instruments, tools, mechanisms, and methodologies. For example, in the case of the conflict prevention toolkit that is largely developed within the UN SC, the mechanisms include special envoys, special political missions, peacekeeping operations, rapidly deployable mediation expertise, sanctions monitoring, etc². The prevention of crime that is the focus of the UN office on drugs and crime suggests largely

¹Note verbale dated 1 July 2020 from the permanent missions of Belgium, Estonia, France and Germany to the United Nations addressed to the president of the Security Council. UN Doc. S/2020/631.

²United Nations conflict prevention and preventive diplomacy in action. UN department of political affairs [Electronic resource]. URL: https://dppa.un.org/sites/default/files/booklet_200618_fin_scrn.pdf (date of access: 30.07.2020).

research-based prevention based on the analysis of the information and intergovernmental cooperation. The prevention of human rights violations, in its turn, has not been operationalised yet, which opens room for interpretations and discussion. The constituent document of the UN HRC (resolution 60/251 of the UN General Assembly) does not propose any concrete mechanism to implement prevention, but “a prompt response” or “dialogue and cooperation”, whatsoever it could be interpreted.

In 2010–2020, the discussions on the prevention mandate of the UN HRC reinvigorated and suggested two leading views on the prevention of human rights violations promoted by the two most active coalition networks at the UN HRC. The first standpoint presupposes building a stronger link between the UN HRC and the UN SC. This view is intensively promoted by the JUSCANZ³ and EU formal diplomatic networks, plus, the informal grouping of caucus on human rights and conflict prevention and group of friends of responsibility to protect. Though not completely contrary, but the other standpoint is promoted by the like-minded group (LMG): the prevention of human rights violations is different from the prevention of conflict, and has to involve the capacity building based on mainly intergovernmental cooperation and the respective consent of a state concerned. While the two views overlap in their acknowledgement of the positive effect of the operationalisation of prevention, the perspectives diverge in their understanding of hierarchy between governmental and non-governmental stakeholders. The recent proposal by the JUSCANZ and EU networks in September 2020 at the UN HRC was to widen the Secretary-General mandate and enable him to regularly bring to the attention of the UN SC the reports of the UN HRC⁴. This initiative did not find the consensus.

On the one hand, as suggested by the Marc Limon and Mariana Montoya, the prevention could bring the cost-effective and positive effect once it would comprise three pillars of the UN: peace and security, development, and human rights [1, p. 3]. This standpoint is supported by Bertrand Ramcharan, the frontrunner of the notion “preventive diplomacy”, who recently claimed that the involvement of non-governmental stakeholders in UN preventive diplomacy would enhance the prevention role of the UN SC [2; 3, p. 137–143]. On the other hand, the interrelation of peace and security with human rights

would potentially infringe the balance between the governmental and non-governmental stakeholders in conflict prevention, plus, informally expand the mandate of the UN SC and the UN HRC.

The augmenting attention to prevention is a natural consequence of the UN reforms. Because of the implementation of the 2030 agenda the UN system had been driving to a proactive, risk-informed, and prevention-centre approach⁵. Both the UN General Assembly in resolution 70/262 and the UN Security Council in resolution 2282 (2016) acknowledged that development, peace and security, human rights were interlinked and mutually reinforcing. In 2012, the UN Secretary-General Ban Ki-Moon has identified prevention as the imperative for the UN agenda⁶. This imperative included advancing a preventive approach to human rights. The vision of the current UN Secretary-General Antonio Guterres also underscores prevention as one of the UN key priorities⁷. The UN high commissioner for human rights Michelle Bachelet has prioritised the prevention of human rights violations to be at the core of the whole UN human rights work⁸.

The interrelation of peace and security with human rights has been proposed as the cornerstone of the UN preventive diplomacy only since the 1990s. Before that, the UN preventive diplomacy referred to conflict-related issues and consisted mainly of mediation by the Good offices of the UN CHR [4, p. 130]. In the domain of human rights, the prevention agenda of the UN Commission on Human Rights was limited to the prevention of discrimination and genocide [5, p. 353]. This commission introduced the concept of prevention of human rights violations only in 1981 by the proposal to establish the UN high commissioner for human rights to effectively promote human rights and prevent their violations, still without concrete mechanisms [5, p. 368].

Before the 1990s, the prevention in human rights included only the prevention of genocide, though a great scope of prevention mechanisms was introduced including a world human rights court. On 11 December 1946, the UN General Assembly recommended in its resolution 96 (1) that “international co-operation be organised between states with a view to facilitating the speedy prevention and punishment of the crime of genocide”⁹. The UN General Assembly resolution 96 (1) has led to the adoption of the Convention on the prevention and punishment of the crime of genocide

³JUSCANZ is a coalition of somewhat 16 states within the Western European and Others Group. The name of the group is derived from its founding members: Japan, the United States, Canada, Australia and New Zealand.

⁴The contribution of the Human Rights Council to the prevention of human rights violations [Electronic resource]. URL: <https://undocs.org/en/A/HRC/RES/45/31> (date of access: 26.10.2020).

⁵Annual overview report of the United Nations System Chief Executives Board for Coordination for 2017. Doc. E/2018/48.

⁶Priorities: prevention [Electronic resource]. URL: <https://www.un.org/sg/en/priorities/prevention.shtml> (date of access: 30.07.2020).

⁷Prevention key to saving lives, money, Secretary-General tells Alliance for Peacebuilding 2017 Annual conference [Electronic resource]. URL: <https://www.un.org/press/en/2017/sgsm18743.doc.htm> (date of access: 30.07.2020).

⁸Presentation of the annual appeal by high commissioner for human rights Michelle Bachelet [Electronic resource]. URL: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24074&LangID=E> (date of access: 30.07.2020).

⁹Yearbook of the United Nations 1946–47. New York : United Nations, 1947. P. 244.

(Convention on genocide) by the UN General Assembly resolution 260 (III) on 9 December 1948. During the drafting process, the UN member states (France, the Netherlands) and the UN Secretariat (the division of human rights) elaborated on four tools of the prevention:

- 1) creation of an international administrative instrument;
- 2) establishment of a special court;
- 3) use of the UN organs by the states;
- 4) application of prevention in the forms other than criminal measures and beyond the crime of genocide – to criminal offenses that do not themselves constitute genocide¹⁰.

Those proposals were going too far due to risks posed for sovereignty: some member states (the United States) understood prevention limited by the sovereignty principle: the parties to the Convention on genocide “... agree to concert their action as such members to assure that the United Nations take such action as may be appropriate under the UN Charter for the prevention and suppression of genocide”¹¹.

The interpretation of prevention in the 1990s by the UN senior officials has moved the accent from conflict-related issues to human rights, still not though all-encompassing consensus. The 1992 report “Agenda for peace”, written at the request of the SC by the administration of Boutros Ghali, associated the UN preventive diplomacy with the domain of peace and security: the report elaborated on the preventive deployment of peacekeepers and establishment of demilitarised zones as the main preventive tools¹². The other report in 1992, by Bacre Ndiaye, the UN special rapporteur on extrajudicial, summary or arbitrary executions, to the UN CHR, highlighted the state obligations under international law to prevent violations of the right to life, to prevent the appearance of death due to abusive use of force and torture¹³. Bacre Ndiaye referred to the 1989 “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions” recommended by Economic and Social Council resolution 1989/65¹⁴ [6, p. 494]. Though these principles were recommendatory, the idea of the interrelation of prevention of conflict with the prevention of human rights violations fostered further discussions on how the UN preventive diplomacy should look like.

The 1999 report by Javier Perez de Cuellar outlined the concept of preventive diplomacy and highlighted

that the protection of human rights is itself a preventive strategy¹⁵. From this point of view, UN preventive diplomacy is based on the interrelation of peace and security with development and human rights and thus includes a wide range of mechanisms from presence of the Secretary-General special representatives on the ground to the early warning by civil society organisations. The 2006 report by Kofi Annan incorporated both views on prevention. On the one hand, the report by Kofi Annan underscored that prevention was essential when conducted at a national level thus stressing the importance of national capacity building and development¹⁶. On the other hand, this report highlighted the significance of interrelation of peace and security with human rights through building a communicative channel on prevention between the office of the high commissioner for human rights and the SC thus stressing monitoring, early warning, and prompt response from the UN¹⁷.

The proposals of the UN senior officials reflected the debates on the lack of human rights in the UN prevention agenda. The independent inquiry into the UN actions during the 1994 genocide in Rwanda showed the lack of human rights in the prevention agenda of the UN as the main reason for the UN failure to act¹⁸. These concerns were raised again at the UN HRC. The 2012 report of the “SG’s Internal Review Panel on UN Action in Sri Lanka”, headed by Charles Petrie, referred to the following limitations of the UN actions during the internal conflict from August 2008 till May 2009 in Sri Lanka: the reluctance among the UN institutions on the ground to recognise prevention of human rights violations as the part of their mandate, separation of pillars of peace and security, development, and human rights¹⁹. The Charles Petrie’s report proposed several diplomatic and organisational tools on prevention of human rights violations including strengthening the presence of office of the high commissioner for human rights (OHCHR) in New York and its collaboration with the department of political and peacebuilding affairs, improvement of the competences of the UN country team staff in human rights, a new model of a small human rights team in size of up to 20 staff deployable for a short term, etc.

The Charles Petrie’s report in 2012 was following by the 2013 initiative of Ban Ki-Moon “Human rights up front” (HRUF) that also suggested to interrelate peace and security with human rights. The HRUF initiative

¹⁰Interoffice Memorandum. 1 Apr. 1948. File No. SOA 318/1/01. Annex. P. 6.

¹¹Observations by the Netherlands government concerning the draft Convention on genocide. 15 Apr. 1948. SOA 318/1/01/ (1) C.

¹²An agenda for peace preventive diplomacy, peacemaking and peace-keeping [Electronic resource]. URL: https://www.un.org/ruleoflaw/files/A_47_277.pdf (date of access: 30.07.2020).

¹³Extrajudicial, summary or arbitrary executions : report by the special rapporteur Bacre Waly Ndiaye, submitted pursuant to Commission on the Human rights resolution 1992/72. UN Doc. E/CN.4/1993/46, 7.

¹⁴Yearbook of the United Nations. London : Martinus Nijhoff Publishers, 1989. P. 494.

¹⁵Report of the Secretary-General on the work of the organisation. UN Doc. A/54/1.

¹⁶Report of the Secretary-General on progress report on the prevention of armed conflict. UN Doc. A/60/891.

¹⁷Ibid. P. 17.

¹⁸Letter dated 15 Dec. 1999 from the Secretary-General addressed to the President of the Security Council. UN Doc. S/1999/1257.

¹⁹Report of the Secretary-General’s Internal Review Panel on United Nations action in Sri Lanka. UN Doc. ST(02)/R425/Sri Lanka.

developed the recommendations by the Charles Petrie's commission into 3 types of change needed to prevent serious problems on the ground. These types refer to the multi-stakeholder approach in prevention:

1) cultural change includes all staff and UN entities to conduct their work with an awareness of their wider responsibility to support the UN Charter and overall UN mandates, staff to take principled positions and act with moral courage, United Nations headquarters (UNHQ) to back staff who uphold overall UN responsibilities, greater accountability for UN action;

2) operational change includes bring the UN's three pillars together, joint analysis and strategy by the UN system, in the field and UNHQ, better early warning and response;

3) change to UN engagement with member states includes proactive engagement with national authori-

ties about concerns identified in analysis, early and full engagement with member states to prevent large-scale human rights violations²⁰.

The HRUF initiative was expected to improve the capacities of the UN to act on the ground within the human rights agenda. However, in 2018 following the elections of Antonio Guterres as the UN Secretary-General the director-level post for the implementation of the HRUF was eliminated. The recent trends in the reforms of the UN Secretariat have shown the strengthening of the permanently functioning executive office of the Secretary-General and its regional representatives rather than the keeping attention on the temporary established monitoring UN entities on the ground with a human rights-based approach and risk analysis tools prescribed by the HRUF as one-UN on the ground approach.

UN prevention mechanisms

The application of prevention has been widely spread within the UN system: UN SC, UN office on drugs and crime, UN resident coordinators system, WBG, UN office for the coordination of humanitarian affairs (UN disaster relief office), UN Central Emergency Response Fund.

The wider UN context has shown four evolving trends:

1) a closer interrelation between prevention and human rights;

2) a stronger significance of mutual reinforcement of peace and security, human right, and development at the implementation of UN preventive diplomacy;

3) splitting "primary prevention" addressing root causes of human rights violations and "secondary prevention" focusing on early warning mechanisms and communication;

4) complex interlinkages of states, international institutions, and non-governmental organisations (NGOs) in preventing human rights violations.

UN Security Council

The UN SC focuses mainly on prevention in the domain of peace and security. In this regard, the UN SC regularly acts to prevent and combat terrorist acts, financing of terrorism, money laundering²¹. One of the UN SC prevention tools regularly used is the SG reports to the SC on the situation on the ground under Art. 99 of the UN Charter. These reports regularly stress the need for a preventive approach and elaborate on the UN institutional structures on the ground that take action to prevent the conflict²².

At the same time, the UN SC recognises that conflict prevention is inevitably linked with the root causes of conflict that in turn may significantly aggravate the situation. In 2005 Philippines (the UN SC presidency) stressed the preventive approach by the UN SC in the presidential statement on the role of civil society in conflict prevention and the pacific settlement of disputes²³. Another example, in the UN SC resolution on

Libya, adopted on 13 September 2018, calls on the Libyan authorities to prevent and respond to sexual violence in the conflict including gender-based violence crimes²⁴.

Besides official meetings, resolutions, and Secretary-General reports, the prevention tools of the UN SC include a tool of horizon-scanning at informal interactive dialogues and Arria formula meetings.

Informal interactive dialogues are held as informal consultations for horizon scanning of a situation on the ground. These are negotiations at a senior government level that are limited to the UN SC members and are situation-specific. Handbook on the UN SC working methods defines these consultations as "informal private meetings of the Security Council members convened in order to hold an off-the-record discussion with one or more non-Council member states"²⁵. The informal dialogues are presided over by the president

²⁰Human rights up front. An overview [Electronic resource]. URL: https://interagencystandingcommittee.org/system/files/overview_of_human_rights_up_front_july_2015.pdf (date of access: 07.06.2020).

²¹Resolution 2462 (2019) on prevention and suppression of the financing of terrorism. UN Doc. S/RES/2462.

²²Ibid.

²³Statement by the president of the Security Council. UN Doc. S/PRST/2005/42.

²⁴Resolution 2434 (2018) on extension of the mandate of the UN Support Mission in Libya (UNSMIL) until 15 Sept. 2019. UN Doc. S/RES/2434 (2018).

²⁵The Security Council working methods handbook [Electronic resource]. URL: www.unic-ir.org/SC-HANDBOOK.pdf (date of access: 30.07.2020).

of the UN SC and take place in a meeting room other than the council chamber or consultations room²⁶. This preventive tool is useful when there is no consensus on the procedures for a formal meeting. It helps to engage constructively with relevant stakeholders and proved to be effective while preventing violations during the 2009 conflict in Sri Lanka. Since then, the UN SC has met under this format more than 42 occasions²⁷.

The other type of preventive horizon-scanning at the UN SC is the Arria formula meetings that constitute direct dialogues with high representatives of governments and international organisations. They may be requested by governments or by the Secretary-General and the other chief officials of the UN. In contrast to informal interactive dialogues, the Arria meetings represent consultations with the senior officials from non-members of the UN SC, plus, representatives of non-state actors, heads of international organisations, and high UN officials, holders of monitoring mandates

from the HRC, i. e. Commission of Inquiry (COI) on Syria and Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea. Due to their informal character, these meetings often do not have meeting records, however, some of them may be put on the webcast.

Through these mechanisms, the UN SC conducts regular horizon scanning. The combination of these informal and formal tools constitute the effective preventive "tool-box" of the UN SC. In addition to that, the preventive "tool-box" of the SC is based also on briefings in regular meetings, communication with the UN SC and the Secretariat, intra-council communication and exchange of information, the publication of outcome documents, consultations with troop- and police-contributing countries, dialogue with non-council members and bodies, the establishment of subsidiary bodies, the UN SC missions and annual reports to the General Assembly²⁸.

UN development group and resident coordinators system

The UN resident coordinators system coordinates the UN organisations in development regardless of their presence in the country. The resident coordinators are Secretary-General designated representatives for development operations at the country level and they lead 130 UN country teams operating in 164 countries²⁹. The system is governed by the management and accountability system established by the UN development group.

The recent reinvigoration of this system has been based on a systemic and preventive approach. The resident coordinators should now have a deep understanding of the conceptual shift brought by the 2030 agenda, as well as of national developments, plus, they should have skills and competence to work across the development-humanitarian-peacebuilding continuum to prevent the aggravation of the crisis.

The prevention is at the core of all tools of this system as recommended by the UN development assistance framework guidance³⁰. The main prevention tool according to this document is the focus on underlying and root causes for the conflict analysis by the system. Among the other tools applied by the system one may find:

- a) strengthening national capacities at all levels;
- b) supporting monitoring and implementation of international commitments, norms, and standards, comprising the 2030 agenda, the Paris agreement, the

Sendai framework on disaster risk reduction, multilateral environmental agreements, international or regional human rights treaties and agreed international instruments;

c) assisting countries through normative support, as appropriate;

d) acting as a convener of a wide range of national and international partners;

e) providing high-quality technical expertise;

f) objective monitoring and evaluation of the national development framework;

g) providing impartial policy advice, based on international experience, technical expertise, and good practices;

h) providing a neutral space within which sensitive political issues can be addressed and resolved, including support to mediation or peace negotiations³¹.

The other prevention tool is risk analysis conducted by the resident coordinators. The Secretary-General Human rights up front initiative supports the UN in identifying the risks arising from the root causes of conflict, especially, the human rights risks. As for the concrete methodologies for the analysis, the conflict and development analysis tool and UN conflict analysis practice-note are proposed. These tools combine the analysis of political risks with the analysis of human rights issues. Given that the analysis is further spread through the UN system, the tool seems to have significant potential.

²⁶Ibid.

²⁷UN Security Council working methods. Informal interactive dialogue [Electronic resource]. URL: <https://www.securitycouncilreport.org/un-security-council-working-methods/informal-interactive-dialogue.php> (date of access: 30.07.2020).

²⁸Note on measures to enhance the efficiency and transparency of the work of the Security Council. UN Doc. S/2017/507.

²⁹The reinvigorated resident coordinator system [Electronic resource]. URL: https://www.un.org/ecosoc/sites/www.un.org/ecosoc/files/files/en/qcpr/2_%20The%20reinvigorated%20Resident%20Coordinator%20system.pdf (date of access: 30.07.2020).

³⁰UN development assistance framework guidance [Electronic resource]. URL: <https://unsdg.un.org/resources/united-nations-development-assistance-framework-guidance> (date of access: 30.07.2020).

³¹Ibid.

World Bank group

In line with a preventive and systemic approach, the UN and the WBG launched a joint global study “Pathways for peace. Inclusive approaches to preventing violent conflict”. The study originates from the conviction that the international community’s attention must urgently be refocused on prevention. A scaled-up system for preventive action would save between 5 and 70 bln US dollars per year, which could be reinvested in reducing poverty and improving the wellbeing of populations³².

The prevention tools proposed by the study include monitoring risks of conflicts, capacity building, and quick resource allocation, the involvement of actors beyond states in dialogue and peacebuilding, ensuring that security and development are mutually supportive, the share of risk assessments among national authorities and international stakeholders, cooperation with collective mechanisms, a greater degree of coordination with the UN system³³.

The study “Pathways for peace. Inclusive approaches to preventing violent conflict” suggests the following vision on prevention tools:

- 1) development actors need to provide more support to national and regional prevention agendas through targeted, flexible, and sustained engagement;
- 2) to prevent societies from descending into crisis their resilience should be ensured through investment in inclusive and sustainable development;
- 3) the primary responsibility for preventive action rests with states, both through their national policy and their governance of the multilateral system;
- 4) exclusion from access to power, opportunity, services, and security creates fertile ground for mobilising group grievances to violence, especially in areas with

weak state capacity or legitimacy or in the context of human rights abuse;

5) preventing violence requires departing from traditional economic and social policies when risks are building up or are high. It also means seeking inclusive solutions through dialogue, adapted macroeconomic policies, institutional reform in core state functions, and redistributive policies;

6) inclusive decision making is fundamental to sustaining peace at all levels, as are long-term policies to address economic, social, and political aspirations;

7) new mechanisms need to be established that will allow greater synergy among the various tools and instruments of prevention, in particular, diplomacy and mediation, security, and development³⁴.

These preventive tools are applied through the whole collaboration between the UN system and the WBG. In particular, the preventive approach was put forward in the UN and the WBG the humanitarian-development-peace initiative to establish joint platforms aligning country operations in Cameroon, the Central African Republic, Guinea-Bissau, Pakistan, Somalia, the Sudan, and Yemen³⁵. Moreover, the prevention agenda performs as the methodology in the actions of numerous trust funds established under the framework of UN-WBG cooperation: UN Peacebuilding Fund, UN DP Crisis Prevention and Recovery Thematic Trust Fund, International Development Association, State- and Peace-Building Fund, Korean trust fund for economic and peace-building transitions, the system of multi-donor trust funds. Besides that, one of the effective prevention tools is the debt relief initiatives: heavily indebted poor countries initiative, the multilateral debt relief initiative, the debt reduction facility³⁶.

UN office for the coordination of humanitarian affairs (UN disaster relief office)

The UN disaster relief office which is now the part of the UN office for the coordination of humanitarian Affairs (OCHA) has historical experience dealing with the prevention of disasters and emergencies. To a greater extent, the prevention agenda of the UN OCHA is based on capacity building aiming at creating preparedness at the national and regional levels. The main tools of OCHA are humanitarian assistance, advocacy, policy recommendations, plus, coordinated information management services.

OCHA provides information management services to the humanitarian community to inform a rapid, ef-

fective, and principled response. It gathers, shares, and uses data and information, underpinning coordination, decision-making, and advocacy. OCHA also adapts tools and methodologies for monitoring humanitarian response, including developing joint analysis with local communities, and with development, peacebuilding, environment, and other actors³⁷.

As a concrete prevention tool, the famine action mechanism (FAM) was launched by the WBG, the UN, the International Committee of the Red Cross, and some other global actors³⁸. The FAM builds on existing famine early warning systems to enhance the capacity

³²Pathways for peace: inclusive approaches to preventing violent conflict. Washington : World Bank, 2018.

³³Ibid.

³⁴Ibid.

³⁵The humanitarian-development-peace initiative [Electronic resource]. URL: www.worldbank.org/en/topic/fragilityconflictviolence/brief/the-humanitarian-development-peace-initiative (date of access: 30.07.2020).

³⁶International Development Association [Electronic resource]. URL: <http://ida.worldbank.org/> (date of access: 30.07.2020).

³⁷Information management [Electronic resource]. URL: <https://www.unocha.org/our-work/information-management> (date of access: 30.07.2020).

³⁸Global humanitarian overview 2019 [Electronic resource]. URL: <https://www.unocha.org/sites/unocha/files/GHO2019.pdf> (date of access: 30.07.2020).

to forecast areas most at risk of famine. By leveraging the World Bank's analytics and partnering with global technology firms (including Microsoft, Google, Amazon Web Services and tech start-ups) the FAM explores the use of state-of-the-art technologies, such as artificial intelligence and machine learning, to provide more powerful early warnings to identify when food crises threaten to turn into famines.

The other example of the prevention tools establishment within the humanitarian risks agenda is the UN Central Emergency Response Fund established as the UN Global Emergency Response Fund³⁹. The main idea of this tool is to provide urgent humanitarian assistance as soon as possible. These tools were able to allocate 418.2 mln US dollars for preventive action in 2017⁴⁰.

Operationalisation of prevention of human rights violations at the UN Human Rights Council

The debates on the prevention of human rights violations escalated in 2018 when pen holders and the core group on the respective HRC resolution on the prevention mandate decided to establish a group of experts on the prevention of human rights violations to building a stronger link between the UN HRC in Geneva and the UN SC in New York. Before 2018, the HRC Resolution on prevention was submitted by Ukraine and did not operationalise the HRC prevention mandate: it served as an agenda-setting tool and initiated the OHCHR studies, workshops, panels. In comparison to sole Ukraine in 2010–2011 as the main sponsor, the 2016 HRC resolution on prevention included seven main sponsors: Australia, Hungary, Maldives, Morocco, Poland, Ukraine, Uruguay.

In 2018, when the core group decided to operationalise the prevention instruments of the HRC, Ukraine quitted from the sponsorship of the resolution and even did not participate in the respective proceedings of the HRC. The core coalition was based on two informal groupings: Human rights and conflict prevention caucus and Group of friends of the responsibility to protect. The HRC resolution on prevention in 2018 was submitted by Norway and Switzerland, with four sponsors (Colombia, Norway, Sierra Leone, Switzerland) and 53 co-sponsors. The resolution secured 419 100 US dollars for the activities of the experts who would allegedly develop the prevention mandate of the UN HRC after consulting the UN headquarters in New York and other relevant stakeholders. While the previous HRC resolutions had been adopted by consensus, the 2018 resolution did not meet consensus through was adopted.

Belarus elaborated on its position on the operationalisation of the prevention mandate of the UN HRC during the discussions with the appointed experts on prevention at the 2nd Intersessional seminar on prevention held on 8 October 2019 in Geneva. In its statement, Belarus aligned its position with the views of the LMG on the matter of operationalisation. Furthermore, Belarus expressed its concerns on the increasing de-

gree of politicisation and double standards in the activities of the HRC, notably, in case of country-specific resolutions and absence of a coherent approach to all countries. According to the Belarusian diplomat, the operationalisation of the HRC prevention mandate needs consensus, which might be challenged by the unresolved issues of politicisation.

According to the statements by the representatives of the LMG countries, the prevention mandate of the HRC should be operationalised in accordance with the UN Charter, therefore, firstly, keeping the dividing lines between the mandates of the UN HRC and the UN SC, secondly, ensuring the primacy of states in the prevention of human rights violations. Regarding the prevention tools, the LMG suggested that technical assistance upon the consent of a state concerned could be an effective prevention tool to strengthen capacity building on the domestic level and effective prevention of human rights violations. Since human rights are interdependent, prevention of the root causes of violations shall be focused not only on civil and political rights, but also on economic, social, and cultural ones, notably, prevention could concentrate on the fight against poverty and right to development.

The LMG was cautious towards the efforts of a few states to use the prevention agenda to review the overall mandate of the council in circumvention of the General Assembly as its superior body. The LMG proposed that the prevention of human rights violations should be guided by the principles of universality, non-selectivity, impartiality, and constructive cooperation under the HRC institution-building package and the constituent resolution of the UN General Assembly.

According to the LMGs, the existing division of responsibilities among the principal UN organs should be kept. The linkage between the SC and the HRC should be discussed and decided universally. According to the LMG positions, no HRC procedure should not be prioritised or used to connect peace and security domains of the UN SC with the prevention of human rights violations of the UN HRC. A few delega-

³⁹UN Central Emergency Response Fund [Electronic resource]. URL: <https://cerf.un.org/about-us/who-we-are> (date of access: 30.07.2020).

⁴⁰Annual report 2017 [Electronic resource]. URL: https://cerf.un.org/sites/default/files/resources/cerf_ar_2017_en.pdf (date of access: 30.07.2020).

tions expressed concerns on whether the prevention of human rights violations would serve as an umbrella for the R2P.

If prevention interrelates peace and security with development and human rights, then how far is it different from “responsibility to protect”? On the one hand, according to the report by the International Commission on Intervention and State Sovereignty, the responsibility to protect has a strong human rights component that includes human rights violations as a root cause of the crisis and an early warning for the international community to directly act [6, p. 33]. On the other hand, the outcome of the 2005 World summit limited the application of the responsibility to protect genocide, war crimes, crimes against humanity, and ethnic cleansing thus constraining the human rights component of the responsibility to protect. Though the preparatory report for R2P explicitly included the prevention of conflict and not the prevention of human rights violations, the R2P was developed based on the interrelation between peace and security issues with human rights. For example, the report by the International Commission on Intervention and State Sovereignty discussed two types of prevention: root cause prevention efforts and direct cause prevention efforts. The first type related to addressing political needs and deficiencies, capacity building and strengthening democratic institutions, power-sharing, power-alternating and redistribution arrangements, confidence building between different groups or minorities, support for press freedom, and the rule of law, enabling space for civil society. Prevention efforts towards root causes could also include development assistance, access to external markets for developing states, technical assistance [6, p. 34–35]. The second type, aiming at direct cases, referred to straightforward assistance, unilateral coercive measures, direct involvement of the Secretary-General, COIs, fact-finding missions, groups of friends, dialogue and mediation through good offices, second-track dialogues, “naming and shaming”, political isolation tactics, restrictive measures, suspension of organisation membership [6]. Some economic measures may include the International Monetary Fund or World Bank support, favorable trade terms, aid, or other assistance.

Following these discussions, Bertrand G. Ramcharan, the former UN high commissioner for human rights, suggested two types for the UN preventive diplomacy: primary – to build up the national protection

system of every country with a strong emphasis on the prevention of human rights violations; and secondary – coordination of a coherent response from the UN on the basis of an early warning mechanism (from the UN HRC, Secretary-General, United Nations high commissioner for human rights, special procedures, treaty bodies, regional organisations) [6]. While these proposals may seem to bring a cumulative effect, they are still far away from the central point in the debates. The proposals on primary and secondary prevention seem to unite the diverging views among stakeholders on the prevention tools (early warning and response vs technical assistance and capacity building) but not on the link between New York and Geneva.

A variety of methodologies for prevention could be implemented. In 2010, NGO, Association for Prevention of Torture proposed direct and indirect prevention that largely reflected the ideas of root and direct prevention in R2P. In February 2018, Kate Gilmore, the UN deputy high commissioner for human rights, suggested four-level prevention of human rights violations comprised of primary, secondary, tertiary, and primordial prevention⁴¹. In April 2019, a think tank specialised in the UN HRC, the universal rights group, promoted the methodology of primary and secondary prevention.

The issue is not in the tools, types or methodologies for prevention, but rather in the questions of whether the domain of peace and security should be interrelated with human rights, and thus whether intergovernmental decision-making of the UN would be substituted with a non-governmental one. If these gaps would be bridged coherently, the prevention of human rights violations could become an effective tool to raise international consensus and enhance international cooperation in human rights. Belarus could engage constructively in these negotiations because Belarus has high potential in implementing the prevention of human rights violations, notably, through the fight against crime and human trafficking. Moreover, Belarus could contribute to the UN prevention agenda through initiatives in technical assistance and capacity building. The HRC annual country-specific resolution on Belarus could benefit more on the implementation phase if submitted not on the country-specific item 4, but rather on item 10 related to technical assistance and capacity building. The outcome would surely depend on the preparedness of all relevant stakeholders to foster international dialogue and refuse the politicisation of human rights.

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Received by editorial board 04.09.2020.