



BACHELOR THESIS

Atrocity Prevention: A comparison of the US and the EU strategies

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Abstract

The present thesis conducts comparative legal research by comparing the atrocity prevention strategies of the US and the EU according to the research question **How does the atrocity prevention framework of the USA compare to the EU strategy?**

Guided by subsequent research questions, first, the definition of atrocity crimes, namely genocide, crimes against humanity, war crimes, and ethnic cleansing, and the international framework on atrocity prevention, consisting of international treaties, the R2P and other UN publications, are outlined. Based on this knowledge, an analytical framework for the comparison is derived. After laying out the US and the EU strategies according to the criteria, the analytical framework is applied in the comparison.

Apart from some small similarities, this thesis identifies four key differences. The US insists on its sovereignty, while the EU is open to international collaboration in binding and non-binding agreements. Further, the US has a centralized approach to atrocity prevention through the Atrocities Prevention Board, whereas the EU approach is scattered over many agencies. The most serious consequences arise from the difference between following an atrocity prevention (US) or a conflict prevention (EU) approach. Lastly, the US prefers the use of sanctions and the EU prefers incentives.

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List of Abbreviations

APB	Atrocity Prevention Board
CDI	Development Cooperation Instrument
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defense Policy
CSO	Civil Society Organization
DCHA	Bureau for Democracy, Conflict, and Humanitarian Assistance
DEVCO	Directorate General for International Cooperation and Development
DoD	Department of Defense
DoS	Department of State
EEAS	European External Action Service
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
EU	European Union
GSP	Generalised System of Preferences
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
IcSP	Instrument contributing to Stability and Peace
IPA	Instrument for Pre-Accession
IPC	interagency policy committee
MARO	Mass Atrocity Response Operations
OFAC	Office of Foreign Assets Control
R2P	Responsibility to Protect
SPI	Office of Economic Sanctions Policy and Implementation
UN	United Nations
UNGA	United Nations General Assembly
US	United States
USA	United States of America
USAID	United States Agency for International Development
USHMM	United States Holocaust Memorial Museum

1 Introduction

The 20th century was shaped by human loss around the world, during and outside of armed conflict. Although the numbers differ still today, researchers estimate that about 22 Million human lives were lost due to about 100 instances of mass atrocities committed after the holocaust alone. (Task Force, 2013) The atrocities not resulting in death are not accounted for. As a response, several international treaties addressing atrocities, their prevention and response were signed during the second half of the 20th century.

The notion of preventing and intervening influenced the prevailing understanding of state sovereignty. Over the course of several decades, a trend of humanitarian intervention emerged. (Thakur, 2017b) In the 1990s, two critical cases, Rwanda and Kosovo, showed this concept was flawed, which had grave consequences. The fact that atrocities were still being committed indicated the inability of the international community to prevent them. In the first case, there had not been many efforts, and in the second one, there had been an intervention that was considered illegitimate by many actors. (Thakur, 2017a) Concern about the consequences of inaction on one hand and controversy around the legitimacy of humanitarian intervention on the other led to the reform of humanitarian intervention into a more functional instrument, the Responsibility to Protect (R2P). (Thakur, 2017a)

In light of this, a consensus that a shift from reaction and prosecution to atrocity prevention is necessary has emerged. (Jacob, 2020; ICISS, 2001; Secretary General, 2019) Not only is early prevention the only way to save lives and prevent generations of societal trauma but it is also more sustainable in the long term and the most cost-effective way to address atrocities. (Jacob, 2020; United Nations, 2014) It is crucial to understand that atrocity crimes do not occur overnight. There is a long process leading up to it, including disabling democracy and the rule of law. In the aftermath of atrocity crimes, the political and societal system of the affected countries or regions is destroyed. (Straus, 2016) Hence, stabilizing nations and regions when these signs occur is more effective and sustainable than restoring the broken system that enabled atrocity crimes and solving their consequences.

The term “atrocity” includes four crimes, genocide, crimes against humanity, war crimes, and ethnic cleansing, which will be further examined in this thesis. (United Nations, 2014) Atrocity prevention consists of both long-term strategies and short-term reactions. It is a complex multi-scale challenge involving individuals, local, national, regional, international, and global actors’ actions, laws, and governance. (Secretary General, 2019)

In the international legal framework, several legal documents and United Nations (UN) resolutions are relevant to states’ actions in the effort of preventing atrocities. The most significant one is the Convention on the Prevention and Punishment of the Crime of Genocide (hereafter Genocide Convention). Furthermore, there are the four Geneva Conventions of 1949ⁱ, the Rome Statute of the International Criminal Court (ICC, hereafter Rome Statute), and the statutes of temporary criminal courts. These treaties and statutes, along with international human rights law documents enshrine the responsibility of all members to prevent mass atrocities. (United Nations, 2014) However, there is no clear international framework on how to implement this responsibility nationally or regionally, leaving room for interpretation and potential inaction.

Considering these criticisms, it seems helpful to identify and compare strategies on the regional and national levels to identify best practices and common challenges. For the findings of such a comparison to be meaningful, the two cases should be a regional and a national actor.

One actor that has been active in atrocity prevention in recent years is the United States of America (USA). In 2018, the United States (US) Congress passed a law called the Elie Wiesel Genocide and Atrocities Act of 2018 making atrocity prevention training for members of the Department of State (DoS) mandatory, as well as requiring the respective administration to annually report to Congress about risk assessments and measures taken in efforts to prevent atrocities. Considering the USA's history with interventions in humanitarian crises, this is an actor whose strategy is telling to look at.

As a regional actor, the European Union (EU), a powerful actor internationally and the only organization of its kind, comes to mind. It was created as a response to the cruelties of the holocaust, arguably the most well-known case of genocide in recent history, with the idea of preventing future atrocities and conflicts by successively integrating the members.

The research interest, the comparison of two atrocity prevention strategies, and the identification of two qualified actors result in the following research question:

How does the atrocity prevention framework of the USA compare to the EU strategy?

1.1 Societal and Scientific Relevance

Looking at the four atrocity crimes, it is obvious that all of them severely breach human rights. Atrocity crimes directly cause large-scale “loss of human life, [...] physical, psychosocial and psychological damages and trauma.” (United Nations, 2014, p. 2) Additionally, they lead to a significant destabilization of the respective countries and regions, indirectly influencing peace and stability internationally. Therefore, atrocity prevention is not only societally relevant by saving lives, but by helping grant international peace.

Apart from the scientific relevance of the results, this thesis contributes to the scientific community conceptually. Comparisons between different actors have been done by several researchers only in the realm of another research interest, such as specific events or a specific international provision. (e.g. Task Force, 2013) No evidence was found that an extensive comparison of two purposefully chosen actors has been conducted. Therefore, the development of an analytical framework of comparison for atrocity prevention strategies that this thesis will provide is a pioneering step for the scientific community. It will be applicable to future comparisons.

Regarding the content, a variety of reports stress the importance of developing a coherent international atrocity prevention strategy. (ICISS, 2001; Thakur, 2017; Secretary General, 2019) However, there is a significant lack of literature on the application of the international framework by states and regional organizations. The US and the EU are fundamentally different political structures since one is a state and the other a regional organization *sui generis*. They have different forms of political organization, decision-making, and foreign policy cultures. These vastly different contexts potentially lead to the development of diverging atrocity prevention strategies. Conducting comparative research, therefore, provides an opportunity to determine essential discrepancies and similarities between different actors' strategies, including

between national and regional approaches. Analyzing these differences contributes to identifying best practices and common challenges faced by both actors and potentially by more. Common challenges or common failures to implement the international provisions may be linked to flaws in the international framework, which would then possibly need to be revised, specified, and include more binding or less binding provisions.

While not all these issues are going to be extensively elaborated on in this thesis, the comparison of the two strategies is the necessary first step for the scientific community to provide recommendations on how to solve current issues and create coherent international tools for atrocity prevention.

2 Research Design

This chapter explains the research design of the thesis. It introduces the type of research, the structure of the thesis, and a set of subsequent research questions to serve as a guide to the researcher as well as the reader.

The research question indicates the interest of this thesis: comparing two strategies of atrocity prevention of two different actors, a state and a regional organization. To answer this question, a comparative research design is appropriate, as it shows crucial similarities and differences between their approaches. Furthermore, it is a legal research question as it asks about the application of a concept enshrined in international law. Thus, this thesis conducts comparative legal research.

By comparing two strategies, atrocity prevention will be looked at from the international law perspective, which provides crucial definitions and concepts, and from the national and regional perspectives where atrocity prevention is executed. As is common in social science research, the scientific interest will be elaborated first, followed by the definition of key concepts and the establishment of existing knowledge. This knowledge will be used to establish an analytical framework for comparison. In the next step, two cases will be examined and compared to each other. Conclusions will be drawn based on this analysis. Lastly, the research question will be answered. Along this general structure, subsequent questions are formulated to guide the research process. First, foundational principles need to be clarified. As the main concept of the thesis is atrocity prevention, the first question must address what atrocities are:

1. What are atrocities?

This first sub-question will provide a clear definition of atrocity crimes according to international law, and therefore lay the theoretical foundation for the analysis and comparison. Atrocity crimes are defined in the Genocide Convention, the 1949 Geneva Conventions, the Rome Statute, and the statutes of temporary criminal courts. They enshrine the responsibilities individual actors must fulfill. After clarifying what atrocities are, logically, the next question must ask about atrocity prevention. Since the sources of the definitions are several individual treaties, the question arises whether there are more sources of this kind on the international level addressing atrocities and their prevention. Together with the first sub-question, the second one lays out the broader international framework on atrocity prevention.

2. What is the international framework on atrocity prevention?

The answer to the first sub-question overlaps with the second question, as the treaties identified in the first part, are part of the international framework. Therefore, the two questions will be answered in the same chapter. This second question seeks to identify further, non-binding sources of international responsibility that serve as an internationally agreed-upon common ground for the comparison. To do so, international treaties and statutes, UN sources as well as scientific literature will be consulted. Since the international framework generally consists of international law and other non-binding principles that have been agreed upon through the UN, the latter is considered a legitimate authority. Thus, the international framework includes provisions by the UN. The most current atrocity prevention provision is R2P, which will, therefore, be the focus of this chapter.

The comparison of two strategies must be done purposefully and systematically, based on criteria that represent the internationally agreed-upon practices established in the first two

chapters. Since there was no evidence found that a comparison of two actors' atrocity prevention strategies to the extent of this thesis has been done, there is no applicable existing comparison framework. The third subsequent research question guides the translation of the international framework into comparable criteria by asking:

3. *How can the international framework on atrocity prevention be used to compare different strategies?*

The international framework as identified in the previous chapter implies ways in which the international community's responsibility can be executed. Aside from the treaties, especially the R2P documents mention several ways of preventing atrocities. Additionally, other UN and scientific sources will complement these suggestions. Based on these findings, an analytical framework of comparison will be formulated, guiding the next steps and structuring the remaining chapters of the thesis. In order to be able to apply this framework for a comparison, it first must be used to lay out the individual strategies. Thus, the next question that must be asked is:

4. *What are the US and EU strategies?*

This question will be answered by conducting extensive desk research into the strategies developed by the US and the EU. Using information from relevant laws, policy documents, reports, and speeches, as well as scientific literature, this chapter will provide insights into the actors' national and foreign policy as well as the institutional capacities and other aspects of atrocity prevention. For this research, strategies are defined as the institutional capacities and structures the actors have developed for atrocity prevention. Whether these capacities are deployed in specific cases is not regarded as a strategy but rather as its implementation and will not be addressed in this research. After establishing the two strategies, the last step towards answering the research question must be the comparison. The fifth and last subsequent research question is, therefore:

5. *What are the similarities and differences?*

The comparison framework will be applied to the strategies in this step. The findings will be categorized into similarities and differences, which are discussed. This will help distinguish the strategies clearly and identify their strengths and weaknesses.

In conclusion, the five subsequent research questions guide the research mainly by providing an analytical structure to the research. After clarifying basic concepts, in this case, atrocities and the international framework on atrocity prevention, this knowledge is used to establish an analytical framework that will be used to first guide the establishment of the US and EU strategies and in the following step compare the two strategies. All questions and answers are necessary steps leading up to the final answer to the main research question. The concluding chapter will summarize all findings and provide a detailed answer to the main research question.

3 Theory and Concepts

In this chapter, theoretical concepts are identified, guided by the first and second subsequent research questions. The first part of this chapter will, therefore, answer what atrocities are and what sources of international law address them. The second part will discuss atrocity prevention, specifically R2P and other UN frameworks, which must be clarified before using the knowledge gathered in this chapter to develop an analytical framework.

3.1 Legal Definition of Atrocity Crimes

This section will provide answers to the first subsequent research question. According to the UN Framework of Analysis for Atrocity Crimes, four types of atrocity crimes are distinguished: Genocide, War Crimes, Crimes against Humanity, and Ethnic Cleansing. (United Nations, 2014) These atrocity crimes are each defined in different sources of international law.

3.1.1 Genocide

In international law, Genocide is the most clearly defined atrocity crime. According to Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, Genocide comprises killing, harming or physically destroying members of and eliminating the offspring of a group “with intent to destroy, whole or in part, a national, ethnical, racial or religious group”.

3.1.2 Crimes against Humanity

The definition of Crimes against Humanity was developed through customary law and enshrined in the Rome Statute of the ICC and several Criminal Tribunals. (United Nations, 2014) The Rome Statute specifies that human rights violations, including murder, enslavement, torture, and other grave violations of human dignity are crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. (Article 7, Rome Statute)

3.1.3 War Crimes

The four Geneva Conventions of 1949 along with the Additional Protocols of 1977 list a variety of groups that require special protection in times of war. These groups are the wounded and sick in armed forces in the field, the wounded, sick and shipwrecked members of armed forces at sea, prisoners of war, and civilian persons. It should be noted that the Rome Statute includes the case of non-international armed conflict as well. (Article 8 2. (c) Rome Statute)

3.1.4 Ethnic Cleansing

The status of ethnic cleansing as an atrocity crime is not specified in international law. However, it has been included in the scope of atrocity crimes, since ethnic cleansing clashes fundamentally with human rights and humanitarian law. (United Nations, 2014) According to a UN Commission of Experts, ethnic cleansing consists of creating an ethnically homogeneous population removing an ethnic or religious group by inflicting physical and psychological pain and intimidation. (United Nations, 2014)

To answer the first subsequent research question, atrocities include the four crimes of genocide, crimes against humanity, war crimes, and ethnic cleansing according to international law. These

crimes are enshrined in the Genocide Convention, the 1949 Geneva Conventions, the Rome Statute, and international human rights and humanitarian law.

3.2 International Framework on Atrocity Prevention

This section examines the international framework of atrocity prevention. First, the obligation to engage in atrocity prevention is investigated, followed by a discussion of the development and the implications of R2P and other parts of the current international framework.

Outside all legally binding requirements, one can argue that a sense of obligation to prevent arises from moral and ethical obligations. Regarding binding commitments, the commitment to prevent Genocide, for instance, reads as follows: “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” (Art. 1 Genocide Convention) Furthermore, each of the four 1949 Geneva Conventions’ first article states the signatories’ commitment to “respect and ensure respect for the [...] convention[s] in all circumstances”. The obligation to prevent crimes against humanity arises from human rights law and the obligation to prevent violations of these fundamental rights. (Secretary General, 2019) When torture or other severe human rights violations occur in a large-scale or systematic manner, crimes against humanity are being committed. The duty to prevent human rights violations, therefore, entails the duty to prevent crimes against humanity. The same line of argument can be applied to ethnic cleansing.

3.2.1 Development of R2P

After the cruelties of the Holocaust and under the premise “never again”, the Genocide Convention was adopted by the UN General Assembly (UNGA) in 1948. The 1949 Geneva Conventions show recognition of war crimes. From these international treaties emerged a trend of humanitarian intervention. (Thakur, 2017b) After this concept repeatedly failed to prevent atrocities, due to inaction or illegitimate interventions, the international community recognized the need for reform. (Thakur, 2017) The International Commission on Intervention and State Sovereignty (ICISS) then formulated the Responsibility to Protect (R2P), a principle combining the need for international action with the sovereignty of states. The R2P was endorsed by the UNGA in 2005, bringing the duties arising from the discussed treaties together and created one overarching framework. (ICISS, 2001; Thakur, 2017)

According to R2P, sovereignty comes with the duty to protect one’s population. If this cannot or will not be provided, a country loses its claim for sovereignty, which legitimizes intervention. (ICISS, 2001) In the 2005 World Summit Outcome Paper, this principle is enshrined. According to paragraph 138 “[t]he international community should, as appropriate, encourage and help States to exercise this responsibility”. (UNGA, 2005, Paragraph 138) Furthermore, “[t]he international community, through the United Nations, [...] has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, [...] to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” (UNGA, 2005, Paragraph 139) Most importantly, R2P includes the responsibility to prevent said crimes, reinforcing existing commitments. (ICISS, 2001) The obligation of states to engage in atrocity prevention arising from the endorsement of the R2P is therefore clear.

3.2.2 Chances and Limitations of R2P

While international treaties are binding in nature, the R2P doctrine is not. As Welsh explains, the R2P “rather authoritatively interprets states’ existing obligations to prevent and respond to

atrocities crimes”. (Welsh, 2014, p. 125) It is at most a piece of “soft law”, which emphasizes “particular normative understandings about domestic and international conduct”. (Welsh, 2010, p. 120)

Some aspects are left unclear by the doctrine. As Lesser (2017) points out, it does not address whether and when military intervention is an option and how many risk factors must be present for legitimate prevention and intervention. In addition, the doctrine has been criticized for leaving the role of regional organizations largely undefined. This has stalled the development of a coherent implementation by the EU. (Wouters and De Man, 2013) This non-precise, non-binding nature, implies that R2P may be interpreted by the actors, leaving room for large differences in implementation. However, allowing actors some discretion can make widespread acceptance and application more likely. (De Franco & Rodt, 2015) Therefore, there are both, chances and pitfalls to the R2P doctrine.

3.2.3 R2P vs. Atrocity Prevention

The characteristics of R2P established in the previous section help to understand the relation between atrocity prevention and R2P. These two terms are often interchanged. Some have even referred to the four atrocity crimes as “the four R2P crimes”. (Williams, 2016, p. 538) However, they should be distinguished based on their fundamental difference: R2P is a framework, not a law. The commitments to atrocity prevention enshrined in the discussed treaties are binding international law. R2P is a political framework reinforcing the treaties. Therefore, they are not equally (legally) powerful and should not be used interchangeably. Thus, for the analysis, an R2P strategy will be considered a form of atrocity prevention. Yet, atrocity prevention is not limited to R2P, as more specific instruments may be identified.

3.2.4 UN Framework of Analysis for Atrocity Crimes

In 2014, the UN published the Framework of Analysis for Atrocity Crimes (hereafter UN Risk Framework), intended to help other actors monitor risks. It explains 14 risk factors common to all or specific to one atrocity crime. (Appendix 1) Besides identifying increased risks, these factors imply which areas should be targeted in prevention. For example, identifying an increased risk due to unstable state structures indicates that stabilizing state structures should be the focus of prevention.

In conclusion, the international framework on atrocity prevention consists of several sources of international law as well as the R2P doctrine and the UN Risk Framework. As identified in the first subsequent research question, the four atrocity crimes and the responsibility to prevent them are enshrined in the Genocide Convention, the 1949 Geneva Conventions, the Rome Statute, and international human rights and humanitarian law. These obligations were brought together by the R2P doctrine. Along with the R2P, the UN Risk Framework furthermore entails suggestions for prevention efforts that will be used to develop an analytical framework in the following chapter.

4 Comparison Methodology

This chapter uses the knowledge gained to establish an analytical framework of comparison. The identified sources of international responsibility are examined for criteria based on which the comparison can take place. Thereby, the fourth research question will be answered. The R2P doctrine is a suitable framework to derive criteria from since it was endorsed by the UNGA and it is the most recent and comprehensive international principle. Since R2P is only a part of atrocity prevention, the treaties and some scientific literature will be included.

According to Jacob (2020, p. 19), atrocity prevention consists of structural and operational aspects, wherein structural prevention is a continuous effort to eliminate “long-term underlying conditions”. Operational prevention addresses immediate threats of atrocity commission. (De Franco and Rodt, 2015, ICISS, 2001) This thesis argues that the establishment of both, structural and operational prevention measures, is dependent on an actor’s fundamental commitment to atrocity prevention. Acknowledging that it is necessary, for example by signing international treaties or creating own legislation, is the basis for any atrocity prevention strategy, as it enables setting guidelines and dedicating resources. Thus, the criteria will be divided into three categories: fundamental commitment, structural efforts, and operational actions.

4.1 Fundamental Commitment

Drawing on the previous sections, the first aspect that will be looked at is the ratification of the treaties relevant to the four atrocity crimes, namely, the Genocide Convention, the 1949 Geneva Conventions and the Rome Statute. As the R2P doctrine is currently the overarching framework for these commitments, the actors’ support for its endorsement will furthermore be assessed. Straus (2016) argues that prosecuting perpetrators does not only prevent further atrocities in the targeted region or country, but the threat of punishment promises to intimidate potential future perpetrators. Thus, the actors’ relationship with the ICC will be examined. Another foundational indicator is the adoption of own legislation on atrocity prevention. A legal foundation enables governments and agencies to legitimately establish atrocity prevention capacities and programs.

Regarding non-legal aspects, the political will for atrocity prevention, also considered “programmatic commitment” (De Franco & Rodt, 2015, p. 47), is examined. This is expressed through public promotion of R2P and atrocity prevention. As Welsh (2010) argues, the international promotion and endorsement of a norm reinforce its importance, increasing its implementation and its acceptance. Lastly, the dedication of institutional and financial resources to atrocity prevention is considered fundamental, as it is of operational importance for developing and carrying out a strategy. In this realm, the institutional architecture of the agencies involved in atrocity prevention will be considered.

4.2 Structural Measures

The options of structural, or long-term prevention are manifold. Due to the limitations of this bachelor thesis, only the most frequently discussed measures will be included. Thus, the possible actions are not limited to the ones laid out here.

For atrocity prevention, it is particularly important to continuously monitor risk factors to identify dangers to peace early on. In fact, the R2P specifically references early warning.

According to Paragraph 138 (UNGA, 2005), the international community shall “support the United Nations in establishing an early warning capability.” The analysis will, therefore, consider whether the US and the EU systematically monitor risk factors, for example using the UN Risk Framework.

One structural aspect of prevention that has been frequently suggested (e.g. ICISS, 2001; Task Force, 2013) is development cooperation. While many programs addressing health and nutrition, natural disasters, climate change, and other issues contribute to overall peace and well-being and are thus indirectly connected to atrocity risks, only programs in direct connection to atrocity prevention will be considered here. The Task Force on the EU Prevention of Mass Atrocities (2013, hereinafter EU Task Force) considers programs fostering human rights, democracy, and stability as beneficial to eliminating atrocity risks in their roots.¹ When discussing development assistance, the recipients should be examined closely. There is a difference between assistance to foreign governments and assistance directly provided to on-the-ground work. In countries at risk of experiencing atrocities, the governments are often the potential perpetrators. Monetary assistance should not be channeled through these governments. Additionally, some countries are severely destabilized, so there may not be a single governmental authority, as is currently the case in Libya. Direct assistance to civil society organizations, other non-governmental actors, and international organizations is therefore a valuable tool. Other mechanisms fostering core values of atrocity prevention will also be considered in this section to acknowledge individual approaches.

4.3 Operational Measures

Regarding operational measures, only a few crucial ones are included due to the limited scope of the research. The EU Task Force (2013) provides a list of operational measures that can be taken. The engagement in mediation efforts is a prevailing method of mitigating risks. Another frequent action is the deployment of field missions. These can be human rights missions or fact-finding missions but also serve as additional monitoring capacity. (Task Force, 2013)

Furthermore, external actors can choose to pressure regimes or individuals. This is done either in the form of incentives or sanctions limiting the capacities and possible actions of these entities. (Task Force, 2013) Sanctions can be diplomatic, economic, or military. (Straus, 2016) Incentives may include development assistance or the prospect of trade cooperation. (Straus, 2016) Sanctions and incentives can, for example, be used as leverage during mediation.

To answer the third subsequent research question in detail, a table with all criteria resulting from the international framework on atrocity prevention is created (Table 1). The second and third columns will be filled in the next chapter.

¹ For a detailed explanation of how these principles are linked to atrocity prevention see Straus, 2016.

Criteria	USA	EU
Fundamental		
<i>Treaties</i>		
- <i>Genocide</i>		
- <i>Rome Statute</i>		
- <i>Geneva Conv.</i>		
<i>R2P resolution</i>		
<i>Support for the ICC</i>		
<i>Own legislation</i>		
<i>Political will</i>		
<i>Institutional Resources</i>		
<i>Financial Resources</i>		
Structural		
<i>Risk Identification</i>		
<i>Development Assistance</i>		
<i>Noteworthy accomplishments</i>		
Operational		
<i>Mediation efforts</i>		
<i>Field missions</i>		
<i>Incentives</i>		
<i>Sanctions</i>		

Table 1: Analytical Framework of Comparison

5 The atrocity prevention framework of the USA and the EU

This chapter will structurally lay out the atrocity prevention strategies of the USA and the EU and thereby answer the fourth subsequent research question. Atrocity prevention is in large parts dependent on current administrations and political goals. As much as possible, this analysis will use the latest information available. Small changes may have been made that are not accounted for.

5.1 The United States of America

First, the atrocity prevention strategy of the USA is outlined along the criteria for fundamental commitment, structural, and operational measures.

5.1.1 Fundamental Commitment

5.1.1.1 Treaties and R2P Resolution

The US has signed and ratified the Genocide Convention and the 1949 Geneva Conventions 1949. (Genocide Convention, 1948, Geneva Conventions, 1949) Despite having supported ad-hoc international tribunals and signing the Rome Statute, it has not ratified the latter, meaning the US is not a member of the ICC. (Rome Statute, 1998)

During the 2005 UNGA negotiations, the US was a critical force concerned with its sovereignty. According to Welsh (2014, pp. 129-130), the US was “uneasy about creating new legal obligations that might reduce America’s sovereign right to decide upon the use of force.” Former Ambassador to the UN John Bolton insisted on moving away from creating legal responsibilities. (Welsh, 2010) It was therefore not supportive of the R2P adoption.

5.1.1.2 Support for the ICC

Since the US is not a member state, its support for the ICC is limited. In fact, some scholars argue that the US tends to undermine the efforts of the court. (Kaufman, 2020) Although the US remains determined not to let the court interfere in its foreign policy, there have been a few developments towards accepting the ICC’s role in atrocity prevention. The Rewards for Justice Program, which allows the DoS to set out rewards for “information leading to the arrest or conviction of foreign nationals accused of war crimes, crimes against humanity, or genocide by certain international tribunals” (Pomper, 2020, p. 72), now includes the ICC to be supported by the program. However, there is no indication that the US intends to become a member of the ICC.

5.1.1.3 Own legislation

The US has extensive legislation referencing atrocities. A few critical pieces of legislation are selected for further examination. According to US law, mass atrocity crimes include genocide, war crimes, and crimes against humanity. Only genocide and war crimes are clearly defined. (Elie Wiesel Act, 2018) Ethnic cleansing is not mentioned.

The most recent US law is the Elie Wiesel Genocide and Atrocities Prevention Act of 2018 (hereafter Elie Wiesel Act) targeting several components of the US strategy. It writes the

Atrocities Prevention Board (APB) into law and reaffirms the US' commitment to atrocity prevention. It also establishes mandatory training for Foreign Service Officers and mandatory, detailed atrocity prevention reporting by the White House to Congress. (Elie Wiesel Act, 2018)

Another vital part of US legislation is the 2011 Presidential Proclamation 8697 along with Presidential Study Directive 10, which originally established the APB and reformed visa regulations, in which the US can now impose targeted denials of entry to individuals involved in human rights abuses. Both acts reaffirm Congressional Resolution S. Con. Res 71 2010 (111th Congress, 2nd Session, S.CON.RES.71) recognizing atrocity prevention as core national interest and committing to internal capacity building to respond to mass atrocity risks. The Syrian War Crimes Accountability Act of 2017 is an example of targeted legislation.

5.1.1.4 Political Will for Atrocity Prevention

The US government has repeatedly stated that mass atrocities contradict and endanger American values and that their prevention is a core national interest. (Jacob, 2020; Congressional Resolution S. Con. Res 71 2010, Presidential Study Directive 10) Its very scarce support for the ICC, as well as its concerns about the R2P doctrine discussed above, indicate, however, that political will depends largely on other national interests, for example, maintaining US sovereignty at all costs. Limiting treaties, institutions or resolutions are not usually well received by the US government.

5.1.1.5 Institutional Resources

The US has established a central institution for atrocity prevention, the APB. It is an interagency policy committee (IPC) (Pomper, 2020) situated within the National Security Council, run out of the White House. (Welsh, 2014) It consists of employees of all US government agencies involved in foreign policy and security. Hence, the APB first and foremost enables cross-agency dialogue and brings attention to atrocity risks. Its main tasks are monitoring developments and risks abroad, alerting decision-makers of situations in which their pursued interests with atrocity prevention and overseeing training, and contingent planning for atrocity prevention. Lastly, it develops tools for governmental action. (Elie Wiesel Act, 2018; Welsh, 2014)

Many other foreign policy and security bodies are involved, as Figure 1 shows. The US' institutional framework has been praised as unique. As Jacob (2020, p. 20) states, “[t]here is no comparable global framework on atrocity prevention to date that is able to bring together such a coordinated approach to [...] timely preventive action.”

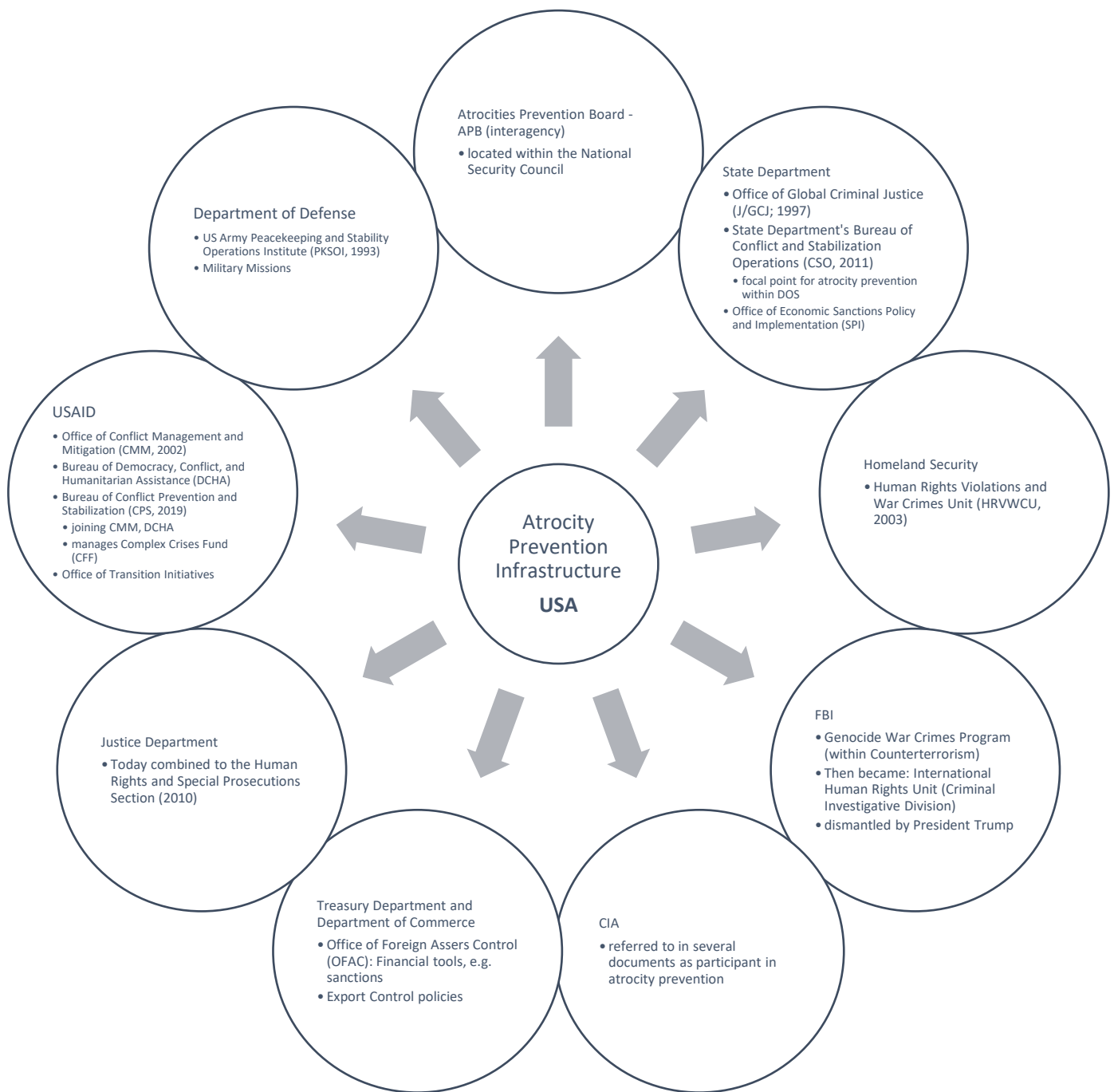


Figure 1: Institutional Infrastructure of Atrocity Prevention in the USA

5.1.1.6 Financial Resources

There is no budget for atrocity prevention specifically. The only mention of funding is found in the Elie Wiesel Act, which establishes that the APB should make sure funding is made available to atrocity prevention. (Elie Wiesel Act, 2018)

5.1.2 Structural Measures

5.1.2.1 Risk Identification Mechanism

One of the main tasks of the APB is monitoring risks abroad. Its members' access to intelligence and reporting from various agencies across the US government enables comprehensive risk monitoring. In addition to the APB, the US Holocaust Memorial Museum (USHMM) and the United States Agency for International Development (USAID) monitor risks. (Kaufman, 2020) However, neither of the bodies indicate the specific risk factors used. The application of the UN Risk Framework is thus unlikely.

5.1.2.2 Development Assistance

This part focuses on USAID as the primary provider of development assistance. In previous years, assistance to foreign governments has made up 4% (in 2014) of total USAID assistance and is therefore a rather insignificant part of US development assistance. (CRS, 2015) The remaining funding is dedicated to direct cooperation, which may bypass the partner countries' governments by directly assisting civil society, the private sector, international organizations, and educational facilities. (CRS, 2015)

USAID engages in several programs contributing to atrocity prevention, such as democracy, rule of law and human rights. The Democracy, Human Rights and Governance policy area fosters good governance, civil society, political competition and consensus-building, independent media and free flow of information, and, most importantly, rule of law and human rights. (USAID, 2020a) Furthermore, Crises and Conflict covers essential atrocity prevention topics, such as Transition, Peacebuilding, and Conflict Prevention. (USAID, 2020b) With a budget of around \$1.5 billion per year, Democracy, Human Rights and Governance's funding is about the average for USAID programs. (p. 34, Fiscal Year Report) This policy area is part of the Bureau for Democracy, Conflict, and Humanitarian Assistance's (DCHA) responsibility. (USAID, 2020c) The second policy area is Peace and Security. Apart from countering crime, terrorism, and war, especially conflict mitigation and stabilization programs contribute to lowering atrocity risks. Peace and Security programs have a budget of around \$700 million per year, which is the lowest of all policy areas. (USAID, 2019)

5.1.3 Operational Measures

5.1.3.1 Mediation Efforts

The United States frequently engages in mediation efforts abroad, which is typically carried out by US diplomats, as was the case in Darfur and Syria. (Straus, 2016) Apart from this, there was no information about US mediation capacities available.

5.1.3.2 Field Missions

In 2012, the US Department of Defense (DoD) adopted new guidelines on Mass Atrocity Response Operations (MARO). (Aftergood, 2013) The handbook points out that in the context of mass atrocities unique dynamics must be taken into account during military missions. These characteristics can be addressed through the preparation of every possible scenario, early coordination, continuous political guidance, and the consideration of several military

approaches. (Sewall et. al., 2010) It is unclear how MARO has been implemented since its adoption, as there has been no publicly available reporting.

5.1.3.3 Incentives

After conducting a thorough policy and literature review, no programs for incentives related to atrocity prevention were identified. Except for the Rewards for Justice Program and the occasional removal of economic sanctions as incentive for good behavior (DoS, 2020), there was no evidence of provisions for incentives to be employed in risk situations. This does not exclude the possibility that incentives can be used in specific cases.

5.1.3.4 Sanctions

There is a variety of sanctions the US uses in atrocity risk situations. The new visa regulations established in Presidential Study Directive 10, for instance, have shown an effect. (Pomper, 2020) With this instrument, targeted denial of entry to individuals involved in serious human rights abuses can be installed. This is especially effective if the perpetrator(s) has/have family members residing in the US. (Pomper, 2020) Additionally, the President can sanction foreign nationals involved in serious human rights breaches. The possible sanctions are not specified. (Global Magnitsky Human Rights Accountability Act, 2012) Furthermore, the deployment of military missions can be considered a type of sanction that has been used by the US previously. (Straus, 2016)

Regarding economic sanctions, the Office of Economic Sanctions Policy and Implementation (SPI) oversees their development and implementation. (DoS, 2020) Apart from cooperating with Congress, it consults the Department of Treasury and Commerce. Economic sanctions may be removed by the SPI as an incentive or reward. Trade and foreign assets sanctions are administered by the Department of Treasury and Commerce. In coordination with the DoS, the Department's Office of Foreign Assets Control (OFAC) can use financial tools including freezing foreign assets of governments or individuals. Furthermore, there are provisions for export control policies, for example, to limit weapons exports, developed by the Bureau of Industry and Security at the Department of Commerce. (DoS, 2020)

5.2 The European Union

The European Union is a unique form of regional organization. Therefore, a short introduction of the EU's role regarding atrocity prevention is necessary. Comparing the EU instead of a member state is not only scientifically beneficial due to its organizational structure.

Considering that many policy areas connected to atrocity prevention are either shared or exclusive competences of the EU, it is the appropriate choice. These policy areas are Trade and International Agreements (shared, exclusive in some cases), Security and Justice (shared), Development Cooperation and Humanitarian Aid (shared), and the Common Foreign and Security Policy (CFSP, special EU competence). (European Commission, 2020a) As scientists argue, especially the “creation of the EEAS [European External Action Service] and related foreign affairs structures [...] increased the EU's potential to perform better than single EU member states” in atrocity prevention. (Task Force, 2013, p. 40) Moreover, travel bans and similar measures can only be implemented collectively due to the Schengen agreement. Furthermore, the EU has unique access to diplomatic reporting and intelligence by combining information provided 27 member states with its own. (Task Force, 2013) In addition to these institutional resources, the EU is considered “one of the largest aid donors in the world” (Task Force, 2013, p. 55), which is a significant factor for atrocity prevention. (De Franco & Rodt, 2015) Lastly, the EU is at an advantage from a strategic standpoint, since it is perceived to have “a less ‘political’ profile” than its members. (Task Force, 2013, pp. 55-56)

Another concern about comparing the EU is whether it is obligated or even supposed to engage in atrocity prevention as a regional organization. The EU has a moral responsibility arising from its members' history with atrocities. Apart from having committed atrocities internally, many have committed or were involved in atrocities across the world. (Task Force, 2013) From a legal perspective, mass atrocities are crimes under international law. The EU, through its member states, is bound to international law. Its special status as a regional organization is also considered in the international framework. Apart from the UN Charter referring to regional actors as “important to the maintenance of international peace and security”, the ICISS considers them as “central to the implementation of R2P”. (De Franco & Rodt, 2015, p. 48) Therefore, the EU is an actor worth comparing.

5.2.1 Fundamental Commitment

5.2.1.1 *Treaties and R2P Resolution*

The EU itself cannot be a party to international conventions. Therefore, the treaties are considered signed and ratified only if all member states have done so. All 27 EU member states are parties to the Genocide Convention, the 1949 Geneva Conventions, and are members of the ICC through the signing and ratification of the Rome Statute. (See Genocide Convention, 1949 Geneva Conventions, Rome Statute)

The EU has been strongly supportive of R2P. Even before the adoption of R2P, it promoted conflict prevention. (Staunton and Ralph, 2019) Naturally, it thus supported the R2P doctrine in 2005 and repeatedly promoted its implementation. Wouters and De Man (2013, p. 17) call the EU and its members “the most fervent advocates” of R2P. The EU frequently reaffirms this commitment at UN assemblies. (Vale de Almeida, 2019)

5.2.1.2 Support for the ICC

The EU's active support for the ICC has been well received and described as beneficial for atrocity prevention. Additionally, it is known for supporting ad-hoc international criminal tribunals. (Task Force, 2013) Apart from international courts, the EU emphasizes justice in its foreign policy. Through Law and Justice projects, it provides around €600 million a year to aid programs. (Task Force, 2013) The EU Genocide Network furthermore serves as a forum for member states to combine intelligence and cooperate "in investigating and prosecuting core international crimes". (Eurojust, 2020)

5.2.1.3 Own Legislation

The EU functions based on the Lisbon Treaties, which have been agreed upon unanimously by the members and constitute EU primary law. Atrocity prevention is not mentioned in these treaties. There is no mention of atrocities or atrocity prevention in secondary EU law either. Atrocities are not defined by EU law, but several documents refer to genocide, crimes against humanity, and war crimes as atrocity crimes. (e.g. European Parliament 2017; Eurojust, 2020) Ethnic cleansing is not usually named along with these three crimes.

5.2.1.4 Political Will

As established above, the EU is known for fostering discourse on R2P, conflict prevention, human rights, and armed conflict within the UN. (Staunton and Ralph, 2019) This strong support indicates high levels of political will for atrocity prevention. However, the political will of the EU is largely dependent on that of its members. Certain aspects of prevention (and intervention) remain controversial among the member states. For example, Germany and several other countries tend to speak against military missions in the name of human rights. (Newman and Stefan, 2020)

5.2.1.5 Institutional Resources

The EU does not have a single institution dedicated to atrocity prevention. Many bodies and agencies of the EU are involved. (see Figure 2) From a political standpoint, the EU bodies are the decision-makers. Within the Council of the EU, the Foreign Affairs Council, and within the European Parliament, the Committee on Foreign Affairs is responsible. (European Council, 2020; European Parliament, 2020) In EU foreign relations the main agency is the EEAS, headed by the High Representative of the Union for Foreign Affairs and Security Policy. Several of its offices engage in conflict prevention and related matters. (Task Force, 2013) Figure 2 will be filled in further in the following sections to get a full picture of the parties involved.

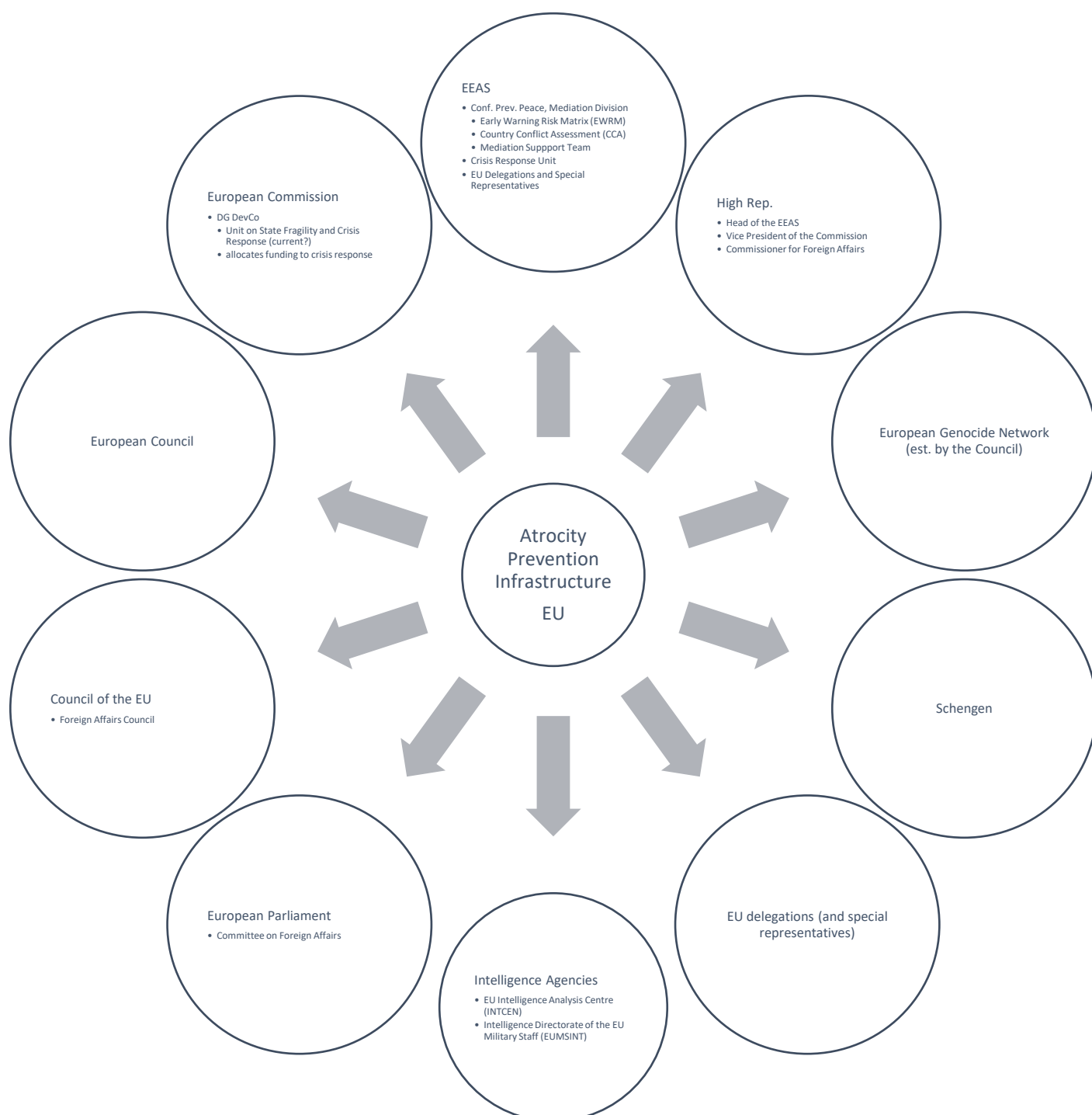


Figure 2: Institutional Infrastructure of Atrocity Prevention in the EU

5.2.1.6 Financial Resources

There is no indication that the EU designates any funding to atrocity prevention. This may happen through the individual bodies, institutions, and mechanisms that address related issues. Any development cooperation programs that are relevant will be discussed below but are not considered part of financial resources specific to the institutional aspect of atrocity prevention.

5.2.2 Structural Measures

5.2.2.1 Risk Identification Mechanism

The EU has established the so-called Conflict Early Warning System (EWS) as its main risk identification mechanism. It entails quantitative data using a so-called “checklist for structural risks of conflict [...] produced by intelligence-based analysis undertaken by the Single Intelligence Analysis Capacity” drawing on data from non-governmental partners. (Staunton and Ralph, 2013, p. 9) Whereas the EU Intelligence Analysis Centre gathers knowledge from public sources, the Intelligence Directorate of the EU Military Staff uses information from national intelligence agencies. However, this information is not used systematically for monitoring risks in the past. (Task Force, 2013)

The UN Risk Framework or other mechanisms specific to atrocities are not referenced by the EU, which means risk factors specific to atrocities rather than conflicts are not considered. (Staunton and Ralph, 2013, p.9) Additionally, the EU early warning capacity has been criticized for its lack of training and designated staff. (Task Force, 2013)

5.2.2.2 Development Assistance

EU Development Cooperation is carried out by the European Commission’s Directorate General for International Cooperation and Development (DEVCO). In the context of atrocity prevention, several development cooperation funds are relevant, although none of them specifically address atrocity prevention.

For instance, the European Instrument for Democracy and Human Rights (EIDHR) addresses human rights, overall development, equal rights, and justice. (EuroAccess, 2020) It funds civil society organizations and does not require the national authorities’ consent. However, governments are also eligible to apply. (EPRS, 2015; EuroAccess, 2020) Furthermore, the Development Cooperation Instrument (CDI) funds programs in specific geographic areas. Some of its relevant policy areas are Human Rights, Democracy and Good Governance, Migration, and Development, Security and Conflict Prevention. (European Commission, 2010b) Countries and local authorities as well as EU agencies, civil society organizations (CSOs), and international organizations are eligible to apply. (European Commission, 201b) Although the Instrument Contributing to Stability and Peace (IcSP) is mostly reserved for crisis response, about 4-9% of its funding is allocated to long-term conflict prevention and about 5-21% to respond to emerging threats. (European Commission, 2020c)

There are currently two relevant programs that aid governments specifically, the European Neighbourhood Instrument (ENI) and the Instrument for Pre-Accession (IPA). The ENI target EU neighbor countries. CSOs are involved in the development and implementation of specific programs but do not receive funding themselves. The policy targets include Human Rights and Fundamental Freedoms, Rule of Law and Good Governance, Economic Integration, and

Security and the prevention and settlement of conflicts. (European Neighbours, 2020) The IPA targets specifically countries that aim to become EU members. (European Commission, 2020d) Its relevance is limited to Rule of Law programs, but as the receiving countries intend to achieve the goal of membership, it may be a powerful tool.

5.2.2.3 Other Valuable Mechanisms

The EU includes a Human Rights Clause in its trade and association agreements. The clause ties the agreement to the condition that the third country adheres to international human rights law, sometimes including the rule of law. Should the third country violate these key principles, the EU can suspend these agreements. This instrument was developed in response to the EU's inability to suspend development aid programs in the case of a mass atrocity. (EPRS, 2019) The Human Rights Clause has a structural and operational character. Enshrining the respective trade partners' commitment to human rights, democracy, and frequently the rule of law, it fosters the development of these principles in the partner countries. Its operational value will be discussed further when discussing sanctions. The Human Rights Clause has not been activated thus far, as the EU tends to resort first to constructive measures. (EPRS, 2019)

5.2.3 Operational Measures

5.2.3.1 Mediation Efforts

The EU recognizes that mediation efforts are a part of R2P. However, the EU Task Force criticized that the "EU has not been proactive in using mediation and dialogue as a tool in all phases of conflict management" (Task Force, 2013, p. 65) Steps towards extending mediation and dialogue capacities have been taken. For instance, a Mediation Support Team is now part of the EEAS Conflict Prevention, Peace-building and Mediation Instruments Division. EU delegations and other EU bodies have received coaching on mediation. (Task Force, 2013)

5.2.3.2 Field Missions

The EU engages in various kinds of field missions, including military, civilian and humanitarian missions. (Task Force, p. 40) It has deployed a total of 16 missions "to support national governments and other regional organisations on [human rights and conflict prevention]" (Task Force, 2013, p. 13), including so-called EU Rule of Law Missions, election observation missions and mediation missions.

Concerning Common Security and Defense (CSDP) military missions, the EU has developed a Protection of Civilians (PoC) in EU-led Military Operations concept. (EEAS, 2015) It addresses PoC in the context of contemporary conflicts. First, any harm to civilians should be avoided in the planning and exercise of military missions, and second, civilians should be actively protected "from (imminent) threat of physical violence". (EEAS, 2015, p. 7) The concept recognizes PoC as a complex undertaking, requiring comprehensive education and training. Furthermore, the concept includes guidelines for the planning, the implementation of the operations, and a Lessons Learned component. (EEAS, 2015) While all types of EU field missions significantly contribute to the prevention of atrocities, there are no provisions specifically addressing potential mass atrocities.

5.2.3.3 *Sanctions*

The EU has the competence to impose various kinds of sanctions, including travel bans, asset restrictions, and arms embargoes. (Task Force, 2013) Other options such as threatening military interventions or creating no-fly zones have rarely been considered. (Task Force, 2013) EU diplomatic sanctions include, for example, withdrawing diplomats from the respective country. (Task Force, 2013) Withdrawing trade and association agreements based on the Human Rights Clause is an option.

5.2.3.4 *Incentives*

EU tends to focus on incentives rather than sanctions. Possible incentives are easing visa restrictions, prospective trade cooperation, and development assistance. (Task Force, 2013) Concerning trade, the Generalised System of Preferences (GSP+) incentive scheme contains a set of requirements for countries seeking access to the EU market. Trade cooperation is conditioned on the ratification of human rights treaties, including the Genocide Convention and others. (European Commission, 2020e) Another monetary incentive is the allocation of funding to restore stability, should the respective government agree to the conditions. Here, the IcSP's crisis response component is a useful tool. (Task Force, 2013) Although the EU has been praised for choosing incentives over sanctions, it has been criticized for being too slow at employing incentives in imminent threat situations, as some member states are reluctant to agree when their own "material interests" (Task Force, 2013, p. 65) are at stake.

To answer the fourth subsequent research question, the table established in the previous chapter is filled in following the new findings of this chapter. (Table 2) The two strategies are thus laid out concisely.

Criteria	USA	EU
Fundamental		
<i>Treaties</i>		(Member states)
- <i>Genocide</i>	Yes (ratified in 1988)	Yes
- <i>Rome Statute</i>	No	Yes
- <i>Geneva Conv.</i>	Yes	Yes
<i>R2P resolution</i>	Very little support	Strong support
<i>Support for the ICC</i>	N (tends to undermine)	Y (“strong support”)
<i>Own legislation</i>	Elie Wiesel Act; Presidential Study Directive 10; Syrian War Crimes Accountability Act	None
<i>Political will</i>	Atrocity Prevention as core national interest, but limited by conflicting interests	Support for R2P strong, limits exist
<i>Institutional Resources</i>	Centralized through the APB	Scattered across the bodies and agencies
<i>Financial Resources</i>	No specific funding, but stated that funding should be made available	No funding designated to atrocity prevention
Structural		
<i>Risk Identification</i>	APB, USHMM, USAID	Conflict Early Warning System
<i>Development Assistance</i>	Extensive Assistance Programs, mostly direct assistance to CSOs	Extensive Assistance Programs directly to CSOs, specifically for governments
<i>Noteworthy Accomplishments</i>		Human Rights Clause
Operational		
<i>Mediation efforts</i>	Yes, but not “praised” as instrument for atrocity prevention	Yes, but limited
<i>Field missions</i>	Yes (MARO)	Yes, but not atrocity-specific
<i>Incentives</i>	No evidence	Incentives preferred
<i>Sanctions</i>	Strong	Provisions exist

Table 2: Overview of the US and EU strategies

6 Comparison

In this chapter, the findings will be compared and analyzed leading to an answer to the fifth subsequent research question. This chapter will be divided into similarities followed by differences between the strategies.

6.1 Similarities

A comparison along the individual criteria shows some similarities between the fundamental commitment, structural, and operational measures. These outcomes are explained in this section.

6.1.1 Fundamental

Neither the US nor the EU includes ethnic cleansing in their definitions of mass atrocity crimes. This is an essential difference between the actors and the international UN framework, showing significant differences in theoretical and legal interpretations of which actions are considered atrocities. This theoretical difference could have a limiting effect on cooperation with UN organizations and the prosecution of perpetrators, as some actors may be more hesitant to participate in cases of ethnic cleansing. Moreover, a lack of political will due to conflicting interests seems to be a limiting factor in both cases. The small difference is that the US is constrained by its national interests and the EU is constrained by 27 national interests. Additionally, both strategies lack designated funding. As funding is a complex matter, there may be practical or political reasons for not allocating funding to a policy area as specific as atrocity prevention. Especially their development assistance shows that there is factually funding available for programs that benefit atrocity prevention.

6.1.2 Structural

Both actors have capacities for risk monitoring, which indicates that this is an essential part of any atrocity prevention strategy. In addition, both the US and the EU have exemplary development assistance programs in policy areas significantly contributing to eliminating root causes of mass atrocities. A factor that is present in both cases is the ability to bypass the partner country's government if necessary, to directly assist local actors, CSOs, and international organizations. Yet, neither of them has development assistance programs specifically for atrocity prevention. This may be due to overlaps between possible atrocity prevention programs and the programs already in place.

6.1.3 Operational

In terms of operational prevention, both actors have capacities for mediation. The US frequently engages in mediation. The EU recognizes mediation as part of R2P implementation and has used it in conflict prevention, although some argue it should be used more frequently. However, there is a slight difference. In comparison to the US, where diplomats carry out mediation, the EU has established specific divisions dedicated to mediation in addition to the EU delegations and bodies typically involved. Thus, one can argue that the EU follows an approach beyond classical diplomatic mediation.

Various kinds of non-military field missions are deployed by both actors. The US, like the EU, has provisions for field missions in the realm of elections, post-conflict peacebuilding, and several others. This shows the importance of including non-military operational measures.

Lastly, both have provisions for sanctions. Both have provisions for visa restrictions, trade restrictions, arms embargoes, and asset restrictions. Regarding sanctions and incentives, concern for their own political and economic gain is a common obstacle. The two actors have even collaborated in the past, for example when employing targeted sanctions during the crisis in the Democratic Republic of Congo. (Pomper, 2020) Apart from the analytical framework, there is a common difficulty. Measuring success and effectiveness is complicated because it is unclear what may have happened without prevention efforts. Only when atrocities occur despite active prevention, can the strategy be assessed and revised. This may be a limiting factor, as policymaking is often based on evaluation and adaptation.

6.2 Differences

At first glance, the two actors seem to have many parts of their atrocity prevention strategies in common. Looking at the criteria, most of them are fulfilled by both the US and the EU. However, many of these similarities are only superficial. When taking a closer look at the policies, fundamental differences underlying the seemingly similar strategies become evident. These fundamental differences are analyzed in the following section.

6.2.1 Sovereignty and International Collaboration

International agreements, binding treaties or non-binding like the R2P resolution, tend to not be well received by the US, as it has been continuously reluctant to commit to them. It has signed all three treaties, although it ratified the Genocide Convention almost 40 years after its adoption (Kaufman, 2020) and did not ratify the Rome Statute. Instead, it has been criticized for undermining the ICC. In combination with its reservations towards R2P, this shows the willingness of the US to be part of international agreements is dependent on whether these provisions are perceived as limiting its sovereign decision-making. This is an expression of a lack of political will due to conflicts with other national interests. Regarding internal regulations for atrocity prevention, the US has extraordinarily comprehensive legislation in place. Many aspects, such as the definition of atrocities, the dedication of institutional resources, risk monitoring, training, and internal reporting are covered by US law. In addition, there are precedents for establishing legislation directed at specific cases, such as Syria. This indicates that the political will to engage in atrocity prevention is high in cases in which the US can determine its responsibilities itself.

The EU seems to follow the exact opposite strategy. The EU as an exceptionally integrated international organization expresses high levels of political will for international collaboration. It has expressed undivided support for the treaties, the adoption of R2P, and the ICC. All member states have signed and ratified the treaties. This may be a result of the EU's political system. First, the EU itself is an international organization. Second, that its member states that have formed a union with such levels of integration mean they support collective agreements. However, the EU struggles to establish its own legislation for atrocity prevention. This may be connected to its preference for conflict prevention discussed in 6.2.3. Furthermore, the member states' national interests can have a limiting effect on the establishment of binding EU atrocity prevention legislation. In this case, the lack of political will does not result from the EU itself, but its member states.

6.2.2 Centralized and Scattered Approach

Both actors involve many agencies in their approaches. However, there is a significant difference: the US has a central agency with members from all over the US government apparatus involved in atrocity prevention. This centralized approach provides a forum of cross-

agency discussion and coordination of atrocity prevention measures and knowledge and enables risk monitoring based on combined knowledge. This kind of institutionalized cooperation regularly puts atrocity prevention on the political agenda by giving impulses to the political sphere. Additionally, being written into law, the APB guarantees a stable atrocity prevention strategy somewhat independent of current politics.

The EU does not have an agency comparable to the APB. Its atrocity prevention efforts are scattered over many agencies and EU bodies with little to no evidence of regular communication. Using the example of risk monitoring, it is evident that in the EU several agencies monitor risks in their own ways, gathering knowledge from different sources. These observations are not combined, communicated, or shared, which hinders a comprehensive evaluation of risks. Considering the political implications of the establishment of an overarching agency for the EU member states, a decentralized approach may be more politically viable. In addition, it can grant more flexibility to establish new responsibilities or agencies and enable specialization. However, considering that the EU focusses mostly on conflict prevention instead of atrocity prevention discussed in the following section the EU may benefit from an agency dedicated to overseeing atrocity prevention on the EU level.

6.2.3 Atrocity Prevention and Conflict Prevention

Perhaps the most fundamental difference between the US and the EU strategy is the context addressed by them. While the US has many policies and programs specifically directed at atrocity prevention, the EU lacks an atrocity prevention lens and instead focuses on conflict prevention. Many examples explain why this is a significant difference.

For instance, a look at the two figures laying out the atrocity prevention infrastructure of the two actors shows that several entities were specifically established for atrocity prevention, while the EU does not have any agencies with a mandate for atrocity prevention.

The difference between atrocity risk monitoring and conflict risk monitoring is critical. While the APB monitors atrocity risks, the EU's Conflict EWS addresses conflicts. As the EU Task Force (2013) highlights, a mass atrocity lens is crucial for risk monitoring. Although some risks overlap, there are some risk factors specific to mass atrocities. (Task Force, 2013) Whereas the US' central APB has a clear vision for atrocity risk factors, the Conflict EWS misses factors that are relevant to atrocities but not to conflict or have different implications with respect to atrocities.

Field missions targeting issues related to atrocities, such as election monitoring or peacebuilding missions contribute directly to the prevention of (further) atrocities without being specifically aimed at atrocity prevention. Nonetheless, a failure to employ an atrocity prevention lens leads to missed prevention opportunities. When it comes to military missions specifically, the distinction between conflict prevention and atrocity prevention is crucial. As Sewall et al. (2010) argue, (military) field missions in potential atrocity situations require distinctive planning and measures that are not necessarily part of other types of missions. MARO addresses these unique challenges, viewing atrocities as clearly distinct from any other form of conflict or violence. EU Field Missions lack such an atrocity lens completely and "there are no current attempts to provide European armies with adequate training for preventing and responding to mass atrocities: that is, there is no European approach to MARO." (Task Force, 2013, p. 81)

The EU's PoC in CSDP missions concept is created for military missions during "contemporary conflict" (EEAS, 2015), used interchangeably with armed conflict in the document. This is problematic since the concept fails to note that, although civilians are in fact in danger during armed conflict and must be protected, they can become victims of atrocities before, after, or

completely outside of armed conflict. When carrying out their mandate, the forces are protecting civilians from physical violence, which is essentially atrocity prevention. However, if the guidelines only consider situations of conflict, EU forces are not deployed for atrocities outside of conflict, which means atrocities are not prevented. Developing an atrocity prevention perspective is thus an essential part of any atrocity prevention strategy, which is not fulfilled by the EU, but by the US.

6.2.4 Sanctions and Incentives

The two strategies differ largely regarding incentives. Sanctions are a tool available to both actors to pressure foreign governments or individuals, although, the EU prefers not to make use of them. The US has a broad toolkit for sanctions, but incentives are not typically used, as no evidence of institutionalized incentive structures was found. In contrast, the EU makes use of a variety of incentives. The EU prefers positive incentives over coercive sanctions. Its provisions include the ease of visa restrictions, trade cooperation conditioned on the third country's adherence to and ratification of human rights treaties and other principles, and the prospect of receiving development assistance.

Although the difference between preferring sanctions or incentives seems minor, a closer look at the effectiveness of sanctions and incentives provides crucial insights into the consequences of the actors' strategies. This is dependent on the kind of sanctions and incentives imposed.

For instance, some studies show that diplomatic sanctions do not decrease the commission of atrocities, while another concludes that travel bans have positive effects. (Straus, 2016) Other studies demonstrate that neither economic sanctions nor arms embargoes contribute to the reduction of atrocities. (Straus, 2016) The effectiveness of sanctions is therefore highly contested. In addition to not achieving the desired goals, economic sanctions can have severe negative effects on atrocity prevention. Generalized economic sanctions on target countries have been proven to lead to increased humanitarian suffering due to both, restricted access to goods for vulnerable populations and increased violence as a response to the sanctions. (Straus, 2016) There have been developments towards so-called "smart sanctions" targeting individuals or companies specifically. However, evidence suggests that smart sanctions are no more effective than other sanctions. (Straus, 2016)

Incentives on the other hand do not have negative effects on the population. Instead, this soft form of imposing pressure on potential perpetrators may not have any effects at all. According to the EU Task Force (2013), incentives can have positive effects, if they are credible, intriguing, and are offered with the right timing. (Task Force, 2013)

6.3 Conclusion

In this chapter, the atrocity prevention strategies of the US and the EU were compared, categorized into similarities and differences, and put into a broader context. The answer to the fifth subsequent research question is based on these findings.

The two strategies are similar in some superficial ways. Neither of them considers ethnic cleansing as an atrocity. Both actors are limited by political considerations and conflicting interests. The US and the EU are equally strong in their exemplary development cooperation provisions. Also, both agree on the importance of non-military missions. Regarding sanctions, they do not only have provisions in place but have even collaborated on the implementation of sanctions.

Despite these similarities, four fundamental differences were identified that outweigh the similarities significantly. The first difference is between sovereignty and international

collaboration. While the US seeks to maintain its sovereignty by avoiding binding and non-binding international agreements and instead establishing own legislation, the EU strongly supports international agreements but is unable to create an own legislative framework. The second fundamental difference is between a centralized and a scattered organizational approach. Although there are many different agencies involved in both approaches, the US centralized its approach through the APB. The EU has not done this, leaving its strategy scattered over many agencies with very little collaboration. A crucial difference is between atrocity prevention and conflict prevention as the actors' main goal. The US has developed a strategy specifically aimed at atrocity prevention. Instead of atrocity prevention, the EU only focuses on conflict prevention, which can have grave consequences, such as missing or misinterpreting risks and failing to consider military missions in potential atrocity situations outside of conflict. The last difference is between sanctions and incentives. Generally said, the US prefers sanctions over incentives, whereas the EU prefers incentives over sanctions. Considering the unclear effectiveness and proven negative effects of sanctions on the one hand, and the potential positive or neutral effects of incentives on the other, the US strategy seems to have more negative effects than the EU strategy. Overall, there are more differences than similarities, especially considering how fundamental these differences are.

7 Conclusion

As influential actors in the international sphere, the US and the EU have developed their own approaches to atrocity prevention. In this thesis, the atrocity prevention approaches of the US and the EU were compared to identify best practices, common difficulties, and other conclusions.

After defining atrocities according to international law, the international framework on atrocity prevention was laid out. Apart from the Genocide Convention, the 1949 Geneva Conventions and the Rome Statute, especially the R2P doctrine along with the UN Risk Framework constitutes said international framework. These documents, binding and non-binding, enshrine the responsibility of the international community, of which the US and the EU are a part, to prevent atrocities. Furthermore, they suggest measures of atrocity prevention strategies entail. Complemented by scientific literature, these suggestions were used to establish an analytical framework for the comparison. An atrocity prevention strategy can be analyzed in three categories: the fundamental commitment of the actor, the structural, and the operational prevention capacities. The fundamental commitment criteria were derived from the idea that atrocity prevention is unlikely without a basic commitment. This includes the ratification of international treaties, support for the R2P doctrine and the ICC, as well as general political will, own legislation, and the dedication of (institutional) resources. According to the international framework, structural and operational atrocity prevention includes risk identification mechanisms, development assistance, mediation, field missions, incentives, and sanctions. After laying out and comparing the two approaches according to the analytical framework, the results were then divided into differences and similarities. This analysis answers the research question of this thesis:

How does the atrocity prevention framework of the USA compare to the EU strategy?

The two strategies have some similarities in all categories of prevention. Regarding their fundamental commitment, neither of them considers ethnic cleansing an atrocity, although it has been added to the UN's definition, which shows that there is a discrepancy between the international framework and its application. Both actors are constrained by a lack of political will when there are conflicting interests. Their structural prevention provisions show a high commitment to development assistance programs that contribute immensely to atrocity prevention, such as human rights and democracy programs. Both have capacities to monitor risks, although the type of risks they monitor differs. In terms of operational prevention, both actors agree on the importance of engaging in various kinds of non-military field missions, including election monitoring or peacebuilding missions. In addition, the actors face a common difficulty, namely the measuring of the effectiveness of their strategies. When atrocities were successfully prevented, it is hard to identify which measure or combination of measures was responsible. It is even difficult to say if an atrocity would have been committed had there been no prevention. Re-evaluating and improving an atrocity prevention strategy is therefore difficult.

Apart from these similarities, four fundamental differences between the two approaches were identified. While the US maintains its sovereignty instead of signing on to collective international agreements, the EU is favorable to international collaboration but struggles to create an own legislative atrocity prevention framework. The second fundamental difference is between a centralized and a scattered organizational approach. Although there are many

different agencies involved in both approaches, the US centralized its approach through the APB. The EU has not done this, leaving its strategy scattered over many agencies with very little collaboration. A crucial difference is between atrocity prevention and conflict prevention as the actors' goal. The US has developed a strategy specifically aimed at atrocity prevention, whereas the EU focuses on conflict prevention, which can have grave consequences, such as missing or misinterpreting risks or failing to consider military missions in potential atrocity situations outside of conflict. Overall, the evidence suggests that the EU approach has little in common with a cohesive strategy for atrocity prevention. The last difference is between sanctions and incentives. Generally, the US prefers sanctions rather than incentives, whereas the EU prefers incentives over sanctions. Considering the unclear effectiveness and proven negative effects of sanctions on the one hand, and the potential positive or neutral effects of incentives on the other, the US strategy seems to have more negative effects than the EU strategy.

In conclusion, the atrocity prevention approaches of the US and the EU differ vastly and fundamentally. Based on the evidence provided in this thesis, one may even argue that the EU does not have an atrocity prevention strategy at all and that any contributions to atrocity prevention are coincidental.

Recognizing that this thesis does not address all issues related to atrocity prevention, some recommendations for further research are formulated. This thesis highlighted the legal and policy commitments of two international actors and the architectural structure resulting from them. While it provides vital insights into the available capacities of these actors, it does not fully account for political restrictions when it comes to executing these. Based on this thesis, a comparison of the actors' response to an individual case or several cases, such as Libya and Syria can provide more detail about the discrepancies between capacities (theory) and execution (practice). This can be done either for one of the actors or for comparing both implementations. Furthermore, a comparison of one actor's strategies in several cases may bear crucial insights into the coherence of its strategy implementation, which has strong implications for the actor's credibility as a partner in atrocity prevention. If the goal is to integrate the individual strategies and grant similar capacities within all international actors, an examination and evaluation of existing collaboration promises crucial insights. In this realm, the question of whether international cooperation can take place effectively if the national and regional strategies differ from each other seems interesting.

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9 Appendix

9.1 Framework of Analysis for Atrocity Prevention Risk Factors

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian law
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
Genocide		
Risk Factor	9	Intergroup tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
Crimes against humanity		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
War crimes		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious threats to humanitarian or peacekeeping operations

Source: United Nations, 2014

ⁱ There are four Geneva Conventions of 1949 (hereafter 1949 Geneva Conventions): I. The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, II. The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, III. The Geneva Convention Relative to the Treatment of Prisoners of War, and IV. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Additional Protocols were added in 1977 and 2005.