Dealing with “Enablers” in Mass Atrocities: Towards a New Human Rights Concept

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The horrific mass atrocities of recent decades have increased the prospect for a consensus among citizens and policymakers alike that confronting atrocities should be a foreign policy priority.\(^1\) This prospect is bolstered by the emergence of the principle of the responsibility to protect [R2P]. But the track record of the U.S. and the international community in addressing atrocities – as in the difference between the Libyan and Syrian situations just one year apart - makes clear the complexity of the problems and the challenges to mounting a successful response.

One such challenge is the need to have practical tools that can change the basic dynamics when atrocities are underway and which contribute to efforts to halt violence against civilians. In this brief paper I argue that a social science contribution to the development of these tools can be the definition and new conceptualization that labels particular activities and actors as foci for effective policy action. Such actions would be seen in a new light and serve as a new data gathering and human rights monitoring category.

One potentially effective approach is to focus on the means used to commit mass atrocities and on those who provide them. 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 taught us 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 interrupt the perpetrators’ access to the necessary means. This may, in turn, alter their calculus for committing atrocities against civilians. Targeting the enablers 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 are 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 knew 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 formulation, we have chosen to limit “enabling” to a focus on 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 realities do not constitute practical support as described above, and they are more difficult to quantify and interdict, for now they stand outside the parameters of our work.
Some data – or at least real world examples - captured by the concept ‘enablers’.

Countries, commercial entities, and individuals may all 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 six 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. The most recent U.N. Panel of Experts on Sudan reported that Al-Futtaim Motors Company, the official Toyota dealership in the United Arab Emirates, 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 . . . .”¹ 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.

State and commercial actors both may also function as go-betweens, thus playing an important, indirect role as enablers. During the Rwandan genocide, even after a U.N. 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 study revealed that more than 90% 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 Burma, the country’s military rulers derive massive export earnings from their gem mines, which help 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 we choose, therefore, must take those into account and could build on those efforts. At this point, we believe that 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, further, 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 softest 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 U.N. 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 U.N. 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 bridging to the work of other agents who share the need for or desire to expose such behavior. These certainly include the UN Panels of Experts, but also Lloyd’s Registry and INTERPOL. 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 broad or targeted bilateral sanctions, or work through the U.N. Security Council to impose multilateral sanctions against countries or commercial actors. Enforcement of
sanctions is a separate challenge, at least as important as their imposition, as we have seen in the case of the Darfur arms embargo. 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 sanctions and other legal measures against them.

Whether addressing commercial actors or states in a given situation, information about who the third parties are and what role they are playing is critical. By enhancing its intelligence gathering and analysis related to enablers, the U.S. government should be able to better assess the levers that can be employed to target them. 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 enablers of mass atrocities.

**Goals of establishing an ‘enabler’ concept**

Despite varied efforts to prevent or intervene in them, mass atrocities continue to occur, as the situation in Syria for the past eight months attests. 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 outside actors. These efforts have seen mixed results for several reasons; 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 (including efforts to stop arms flows, or to address conflict minerals, or to enhance the U.S. government’s ability to prevent and halt genocide), a systematic effort to establish a common theme and approach to address the range of enablers is lacking. We are seeking to fill that gap with a program of action, backed by analysis that draws together and builds on these disparate efforts.

The broad goal is to establish 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. We aim to focus attention on those individuals, commercial entities, governments, or some combination thereof that enable crimes against humanity; to convince those responding to atrocities to use this angle as a lever; and to establish that enablers will face political and legal consequences for their role in abuses and atrocities.

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1 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. The colleagueship of Ann-Louise Colgan, now of the US Institute of Peace, and Julia Fromholz, now of the US Department of State, is gratefully acknowledged.