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DENMARK AND THE RESPONSIBILITY TO PROTECT

HOW TO PUT ATROCITY PREVENTION INTO PRACTICE
IN DANISH FOREIGN POLICY

A RESEARCH REPORT

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EXECUTIVE SUMMARY

This research brief examines the role of Danish foreign policy practitioners in the prevention of atrocity crimes. The report argues that more attention should be paid to the prevention of genocide and crimes against humanity, as this would help to advance other Danish foreign policy priorities: atrocity crimes can destabilize countries and entire regions; they impact trade and development; they can cause millions of people to flee; they can start new conflicts and represent a total breakdown of the international rule of law – all developments diametrically opposed to what Danish foreign policy seeks to achieve. Other actors, such as the European Union and the United States, have already recognised these links between national and institutional interests on the one hand and the prevention of atrocity crimes on the other hand.

This report focuses on how atrocity prevention and the UN norm “responsibility to protect” (R2P) can be integrated more effectively into Danish foreign policy and pays particular attention to Danish efforts and opportunities in the fields of development cooperation and human rights.

The report was commissioned by the Danish Ministry of Foreign Affairs (MFA) and builds on extensive research in 2014-2016 within the Danish Ministry as well as interviews with international R2P experts and relevant staff from other national governments, the European Union, the United Nations and civil society.¹

The report concludes with a set of five recommendations to the Danish Ministry of Foreign Affairs on how to realise R2P within Danish foreign policy in a sustainable and efficient manner:

- 1) announce specific R2P priorities and countries
- 2) make R2P more meaningful and visible within internal processes
- 3) strengthen the Danish R2P Focal Point
- 4) do more R2P outreach inside and outside the Ministry
- 5) further strengthen R2P mainstreaming outside Denmark

These recommendations are further elaborated below in section 5.

¹ This report is based on interviews, observations and analysis carried out in Denmark and at Danish embassies abroad, including the representations in Accra, Brussels, Geneva, Kampala and New York. The author wants to thank all Danish officials for their time and contributions, in particular the Danish Focal Point on R2P, Undersecretary for Legal Affairs, Tobias Rehfeldt, and the R2P expert inside the Foreign Ministry, Senior Advisor Tomas Kønigsfeldt. In addition, thanks go to the author's two research assistants Max Schiel and Juliette Paauwe at the University of Southern Denmark. The conclusions and recommendations made in this report are the author's alone and do not necessarily represent the official position of the Danish government.

ABOUT THE AUTHOR

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For the past six years, Martin Mennecke has been academic adviser to the Danish Focal Point for R2P at the Ministry of Foreign Affairs. He was closely involved in drafting the Focal Point concept in 2011 and has since helped to facilitate the implementation of R2P across the Danish government. He has worked with the Ministry's Human Rights Department, the development cooperation team, Danish Embassies and the Ministry of Defence. He also assists with Danish R2P efforts within the European Union and R2P collaboration with other international partners. He for example helped to develop the pioneering annual R2P course for African practitioners at the Kofi Annan International Peacekeeping Training Centre in Accra, Ghana.

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I. INTRODUCTION

Denmark ranks currently no. 155 of 162 countries on the watch list of the Early Warning Project of the US Holocaust Memorial Museum and indeed, genocide or crimes against humanity seem a very unlikely event in Denmark, which in turn makes atrocity prevention and the responsibility to protect (short 'R2P') a non-topic in Danish domestic politics.² Also when it comes to Danish foreign policy, other issues dominate: the focus is on Brexit, terrorism and the Arctic, to name just a few. The recent government strategy on Danish foreign policy and security issues, for example, does not once refer to atrocity prevention.³

And yet, the prevention of atrocity crimes⁴ is a task Danish policy makers should take an interest in, as it relates directly to other Danish foreign policy priorities. Atrocity crimes can destabilize countries and entire regions; they impact trade and development; they can cause millions of people to flee, traumatize societies and ignite a cycle of revenge and conflict; they represent a breakdown of the international rule of law – all developments diametrically opposed to what Danish foreign policy seeks to achieve.

As a small European country, Denmark strives for a world based on the international rule of law, the prevention of conflict and gross human rights violations and fewer refugees in the world.⁵ Atrocity crimes violate, very starkly, the very basics and dignity of humanity as well as the values Danish foreign policy is based on. The prevention of atrocity crimes should therefore also in Denmark be seen as a foreign policy priority which echoes with and reinforces other Danish foreign policy priorities.⁶ This would be in line with what has been recognized, for example, by the European Union and the United States. Thus, in 2016, the new EU Global Strategy stated that “without global norms and the means to enforce them, peace and security, prosperity and democracy – our vital interests – are at risk (...) the EU will promote the responsibility to protect.”⁷

² See the watch list compiled by the Early Warning Project at the US Holocaust Memorial Museum: <http://www.earlywarningproject.com/countries/denmark>.

³ Cf. Udenrigs- og Sikkerhedspolitisk Strategi, June 2017 (available at <http://um.dk/da/udenrigspolitik/aktuelle-emner/udenrigs-og-sikkerhedspolitisk-strategi-2017-18/>).

⁴ In this paper the term atrocity crimes will be used to refer to genocide, crimes against humanity, war crimes and ethnic cleansing. Atrocity crimes is not a legal, technical term, but in the international policy and academic discourse increasingly used as short hand for mass atrocities. The term atrocity prevention describes efforts to prevent these crimes.

⁵ See Permanent Mission of Denmark to the United Nations, Statement, 71st Session of the General Assembly of the United Nations, 26 September 2016 (https://gadebate.un.org/sites/default/files/gastatements/71/71_DK_en.pdf), 3-6. See also the founding document of the current Danish government coalition, For et friere, rigere og mere trygt Danmark, 2016, 41-43 (available at <http://www.stm.dk/media/Regeringsgrundlag2016.pdf>).

⁶ See the founding document of the current government coalition, *ibid.*, 43 (pointing to the need to protect Christian minorities that suffer from persecution). See also the founding document of the previous government coalition, Et Danmark der står sammen, October 2011, 39 (referring explicitly to R2P as key principle and to the task of operationalising R2P, available at http://www.stm.dk/publikationer/Et_Danmark_der_staar_sammen_11/Regeringsgrundlag_okt_2011.pdf).

⁷ European External Action Service, Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy, June 2016, 39 and 42; for the United States see White House, Presidential Study Directive 10, 4 August 2011 (“Preventing mass atrocities and genocide is a core national security and a core moral responsibility of the United States. Our

This report will examine how atrocity prevention can be effectively integrated into Danish foreign policy and focus in particular on Danish efforts regarding development cooperation and human rights. The study was commissioned by the Danish Ministry of Foreign Affairs and covers the years 2014-2016.⁸ It builds on extensive research within the Danish Ministry of Foreign Affairs as well as interviews with international R2P experts and relevant staff from the European Union, other national governments, the United Nations and civil society. The study examines the application of R2P by a number of relevant actors within the Danish system, including the Danish Focal Point for R2P, relevant sections in the Foreign Ministry and Danish Embassies. The author of the study took part in internal Danish and international meetings with R2P relevance and carried out a number of field trips to examine close up the application and applicability of R2P in practice.

As will be seen, Denmark has been an instrumental actor regarding the creation of international cooperation on atrocity prevention and R2P. This study notes this contribution as key to advancing and implementing R2P internationally. This dimension of Danish R2P efforts is particularly important, as R2P continues to be, comparatively speaking, a new norm that needs support as such, for example through affirmative resolutions and statements. This report focuses, however, on what Denmark can do to practice R2P in its *own* foreign policy, what challenges exist and how they could be addressed; the focus will be on *practicing R2P*, through concrete measures that seek to prevent atrocity crimes. The study is premised on the fact that “in order to be effective, atrocity prevention requires a concerted, comprehensive and inclusive review of risks and vulnerabilities and the action that could be taken to address them in a timely fashion.”⁹

In order to set the scene, the following section will briefly introduce R2P as the main framework for discussions on atrocity prevention and summarize Denmark’s role in international cooperation on R2P. In a next step, we will provide an overview over those areas in which Danish foreign policy can put R2P into practice – focusing in particular on development cooperation and efforts regarding human rights. These areas were chosen, as they both represent key priorities of Danish foreign policy and underscore the preventative character of R2P. These sections will include an analysis of existing challenges and issues that remain to be addressed before the report concludes with a set of recommendations and a look ahead.

security is affected when masses of civilians are slaughtered, refugees flow across borders, and murderers wreak havoc on regional stability and livelihoods”). Cf. also for a similar discussion regarding Australia Alex J. Bellamy, *The Responsibility to Protect and Australian Foreign Policy*, *Australian Journal of International Affairs*, vol. 64 (2010), 441-443.

⁸ For an earlier study see David Kendal, *Denmark and the Responsibility to Protect (R2P): How Denmark Can Further Contribute to the Prevention of Mass Atrocities*, 2013 (available at <http://um.dk/en/danida-en/partners/research/other/~/media/UM/English-site/Documents/Danida/Partners/Research-Org/Research-studies/Denmark%20and%20the%20Responsibility%20to%20Protect%202013.pdf>).

⁹ UN General Assembly and Security Council, *Responsibility to Protect: State Responsibility and Prevention*. Report of the Secretary General, UN Doc. A/67/929 (9 July 2013), para. 74.

II. A SHARED RESPONSIBILITY TO PROTECT: A BRIEF INTRODUCTION TO THE FIELD OF ATROCITY PREVENTION

In October 2005, heads of government unanimously adopted the responsibility to protect – in two paragraphs of the 178 paragraphs long World Summit Outcome Document.¹⁰ This decision was meant to provide a response to the catastrophic failure of governments as well as of the international community to prevent in the 1990s the Rwandan genocide and Srebrenica. The UN formulation of R2P built on the work of thinkers such as the South Sudanese scholar and diplomat Francis Deng¹¹ and the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS).¹²

2.1 The Idea and Means of Responsibility to Protect

The newly defined R2P norm links to existing international law, including the UN Genocide Convention, but added at the same time a new understanding to the traditional notion of sovereignty: no longer should sovereignty be available to shield regimes committing gross human rights violations from international scrutiny; no longer should atrocity crimes be hidden from international scrutiny as mere 'domestic affairs.' Instead sovereignty should in light of R2P be understood to focus on the people and their well-being. In the future, also the international community should take part in this responsibility and, if states failed their role as responsible sovereigns, it should step in and protect populations against massive harm.

R2P as defined in the World Summit Outcome Document has been described as being at the same time narrow and deep.¹³ Narrow in that it only deals with the protection of populations against four specific atrocity crimes: genocide, crimes against humanity, war crimes and ethnic cleansing. Natural disasters, terrorism and civil war are as such not covered by R2P. At the same time R2P could be described as being deep in that it covers a wide range of measures aiming at the prevention and suppression of these four crimes.

¹⁰ UN General Assembly Resolution 60/1, 2005 World Summit Outcome, UN Doc. A/Res/60/1, 24 October 2005, paragraphs 138-139.

¹¹ See for example Francis M. Deng et al., *Sovereignty as Responsibility. Conflict Management in Africa*, 1996.

¹² International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 2001 (available at <http://hdl-bnc.idrc.ca/dspace/bitstream/10625/18432/6/IDL-18432.pdf>).

¹³ UN General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*, UN Doc. A/63/677, 12 January 2009, para. 10. (c).

Much of today's understanding of R2P has been shaped by the annual R2P reports submitted by the UN Secretary General and the work of the Joint Office of the Special Advisers on the Prevention of Genocide and R2P to the UN Secretary General.¹⁴ Starting in 2009, the UN Secretary General has presented nine annual reports on R2P and elaborated the meaning of the original two paragraphs from the World Summit Outcome Document. In the very first of these reports, the Secretary General introduced the notion that R2P consists of three interrelated, non-sequential pillars. Whereas the earlier ICISS report had spoken about the responsibility to prevent, to react and to rebuild, the UN version of R2P did not adopt this approach. Instead it addressed in its three pillars the role of different actors at different stages of the prevention and suppression of atrocity crimes:

Pillar 1: Each government is responsible to protect its population against genocide, crimes against humanity, war crimes and ethnic cleansing. This responsibility flows from and is part of the state's sovereignty.

Pillar 2: The international community has a responsibility to assist individual governments in their responsibility to protect their population. This assistance can come in shape of encouragement or more direct forms of support including capacity building.

Pillar 3: In addition, the international community has the responsibility, through the United Nations, to use appropriate diplomatic, humanitarian and other peaceful means to help to protect populations. If the respective government manifestly fails its responsibility to protect its population against the four specific atrocity crimes, and if peaceful means should be inadequate, the international community has resolved to take collective measures to protect the population. This is to be done in a timely and effective manner, on a case-by-case basis, and in accordance with the UN Charter. In this last scenario, relevant steps can include decisions such as sanctions, a referral of the relevant situation to the International Criminal Court or the authorization of armed force.¹⁵

Having clarified the basic tenets of R2P, it also is important to outline what R2P is not. Importantly, R2P is *not* the same as what has been called 'humanitarian intervention.' There is no internationally agreed definition for what constitutes a humanitarian intervention, but many scholars would point to instances where a group of states intervenes with military force in a situation where atrocity crimes are being committed or a real threat for their commission exists and where states do so without a formal authorization by the UN Security Council.¹⁶ In light of the comprehensive prohibition of the use of force under the UN Charter, it is controversial whether such humanitarian interventions can be reconciled with international law. Against that background it is important to note that R2P in a number of ways is different from humanitarian intervention. First of all, R2P focuses on the role and sovereignty of the state in question – not on that of third states intervening from the outside. Second, R2P is focused on the prevention of atrocity crimes – humanitarian interventions only occur when massive human rights violations already are being committed or about to take place. Finally, R2P presupposes according to the World Summit Outcome Document a mandate

¹⁴ For the annual R2P reports of the UN Secretary General see the overview at http://www.globalr2p.org/about_r2p. For information on the work of the Joint Office see <http://www.un.org/en/preventgenocide/adviser/index.shtml>.

¹⁵ See for a first introduction to these three pillars the first R2P report by the UN Secretary General, *supra* note 13, para. 11 (a)-(c).

¹⁶ See for example Christine Gray, *International Law and the Use of Force*, 3rd edition, 2008, 33-38.

from the UN Security Council, if the proposed measures include an armed intervention under R2P's third pillar.¹⁷

In all discussions on R2P it is important to note that R2P as such has not yet obtained the force of binding international law. R2P was originally adopted as part of a UN General Assembly resolution (the "World Summit Outcome Document") and such decisions do normally not create international law.

Before dismissing the legal significance of R2P altogether, though, it is worthwhile to recall that R2P builds on existing international law. For example, the UN Convention on the Prevention and Punishment of the Crime of Genocide defines the crime of genocide and thus contributes to defining the scope of R2P. In addition, the UN Genocide Convention entails a legal duty to prevent genocide, which logically sets in before the crime is committed and thus encompasses the prevention of all steps that significantly increase the risk of genocide.¹⁸ In other words, the duty to prevent genocide constitutes a solid legal basis for key parts of R2P. Furthermore, in the future, R2P could itself and as a whole develop into a norm of international law. This could happen in the (unlikely) scenario of a future treaty incorporating R2P – or in the form of customary law, i.e. through the consistent, widespread practice of states that start viewing R2P as binding norm of international law. It is also conceivable that states more quickly agree to the content of pillars 1 and 2 being binding as customary law.

2.2 The Practice of Responsibility to Protect since 2005

Since 2005, a number of different actors have applied R2P and its three pillars in practice. The most important actor, in light of the focus of R2P on the state's responsibility to protect its population, is of course the state, and numerous states have over the past ten years invoked R2P in statements or in practice. This applies for example to the more than 50 governments that have appointed a national focal point on R2P. In accordance with the norm's second pillar (mutual assistance to prevent R2P crimes), states can also choose to implement R2P through the work of their regional organization – as for example can be seen in the European Union and ECOWAS.¹⁹

At the United Nations, states have found a number of different ways to work with R2P. More than 45 interested states have established an informal working group, called Group of Friends of R2P, that under the co-chairmanship of Rwanda and the Netherlands both in New York and Geneva seek opportunities to apply R2P within the UN system. The Group of Friends for example suggested to integrate R2P into the comprehensive reviews of UN peace operations and of the UN peacebuilding architecture. Similarly, states have begun to invoke R2P in UN debates and resolutions, which refer to relevant measures or country situations in which R2P issues are at stake. This

¹⁷ This link between R2P and the Security Council in case of an armed intervention explains why the notion of humanitarian interventions has not become obsolete. If one or more of the permanent members of the Security Council block effective intervention into ongoing atrocities, other states may consider that an armed intervention without prior Security Council authorization is necessary to prevent or stop massive human rights violations.

¹⁸ Cf. *Bosnia and Herzegovina v. Serbia*, Judgment, International Court of Justice, 26 February 2007, paras. 428-432.

¹⁹ See respectively UN General Assembly, *The Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect: Report of the Secretary-General*, UN Doc. A/65/877, 28 June 2011, and Jaclyn D. Streitfeld-Hall, *Preventing Mass Atrocities in West Africa*, Global Centre for the Responsibility to Protect Occasional Paper Series, no. 6, September 2015 (available at http://www.globalr2p.org/media/files/occasionalpaper_westafrica_final.pdf).

is true for both the UN General Assembly, the UN Human Rights Council as well as the UN Security Council.²⁰

In regard to the question of R2P turning into binding international law, the analysis would have to scrutinize whether states in their proceedings in the UN Security Council or the UN Human Rights Council indeed aim at the juridification of R2P. There is so far little evidence that this is the case. Most R2P references are placed in preambular paragraphs and formulated in language that does not suggest a binding character for R2P. In addition, most references are to the first pillar of R2P, thus raising the question of whether there is no legal significance to pillars 2 and 3. Ultimately, however, it seems ill-advised to focus on the legal character of R2P; more important for the effective prevention of atrocity crimes is whether R2P can serve as a rallying cause for states, international organisations and civil society and add something in practice.

Today, some ten years after the adoption of R2P, much remains to be desired when it comes to atrocity prevention. The lack of meaningful R2P action especially in Syria has led to intense discussions on the norm's strength and future. Indeed, some observers have already penned obituaries for R2P.²¹ While states did not manage to effectively apply the norm to prevent or stop mass atrocities from being committed in places such as Syria or North Korea, those cases and their geopolitics should not serve as the only measure stick for establishing the relevance of R2P. Instead the role of R2P also has to be seen against its impact in the less prominent, but potentially as violent cases of countries such as Burundi or Guinea. After all, R2P was born out of the failure to prevent the genocide in Rwanda – a country which for most players lacked any strategic interest and thus did not attract outside intervention. Thus, a more nuanced assessment will acknowledge the major shortcomings Syria and other cases represent for the record of R2P – but also highlight those instances where R2P has contributed to preventing atrocity crimes.²²

In academia, R2P continues to attract widespread attention. There are special issues of academic journals, conferences and blog discussions on R2P.²³ The focus is placed on issues such as the role of the new emerging powers in regard to R2P, the relationship between atrocity prevention and the veto power of the permanent members of the UN Security Council as well as the links between atrocity prevention and non-state actors. Many of these issues deserve further exploration – but for the victims of mass atrocities and for prevention the single most important issue remains the actual *implementation* of R2P. Millions of people continue to flee from atrocities and war, and tens of thousands have already lost their lives due to atrocity crimes committed in Syria, South Sudan and elsewhere. Thus the putting into practice of R2P is what matters – or as UN Secretary General Ban Ki Moon put it in his last report on R2P:

²⁰ See only UN Security Council resolution 2327, Reports of the Secretary-General on the Sudan and South Sudan, UN Doc. S/RES/2327, 16 December 2016, 3; UN General Assembly resolution 71/L.23, Situation of Human Rights in the Democratic People's Republic of Korea, UN Doc. A/C.3/71/L.23, 31 October 2016, 2; and UN General Assembly Human Rights Council resolution 26/L.1, Situation of Human Rights in South Sudan, UN Doc. A/HRC/S-26/L.1, 13 December 2016, 1.

²¹ David Rieff, R2P, R.I.P., New York Times, 7 November 2011; see also Aidan Hehir, Response: The Responsibility to Protect doctrine has Failed, The Washington Post, 26 February 2011.

²² See for example Alex J. Bellamy, The Responsibility to Protect Turns Ten, Ethics & International Affairs, vol. 29, no. 2 (2015), 161-185.

²³ For a relevant special issue see for example Global Society, vol. 30, no. 1 (2016), Contesting and Shaping the Norms of Protection: The Evolution of a Responsibility to Protect; for a relevant conference see the international meeting on "Implementing the Responsibility to Protect: Domestic Processes and Foreign Assistance," co-organised by the Australian National University and partners on 27-28 October 2016 (cf. <http://bellschool.anu.edu.au/news-events/events/4022/implementing-responsibility-protect-domestic-processes-and-foreign>); for a specialised blog see the "ICTRtoP blog" run by the International Coalition for the Responsibility to Protect (available at <https://icrtopblog.org>).

“The responsibility to protect is a commitment made by all Member States. It is the task of Member States, with support from the broader international community, *to make it a living reality.*”²⁴

2.3 Denmark and the Responsibility to Protect

Denmark has for a number of years been one of the leading states regarding the implementation of R2P.²⁵ In order to advance and strengthen the norm as well as its operationalisation, the Danish government has chosen a three-pronged approach: to strengthen R2P cooperation with civil society, with other governments and with international organisations.

National governments are the primary bearer of the responsibility to protect. It therefore makes sense for Denmark to collaborate with other countries to learn from their work with the implementation of R2P. Denmark does so in a number of fora, including a small informal group of like-minded countries that seeks to apply R2P in their own policies and practice. This group meets twice a year and is composed of the United States, Canada, the United Kingdom, Germany, the Netherlands, Australia and Denmark. The group has proven instrumental for strategizing about how to advance atrocity prevention at the national and the international level. It also has generated concrete inputs concerning R2P processes at the United Nations and produced outcomes such as bilateral cooperation on R2P projects. Denmark hosted the informal group meeting in April 2015 in Copenhagen and continues to participate in shaping its ongoing work.

In another key development, in 2010, Denmark co-founded the international network of R2P Focal Points – a global forum where senior R2P practitioners from national governments can exchange experiences, share good practices and build a community of commitment.²⁶ Denmark plays an active role in the leadership of the Focal Point network and supports the Global Centre for R2P in its role as secretariat for the network.

In 2013, Denmark co-organized together with Ghana the first international meeting of R2P Focal Points outside New York in order to underscore that R2P is first and foremost about what is done at the national level rather than proclaimed in speeches at the UN. As follow up, in 2014, Denmark cooperated with the Kofi Annan International Peacekeeping Training Centre and the Global Centre for R2P to organise the first R2P practitioner training for African military personnel, government officials and civil society. The course has since been offered on an annual basis and may in the future also become part of the curriculum at other peacekeeping training schools.²⁷

²⁴ UN General Assembly and Security Council, *Mobilizing Collective Action: The Next Decade of the Responsibility to Protect*. Report of the Secretary-General, UN Doc. A/70/999 (22 July 2016), para. 64 (emphasis added by the author).

²⁵ For recognition of Denmark’s role in the UN context cf. UN General Assembly and Security Council, *supra* note 9, para. 57. See also the remarks by Ambassador Alfonso Lenhardt, Deputy Head of the US Agency for International Development (USAID), *The Future of the U.S. Government’s Efforts on Atrocity Prevention*, United States Holocaust Memorial Museum, 23 May 2016 (“Many of you in this room have been critical partners to the museum and to the US government in these efforts and I thank you all for that. I would especially like to recognize our friends in the Danish government (...) and I look forward to our continued collaboration,” available at https://www.youtube.com/watch?v=xu1_9oGYfNI&feature=youtu.be, time: 1:08:30 -1:09:46). On this see also Kendal, *supra* note 8, 14ff.

²⁶ See on the role of the Danish R2P Focal Point the study by Kendal, *supra* note 8, 14ff. On the international focal point network see the information compiled by the Global Centre for R2P which also acts as secretariat to the network: http://www.glob-alr2p.org/our_work/global_network_of_r2p_focal_points.

²⁷ See also the information provided by the Kofi Annan International Peacekeeping Training Centre at <http://www.kaiptc.org/Media-Room/News/Maiden-Responsibility-to-Protect-Course-Commences.aspx?ID=2656>.

International organisations play an important role in implementing the second and third pillar of R2P: both cooperation to prevent atrocity crimes and actions taken to stop them will often take departure in the framework of the United Nations or that of a regional organisation. Denmark is active at the United Nations to support the operationalisation of R2P inside and across the UN system as well as among member states. This applies to the aforementioned Groups of Friends of R2P as well as to collaboration with the Joint Office of the two UN Special Advisers in the field of atrocity prevention.

In addition, Denmark has been very engaged with the European Union to initiate a cross-institutional discussion on how the EU could integrate R2P into its work. As resourceful and influential regional organisation, the EU has many entry points for atrocity prevention. For example, the EU has representations in more than 130 countries around the world, enabling it to learn about relevant risk factors on the ground and to initiate preventative measures.

Lasting Danish efforts, together with those of the Netherlands and other like-minded EU member states, have helped to facilitate the appointment of an EU Focal Point for R2P inside the EU's External Action Service. This Focal Point is meant to catalyse the internal process to work with atrocity prevention issues across the EU system. There are already concrete outcomes of this internal work with atrocity prevention, as for example the inclusion of R2P into both the EU's new Global Strategy and the European Commission's newest proposal for a new development policy paper.²⁸ Denmark has also co-organised several expert level meetings of R2P desk officers from all EU member states in the EU working group on UN affairs (CONUN). This initiative has in 2015 led to the adoption of a set of recommendations on how the EU should work with R2P which now is annually being reviewed and, as necessary, revised by the CONUN expert group. Finally, Denmark has engaged the EU External Action Service on how to integrate atrocity prevention issues into the EU's new early warning system and how to continuously share this information with member states.

In regard to *civil society*, Denmark has established strong relationships with key players including the Global Centre for R2P, the International Coalition for R2P and the Auschwitz Institute for Peace and Reconciliation. Denmark works closely with these international civil society groups as well as with local partners to ensure that non state expertise and experience is included into the process of atrocity prevention. This cooperation also acknowledges the fact that civil society can make its own contribution to atrocity prevention and is needed to keep governments committed to the new and complex agenda of atrocity prevention. This shows for example in the work of the Global Centre for R2P as secretariat for the Global Network of R2P Focal Points. Against this background, Denmark partnered in 2014 with the aforementioned civil society groups and a number of other governments (including Australia, Costa Rica, Switzerland and Tanzania) to organise the first meeting of a new international initiative called *Global Action Against Mass Atrocity Crimes* (GAAMAC).²⁹ This informal network convenes governments, international organisations, civil society and relevant professionals to create an open forum for exchanging best practices.

Denmark has through these various initiatives established itself as one of the key players in the international R2P community. The next two sections will examine how Denmark in her own foreign policy can integrate R2P as means of effective atrocity prevention – starting with Danish human rights efforts.

²⁸ See the EU's Global Strategy, *supra* note 7, and the European Commission, Proposal for a New European Consensus on Development, 22 November 2016, para. 52.

²⁹ Denmark continues to serve together with other governments and civil society representatives in the steering group of GAAMAC. For more information on GAAMAC see <http://www.gaamac.org>.

III. DENMARK, HUMAN RIGHTS AND R2P

In much of the academic literature on R2P, little is made of the relationship between R2P and human rights. This is surprising given that there is a clear overlap between the protection of a population against atrocity crimes and the protection of the human rights of that population. The crime of genocide, for example, protects existential human rights of certain groups within the population. Similarly, crimes against humanity capture the widespread or systematic abuse of basic human rights of any civilian population. Thus, the effective implementation of R2P will contribute to the protection of essential human rights just as the effective protection of human rights will help towards the successful implementation of R2P.³⁰ In light of this relationship, the question for the practitioner then becomes whether all work done on human rights issues also can be seen as work towards the implementation of R2P – making the two indistinguishable and one. In other words, is eventually everything R2P?

3.1 Human Rights and R2P – More of the Same or is There an Added Value?

This overlap between R2P and human rights is a key concern for the implementation agenda, as to add R2P to the busy schedule of a ministry official only makes sense (and only can succeed), if R2P entails an added value compared to the human rights work already done by a foreign ministry. This same question will return in the next section with regard to R2P and development cooperation and applies to all efforts to operationalise R2P – be it in the Foreign Ministry, the Ministry of Justice or the Ministry of Defence.

In fact, this is a key question which all too often is neglected, both in the academic literature and by civil society efforts in this field. Especially in times of austerity and in light of competing and other cross-cutting agendas it is essential to spell out why a certain issue such as R2P requires special attention. It is not enough to rely on normative arguments that merely stipulate that never again atrocity crimes ought to be committed. Such approach will help to generate speeches, but no action. This is the more so when the key objective is to see atrocity prevention done in practice – and not just stated as a reference point in wordy resolutions. The question therefore is whether R2P, beyond adding a label and a normative dimension, changes anything in practice when it comes to human rights?

The answer is yes; R2P and atrocity prevention can lead to and may in fact require distinct measures to be taken. The added value of R2P is related to the specific focus of R2P on four atrocity crimes. R2P is at its core not about creating a democratic, rule of law based, free society, but specifically about protecting populations from mass atrocities. This means that not all human rights work is closely linked to the implementation of R2P. Evidently, the risk for atrocity crimes to be committed is significantly lower in democratic, rule of law based, free societies, but their crea-

³⁰ See on this already the first R2P report by the UN Secretary General, *supra* note 13, paras. 7, 16, 17, 22, 33, 35, 44, 47, 67 and 68.

tion can only be a long term goal and relates to questions of structural prevention. For the immediate future, in order to prevent atrocity crimes, the focus has to be on those human rights that are key when it comes to warning signs for the immediate commission of atrocity crimes. Thus the *UN Framework of Analysis for the Prevention of Atrocity Crimes* refers with regard to the prevention of atrocity crimes to the importance of protecting and promoting specific human rights.³¹

This means that the effective implementation of R2P requires, as appropriate, the focus on certain human rights issues, as these have a particular potential in leading up to atrocity crimes – rather than just to address general human rights violations. This is the more true in countries that have been identified as facing also other significant risks regarding the commission of atrocity crimes. Vice versa, it makes in such countries very much sense for human rights officers to pay particular attention to R2P issues in order to prevent atrocity crimes, as their commission equals the total negation of essential human rights. In the words of UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, R2P “is emphatically not just another agenda item,” but “must guide” the work on human rights.³²

In scenarios with significant risks for atrocity crimes, R2P awareness is thus not just a matter of labelling – but a step towards identifying those human rights measures which can specifically address R2P-related risks and help to prioritize them accordingly. In turn, R2P thus assists human rights efforts and helps to identify and address issues that otherwise might not receive timely or sufficient attention.

For Denmark it is an explicit government priority to advance and strengthen human rights.³³ In order to realize this goal and to prevent the total negation of essential human rights through atrocity crimes, it is necessary to consider the practical linkages between R2P and Danish work on human rights issues – and to do so on a continuous basis. As member to all major human rights instruments, Denmark has numerous options where to reinforce its human rights efforts by integrating R2P into the work on human rights issues. One of the key international fora to work on the promotion and protection of human rights is the UN Human Rights Council in Geneva. It has not shed all the weaknesses of its predecessor and does not have enforcement powers as the UN Security Council, but it has been equipped with some meaningful innovations, including the Universal Periodic Review process. The Human Rights Council is currently of particular interest for Danish foreign policy, as Denmark vies to become a member of the Council for the years 2019-2021.³⁴

As a result, the following analysis of how Denmark can best integrate R2P into its human rights efforts will focus on what Denmark can do at and in regard to the UN Human Rights Council. This is not to diminish the potential role of other human rights bodies in advancing the implementation of

³¹ Joint UN Office for the Prevention of Genocide and Responsibility to Protect, *Framework of Analysis: A Tool for Prevention*, 2014, 3 and 11 (available at http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atroc-ity%20crimes_en.pdf).

³² UN High Commissioner's Statement to High-Level Panel on Implementing R2P in the Geneva Context, 19 November 2015 (available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16776&LangID=E>).

³³ On human rights being a priority for Denmark's foreign policy see for example the speech of the Danish Prime Minister at the opening of the UN General Assembly on 28 September 2015 (available at http://www.stm.dk/p_14243.html) and the foreign policy chapter in the basic platform of Danish government, supra note 5, page 32.

³⁴ Danish Minister of Foreign Affairs, Mr. Kristian Jensen, Launch of Denmark's Candidature for Membership of the Human Rights Council in 2019-2021, Permanent Mission of Denmark to UN Geneva, 1 March 2016 (available at <http://fngeneve.um.dk/en/News/newsdisplaypage/?newsID=E4F61D5B-3CC6-4E78-BDF7-2F32AC8CF6F5>).

R2P, but merely serves to highlight in regard to one forum how R2P and Danish human rights efforts can overlap, reinforce each other and what additional measures atrocity prevention requires from existing human rights policies.³⁵

3.2 Integrating R2P into Danish Work at the UN Human Rights Council

The UN Human Rights Council provides for a number of different opportunities for how to operationalise atrocity prevention. At a more general level, one can again distinguish between promoting R2P as a key *norm* and promoting R2P as *operational* matter. Especially in Geneva, R2P is for many states still a relatively new matter and therefore outreach on the significance of R2P in the human rights system remains important. A Group of Friends for R2P was only established in Geneva in the fall of 2015 (while its counterpart in New York already has existed since 2008³⁶) and unlike New York, Geneva does not have annual dialogues on the role and meaning of R2P. Thus Denmark and others should in Geneva continuously engage in R2P outreach activities, through the Group of Friends, inside the European Union and together with other like-minded governments such as those active in the aforementioned GAAMAC initiative or the Latin American Network for the Prevention of Mass Atrocities.³⁷ Such efforts will help to strengthen R2P as a norm and increase its acceptance, also in Geneva – and may gradually enable a more focused approach and better results in atrocity prevention in Geneva.

On the operational side, each of the aforementioned three R2P pillars entails concrete policy options for how Danish foreign policy can integrate R2P into its human rights efforts. Under pillar 1, Denmark has the responsibility to protect its own population from atrocity crimes. While there is no Danish legislation that explicitly refers to R2P or atrocity prevention, there is a host of different measures that helps to achieve this very result inside Denmark. This includes, for example, Danish efforts to prosecute hate crimes, initiatives to learn from past atrocity crimes on Denmark's national commemoration day called Auschwitz Day and Danish teaching material against Holocaust denial.

In order to strengthen R2P as a norm and to give practical meaning to its first pillar in a European context, Denmark could report on these measures in its own Universal Periodic Review (UPR) to the UN Human Rights Council. Denmark could also more generally report on how Danish institutions provide the relevant protection. Such step would reaffirm the universal importance of pillar 1 and strengthen the R2P norm by its explicit application in practice. It would also send a signal to other countries to consider the same practical approach to R2P and to do so outside the context of mere references to the importance of R2P during the annual UN dialogues or discussions on armed intervention in the UN Security Council – where more often than not prevention is no longer an option.

In Denmark's most recent UPR report on the national human rights situation, the Danish government for the first time did state that "it continuously aims to exercise its responsibility to protect."³⁸ This is an important first signal for the relevance and importance of R2P – but also a step that

³⁵ Other agencies and institution relevant to the implementation of R2P in Geneva include, for example, the Office of the High Commissioner for Human Rights and the Office of the UN High Commissioner on Refugees.

³⁶ On the two Group of Friends on R2P see also the information provided by the Global Centre for R2P at <http://www.globalr2p.org/media/files/case-summary-final-e-version.pdf>.

³⁷ For further information on the Latin American Network see <http://www.auschwitzinstitute.org/what-we-do/latin-america-programs/>.

³⁸ National Report by Government of Denmark, Universal Periodic Review, UN Doc. A/HRC/WG.6/24/DNK/1, 9 November 2015, para. 22.

should be elaborated further in the future. Exactly because Denmark currently faces no substantial risks for atrocity crimes it should be possible to explain what is being done in terms of human rights at the national level to sustain this situation. R2P does not require a separate chapter in the national report, but should be woven into relevant parts of the submission.

Under the second pillar of R2P the focus shifts to international assistance and to encouragements of other states to exercise their responsibility to protect their populations against atrocity crimes. Also in this context the UPR process in the Human Rights Council could play an important role. As part of the UPR, countries can pose questions to the state under review as well as make concrete recommendations. From an R2P perspective the UPR can both be used to highlight and commend good practices as well as to pinpoint immediate or structural R2P risks and make recommendations in that regard. All this would again highlight the preventative nature of R2P and help to make it evident that R2P is primarily not about armed interventions – to the contrary. Indeed, R2P could help here to identify priorities that are particularly important for the human rights situation a given country.

For the practitioner, however, a number of challenges could arise from such application of R2P and these issues need to be addressed to ensure a successful integration of atrocity prevention into human rights efforts. As with the inclusion of R2P into the national UPR report, the first obstacle for the inclusion of R2P into the review of other states will be the very limited time there is for each state to ask questions.³⁹ Potential R2P concerns will compete with other issues to be brought up in this short period. Moreover, Denmark traditionally only puts questions to countries where it is represented with an embassy, allowing for a priori input and subsequent follow up – this means there would be no Danish UPR questions to a number of states even though they face concrete R2P issues. This challenge could potentially be addressed by collaborating with other states which share an interest in advancing the preventative R2P agenda through the UPR.

At a more general level, these considerations underscore that R2P has to be carefully integrated into existing human rights efforts – not superimposed. There may be occasions when a new awareness for atrocity prevention leads to the inclusion of a question inspired by R2P concerns – but there also will be occasions where other issues are considered more pressing and need to be prioritised within the respective UPR session.

In this context another important question to consider is whether it is necessary or useful to invoke R2P as such in the UPR process – or whether these matters should be addressed in a more implicit manner. With a view to reaffirming and strengthening the norm it may seem preferable to use explicit R2P language in relevant statements, questions and resolutions. An explicit R2P reference about a certain country's responsibility to protect its people may also help to clarify the nature of the concern and to solicit an appropriate response.

If we focus on the substance of atrocity prevention, however, one could on the other hand question whether the insistence on R2P language indeed advances the prospects of implementing R2P measures. It is well known that today, regardless of R2P's origin in the unanimously adopted World Summit Outcome Document back in 2005, there exists a small, but vocal number of UN member states that is clearly opposed to R2P and its operationalisation. Some dismiss it with reference to NATO's intervention in Libya, others may question it because of an alleged Western bias – but it is a fact that some states would not respond positively to R2P being introduced as the framework of their UPR. In such situation it seems questionable whether the inclusion of R2P language into the

³⁹ For more information on the procedure of a UPR session see the information provided by the Office of the UN High Commissioner of Human Rights at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>.

UPR really can contribute to the effective implementation of R2P. In other words, a case-by-case approach is necessary. While in general R2P language should be used to highlight its meaning and significance, sometimes a less explicit approach to R2P may result into more R2P. Political discussions on R2P and its scope as well as R2P outreach attempts to sceptical or critical states may be better placed in the context of other, less operational fora such as the annual R2P dialogue in the UN General Assembly rather than in result-oriented procedures such as the UPR.

All this suggests that the application of R2P throughout the UPR process is possible and can be meaningful – but it also underscores that it has to be prepared carefully and designed after a contextual analysis in order to calibrate the R2P input and gain support from the human rights experts within a ministry. R2P has to be considered as part of the UPR preparations. On that basis atrocity prevention can be integrated into the UPR and strengthen both the UPR and R2P.

In addition to the UPR, there are other opportunities how to identify and address R2P issues in the Human Rights Council. For example, a number of the Special Rapporteurs under the Human Rights Council work on topics or with actors that are very relevant to the prevention of atrocity crimes. This is true both for some rapporteurs with a thematic mandate – for example the one concerned with minority issues; the one working on the rights of indigenous peoples; and the one focused on transitional justice (more specifically the promotion of truth, justice, reparation and guarantees of non-recurrence) – as well as those who focus on a country with significant R2P issues such as North Korea and Myanmar.⁴⁰ In regard to these special procedures, Denmark and like-minded countries can for example explore how R2P issues can be integrated into the mandates or meetings and dialogues with the Special Procedures.

Also the third pillar of R2P, which often mistakenly is seen as the prerogative of the UN Security Council, can be implemented through measures taken at the UN Human Rights Council. Here, the international community steps up and guards the responsibility to protect the relevant population from atrocity crimes as the given country is not able or willing to do so. This applies for example for commissions of inquiry established under the Human Rights Council, as these often have mandates that look into R2P issues such as the documentation of atrocity crimes and the discussion of potential avenues for accountability – without the consent of the concerned government. An illustration for this can be seen in the respective reports by the Human Rights Council's commissions on North Korea and Syria.⁴¹

Another opportunity for applying the third pillar of R2P is the calling of a special session of the Human Rights Council. So far there have been 27 such sessions and several of those dealt directly with R2P risks and discussed necessary R2P measures, including some of the most recent ones regarding the situations in respectively South Sudan, Burundi and Myanmar.⁴² Special sessions can gather regional and international attention to urgent R2P risks; they can encourage or put

⁴⁰ As of 30 September 2016, there were 43 thematic and 14 country mandates (cf. <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>).

⁴¹ Cf. United Nations Human Rights Council, Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, UN Doc. A/HRC/25/63, 7 February 2014, and United Nations Human Rights Council, Report of the Commission of Inquiry on Human Rights on the Syrian Arab Republic, UN Doc. A/HRC/33/35, 11 August 2016.

⁴² For an overview of the special sessions of the Human Rights Council see <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx>. The specifically referred to examples are the UN Human Rights Council, 27th Special Session, The Human Rights Situation of the Minority Rohingya Muslim Population and other Minorities in the Rakhine State of Myanmar, 5 December 2017, UN Human Rights Council, 26th Special Session, The Human Rights Situations in South Sudan, 14 December 2016, and UN Human Rights Council, 24th Special Session, Preventing the further Deterioration of the Human Rights Situation in Burundi, 17 December 2015.

pressure on the relevant government to live up to its responsibility under pillar 1; and they can operationalise it and, by invoking and concretizing R2P, strengthen the norm and the universal recognition of R2P. This can also find its expression in resolutions adopted at a special session and result in the call for specific measures inspired by R2P to address specific atrocity risks.⁴³

3.3 Concluding Thoughts on Human Rights and R2P

In conclusion it stands clear that there are numerous options how Danish foreign policy could advance both human rights and R2P at the UN Human Rights Council. Currently this relationship is still underdeveloped and additional steps as outlined above should be taken. The same applies outside the Human Rights Council, for example to the work done by Denmark in regional groupings as in the Nordic human rights dialogue or through the European Union. Also here the implementation of R2P can be advanced. At the Human Rights Council, the recent establishment of a Group of Friends of R2P provides a new forum to take this topic further and to cooperate with like-minded governments and civil society in this regard. Such implementation of R2P would help the Council to fulfil its mandate of preventing human rights violations as well as help states to realise the preventative nature of R2P. This could also make R2P less controversial among those states that are somewhat sceptical about it.

In this context it should be recalled that Denmark is currently campaigning for being elected to the Council. The Danish candidature focuses on the three themes of dignity, dialogue and development and with the election scheduled for the summer of 2018, Denmark has still 6 months to gather the votes necessary to win a seat on the Council.⁴⁴ While voting in such elections often is not only dominated by substance considerations, there could be concerns that integrating R2P into Danish human rights policies may make it more difficult to be elected to the Council, as R2P is controversial to some. All efforts to integrate R2P further into Danish human rights policies should therefore stress the preventative focus of R2P.

R2P will help to identify warning signs and assist in designing adequate and non-forceful responses. In the Universal Periodic Review, atrocity prevention can add an important perspective in regard to all UN member states. It should also be recalled that R2P is gradually becoming a more regular part of the language used in resolutions adopted by the Human Rights Council. By the end of 2016, the Council had used R2P language in more than 20 resolutions.⁴⁵ In addition there are now regular R2P statements by the R2P Group of Friends (with 50 member states) in Geneva and, as seen before, a growing number of other occasions where atrocity prevention has become part of the Human Rights Council agenda. With Denmark focusing in its campaign on topics such as the prohibition of torture and the situation of indigenous groups, the integration of R2P into Denmark's work in the Human Rights Council seems a natural and meaningful step.

⁴³ See, for example, the special session on the situation in South Sudan in December 2016 and the resolution adopted there, UN Doc. A/HRC/RES/S-26/1, 14 December 2016, preambular para. 13. See also the statements by Slovakia (on behalf of the European Union), Netherlands and Rwanda (on behalf of the Group of Friends of R2P) and Australia (all available at <http://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session26/Pages/26thSpecialSession.aspx>).

⁴⁴ More information on the Danish candidature can be found at <http://um.dk/en/foreign-policy/denmark-for-the-un-human-rights-council/>.

⁴⁵ See the overview of references compiled by the Global Centre for R2P at <http://www.globalr2p.org/media/files/hrc-resolutions-r2p-3-october.pdf> (as of September 2016).

IV. DENMARK, DEVELOPMENT COOPERATION AND R2P

Similar to the linkages between human rights and R2P, the field of development cooperation does not fill much in the academic research on atrocity prevention.⁴⁶ While it is true that capacity building frequently is listed as measure relevant to long term prevention, there are few practical examples for connecting the dots.

One important exception is the work done by the US development agency USAID which published in April 2015 a field guide entitled “Helping Prevent Mass Atrocities.”⁴⁷ This document is a unique attempt to introduce practitioners to how to link their efforts in practice with the field of atrocity prevention. The field guide builds on the premise that atrocity crimes represent the opposite of development – they destroy lives, societies, trust and institutions. By way of illustration, for the Rwandan genocide it has been noted that the national GDP of Rwanda fell by more than 60%.⁴⁸

In the following, we will briefly examine how the relationship between atrocity prevention and development cooperation could look in a Danish context. Denmark is still one of the few countries that annually gives more than the UN-recommended 0.7 percent of its national GDP to development assistance – thus development cooperation continues to be an important instrument of Danish foreign policy.⁴⁹ The link to atrocity prevention should be self-evident; after all, also development cooperation aims to create conditions which allow everyone live in just, peaceful and inclusive societies.⁵⁰ However, as in the previous section on human rights, the first question to be addressed is whether the integration of atrocity prevention indeed would add something to ongoing efforts of development cooperation.

⁴⁶ In the leading journal on atrocity prevention, *Global R2P*, for example, there has since the launch of the journal in 2009 not been a single article devoted to this topic. Civil society has organised a few exchanges between the development cooperation community and R2P advocates. See for example the panels held by the Budapest Centre for Mass Atrocities Prevention, available at <http://www.genocideprevention.eu/development/>.

⁴⁷ The USAID report is available at <https://www.usaid.gov/sites/default/files/documents/1866/Field%20Guide%20Mass%20Atrocities.pdf>.

⁴⁸ *Ibid.*, 11 (listing additional examples illustrating the impact of mass atrocities on development figures from a number of countries).

⁴⁹ See the Ministry of Foreign Affairs of Denmark, *The Government's Priorities for Danish Development Cooperation 2017, 2016, 3*, available at <http://um.dk/en/danida-en/goals/government-priorities---danish-development-assistance/priorities-2017-2020/>.

⁵⁰ See Goal 16 of the UN Sustainable Development Goals (2016), available at <http://www.un.org/sustainabledevelopment/peace-justice/>. Specific goals under Goal 16 include the reduction of all forms of violence, the strengthening of national institutions to prevent all violence and the promotion of non-discriminatory laws and policies.

4.1 Development Cooperation and R2P – More of the Same or is There an Added Value?

The added value of R2P lies again in the specific focus on atrocity crimes and protecting populations from mass atrocities. In practice, not all development cooperation efforts are directly linked to the implementation of R2P. While there always may be a contribution towards lowering the overall risk for atrocity crimes, regular and unspecified development cooperation only relates towards structural prevention. For a more targeted or short term impact on the prevention of atrocity crimes, the focus has to be on identifying development efforts that relate directly to warning signs for atrocity crimes. One concrete example could be support to a national forum or mechanism to deal with identity-based tensions. Yet again, the *UN Framework of Analysis* can provide helpful pointers for the prevention of atrocity crimes, as can the aforementioned USAID field guide.⁵¹

This means that in regard to development cooperation, similarly to human rights, the implementation of R2P *requires* the focus on certain issues, as those have a particular potential in leading up to atrocity crimes. This is the more true in countries that have been identified as facing also other significant risks regarding the commission of atrocity crimes. Vice versa, it is in such countries very helpful for development cooperation officials to pay particular attention to R2P issues in order to prevent atrocity crimes which would endanger the very basis of the work they are doing. To identify and address R2P-related risks will assist and strengthen development efforts in such situations. This process of integrating R2P risks and R2P measures could also be described as applying an atrocity prevention lens or R2P lens to development cooperation.

There are various areas of development cooperation where Denmark could integrate atrocity prevention to take these issues forward. For example, R2P can be consulted when drafting a new concept note outlining the development cooperation with a partner country. An R2P-informed analysis will not in all cases lead to specific or new measures, but as appropriate R2P can serve several purposes. This includes considering R2P risk factors, the drawing up of scenarios that include the potential commission of atrocity crimes as well as designing relevant countermeasures. This could for example take form in specific capacity building measures in relevant sectors or contributions to establishing a national early warning system. As discussed before, the benchmark for successfully integrating an R2P lens is not the adoption of R2P language across all future country papers, but conscious consideration of atrocity risks where relevant.

By way of example, Denmark has since 2013 collaborated with Ghana on training officials from Ghana and other African nations from within the security sector (both police and military), civil society and relevant ministries on both R2P and its implementation.⁵² Other actors have partnered with Ghana on building national institutions that can assist in preventing atrocity crimes and function as part of a national early warning system. This resulted in the establishment of the Ghana's National Peace Council which has played a very important role in the prevention of election violence. The Council has for example done this through facilitating dialogue among relevant actors across the country as well as identifying risk issues such as the use of inflammatory language.⁵³ Denmark has

⁵¹ For the UN Framework (supra note 31) see for example, paras. 3.7 and 9.6. See also the USAID field guide on atrocity prevention, supra note 47, 12-13.

⁵² These R2P training courses continue to be organized and hosted by the Kofi Annan International Peacekeeping and Training Centre in Accra, Ghana. For more information, see http://www.globalr2p.org/our_work/kaiptc_r2p_course and <http://www.kaiptc.org/Media-Room/News/Maiden-Responsibility-to-Protect-Course-Commences.aspx?ID=2656>.

⁵³ On the Peace Council and its role see William A. Awinador-Kanyirige, Ghana's National Peace Council, Global Centre for the Responsibility to Protect Policy Brief, August 2014, available at <http://www.globalr2p.org/media/files/2014-august-policy-brief-ghana-national-peace-council.pdf>.

cooperated with the National Peace Council, as one of its senior officials serves as Ghana's national focal point for R2P. Similarly, Denmark has supported the West Africa Network for Peacebuilding (WANEP) in authoring an assessment of Ghana's institutional awareness of R2P and capacity to address R2P issues.⁵⁴

In the following section, we will go into greater detail regarding the linkages between atrocity prevention and development cooperation and how they can be operationalised. This section will build on a workshop that was co-organized by the Danish Ministry of Foreign Affairs and USAID in March 2016, assisted by a civil society partner, the International Coalition for the Responsibility to Protect.⁵⁵ The workshop on *The Role of Atrocity Prevention and Responsibility to Protect in Development Cooperation* was held in Kampala, Uganda, and brought together development practitioners, government representatives and civil society actors from throughout East Africa, working in a range of sectors including human rights, development, and atrocity prevention.⁵⁶

This workshop, the first of its kind to focus on the operational relationship between development cooperation and atrocity prevention, was convened to achieve the following:

- a) increase the understanding of R2P and atrocity prevention amongst the development community;
- b) identify the conceptual and practical links between development cooperation and atrocity prevention
- c) introduce tools for early warning regarding R2P/atrocity prevention and highlight their relevance for development cooperation;
- d) discuss if/how development practitioners can further embed an "R2P/atrocity prevention lens" within their existing work; and
- e) identify and strategize on practical examples of how development cooperation policies and projects can help to address risk factors relevant for atrocity crimes

Participants shared their knowledge and experiences, as well as discussed challenges, opportunities, and concrete actions that can be undertaken by development practitioners to contribute towards atrocity prevention and response.

⁵⁴ For the assessment see WANEP, Institutional Capacities for the Implementation of R2P in West Africa: A Case Study of Ghana, February 2016, available at <http://um.dk/~media/UM/English-site/Documents/Danida/Partners/Research-Org/Research-studies/R2P%20research%20project%202016.pdf?la=en>.

⁵⁵ The following section will build on the workshop report compiled by the present author.

⁵⁶ Workshop participants worked in the following countries: Burundi; Ethiopia; Kenya; Rwanda; Somalia; South Sudan; Tanzania; and Uganda. In addition, the organizers welcomed participants from Australia, Germany, Ghana and UNDP. The meeting was held under *Chatham House rules* so nothing in this report can or should be attributed to individual participants.

4.2 Integrating R2P into Danish Development Cooperation

The workshop introduced participants to the four R2P crimes and early warning frameworks that can help development practitioners to identify risk factors and indicators for atrocity crimes, the underlying processes and relevant actors.⁵⁷ In the discussion, participants used practical examples/scenarios in applying the frameworks to identify key issues facing individual countries in the region. It was noted that, when conducting the documentation and assessment necessary for identifying the risk for atrocity crimes, one must consider factors such as the motives and drivers that influence perpetrators; what means are available to commit atrocity crimes; who the targeted victim groups are; what third party actors may influence the commission or prevention of crimes; what societal, institutional, and other resiliencies may be in place; and what triggering events may increase risk. Following the completion of an assessment, it is critical to ensure that it reaches those who are best placed to analyze the gathered information, develop and operationalize relevant policy, and monitor implementation.

While each country is complex and unique, there are common issues that were articulated as affecting states throughout East Africa. These include, but are not limited to: youth bulge, with the majority of citizens below the age of 30 years; high unemployment, particularly among youth; presence of militant groups; high number of accessible small arms and light weapons; past histories of conflict and/or atrocity crimes; cycles of discrimination and favoritism based on ethnic, political, or other identities; and the violation of the rights of women and girls, including through the commission of atrocity crimes towards these populations.

The workshop set out to highlight the links between atrocity prevention/R2P and development cooperation. Within the R2P community, these links are often declared commonplaces – but as we already noted, little has been done to elaborate them or to translate them into practice. The workshop aimed to change this and looked both at the prevention of atrocity crimes, potential development cooperation means to respond to atrocity crimes and the role of development actors after R2P crimes have been committed (“prevent – respond – recover”).

At the outset participants agreed that the commission of atrocity crimes is the antithesis of development, making such efforts impossible and setting a country back economically, socially, and politically. Moreover, upon examination of the risk factors and indicators for atrocity crimes, it is evident that there is a clear link between the work being undertaken by development practitioners and the building of state resiliency for the prevention of such crimes. This shows in various areas of development cooperation such as good governance, rule of law, security sector reform and sustainable growth.

In regard to the concept underlying R2P, development programs are highly relevant when considering the first and second pillars of R2P, i.e. the primary responsibility of the state to protect its population and the role of the international community to provide assistance to uphold those obligations, respectively. State initiatives to strengthen national architecture for atrocity prevention, as well as external support to enhance capacity to protect civilians against atrocity crimes, are therefore entry points for development actors to contribute towards the implementation of R2P.

Finally, development practitioners working in the field can serve as key actors in monitoring emerging risks through their own documentation as well as through engaging with local actors. By sharing such information with relevant stakeholders, and if trained on atrocity prevention risk factors.

⁵⁷ The workshop used the *UN Framework of Analysis for the Prevention of Atrocity Crimes* (supra note 31) and the *Mass Atrocities Assessment Framework* developed by the US Government (on file with the author).

development practitioners and their counterparts can contribute towards raising awareness needed to take early, preventive and specific action.

In the field, practitioners can meet a range of challenges when seeking to realize the links between atrocity prevention and development cooperation. The workshop participants identified and discussed a number of these including financial and other resource constraints; the technical and political divide; the challenge of safely collecting and sharing relevant information; the hesitance to label potential issues as “atrocities crimes;” and the question of whether adding an R2P lens indeed changes the outcome of development cooperation compared to working under a conflict prevention framework.

Participants agreed that any attempt to integrate R2P into development cooperation has to be mindful of existing resources and requires a case-based as well as context-specific approach. In addition, atrocity prevention efforts do not always need to refer to R2P as such if in the given scenario the label only creates or adds political controversy. In regard to conflict prevention, there is a considerable overlap to atrocity prevention, but in certain scenarios the R2P lens can provide important pointers which issues to prioritize and to address. This is the more so, as R2P includes atrocity crimes committed outside conflict and also entails a specific focus on particularly vulnerable groups within the population.

In addition, participants stated that it is necessary to integrate atrocity prevention into development programming both in capitals and in the field. This includes being able to identify relevant information in the field and to respond in capitals efficiently to the potential risks that have been identified. Participants recalled the importance of learning from experience where atrocities could have been avoided if the identified potential risks were timely responded to.

Looking ahead, participants articulated a range of recommendations that can be taken forward as stakeholders seek to further embed an “atrocity prevention lens” within development policies and programming while heeding the ‘do not harm’ approach.

- *Consider and act on the implications of atrocity prevention for existing and future development cooperation programming:* R2P has been agreed by all UN member states, and atrocities crimes can occur anywhere. If an atrocity risk analysis indicates that a given country faces significant issues, development actors should examine their existing programming and reflect on future initiatives in light of this assessment to assess whether they sufficiently address atrocity prevention needs.
- *Increase programming that focuses on addressing root causes of future atrocity crimes:* While the typical goal of development programming is to implement long-term initiatives that contribute to the general betterment of society, atrocity prevention requires to think atrocity crimes together with root causes – this means to explore the underlying causes of conflict and tension in a given society, in particular after a war or other humanitarian emergencies; this will contribute towards the development of sustainable peace and thus support societal and government capacity for atrocity prevention. This also means that efforts to integrate R2P into development cooperation have to reach beyond human rights and rule of law programs and include sectors such as growth, health and agriculture.

- *Adjust development cooperation processes to allow for timely and flexible responses to atrocity risks:* As development actors may find themselves supporting or directly implementing programs in situations that can become unstable and potentially ripe for atrocity crimes, it is critical that policies and programming provide the flexibility that is needed to address the changing needs of populations. This may include altering programs themselves, or reallocating or dedicating funds to address emerging R2P needs.
- *Integrate an “atrocity prevention lens” within programming assessments and evaluations:* Many development actors use “checklists” in order to assess how a program considers and affects/contributes towards key issues such as human rights protection and gender inclusivity. For the future, development actors should integrate atrocity prevention risk factors into these assessment processes to ensure that their programming does not increase atrocity risks in the country and contributes towards building state resiliency for the prevention of atrocity crimes.
- *Support human rights mechanisms and documentation processes as avenues for atrocity risk assessment:* Development actors should consider projects that contribute towards the establishment or strengthening of local, national, and regional human rights mechanisms that can document and monitor human rights issues which serve as early warning signs of potential R2P crimes. Additionally, supporting civil society and other actors documenting human rights violations, including protection of activists and security for witnesses involved in legal proceedings, will enable such actors to make atrocity risk assessments and contribute towards accountability.
- *Support and facilitate dialogue, mediation, and reconciliation processes, where possible and appropriate:* In some settings, particularly those where all or most actors involved have grievances or an interest at stake, development actors may be able to assist in the facilitation or support of processes to promote dialogue and peaceful settlement of disputes. Development actors could also assist in convening stakeholders to consider and address an issue impacting their locality, for example the spread of illicit arms, that may be overly sensitive to the parties involved and thus require external support.
- *Localize development programming, including through direct partnerships with local organizations and actors:* Through increasing local engagements and partnerships, development actors will be able to enhance their understanding of key R2P issues and indicators of risk for atrocity crimes; establish holistic programming priorities that take into account the immediate as well as long-term needs of affected populations; and establish more sustainable projects that, through cooperation with local actors, will empower country-based partners and strengthen the early warning capacities of development cooperation.
- *Cooperate locally with international partners on atrocity prevention:* R2P has been agreed by all UN member states and its second pillar concerning the international responsibility to assist with national atrocity prevention applies to all member states. Joint efforts by development partners will help to strengthen the national resilience against atrocity crimes.

Such efforts should also engage as appropriate the relevant UN agencies in the given country, as the UN's *Human Rights Up Front* initiative pursues a similar agenda of preventing massive human rights violations.⁵⁸

4.3 Concluding Thoughts on Development Cooperation and R2P

The report from the Kampala workshop on the role of atrocity prevention in development cooperation makes it clear that there are important links between these two fields. At the conceptual level this seems straightforward and logical, but to realise these links practical steps need to be taken. Workshop participants agreed that development practitioners can have a role in preventing the commission of atrocity crimes, but can also play a role in responding to their actual commission or in their aftermath.

The Kampala meeting highlighted the important pioneering work done by USAID and underscored the interest of local development stakeholders to engage with these issues – even if the R2P agenda and its specific language may be new and not that well known or understood. Indeed, in cooperation with local partners, development practitioners can play a key role in assessing in-country risk factors and designing tailored as well as appropriate responses.

The findings of the Kampala workshop were confirmed in a second workshop on atrocity prevention for development practitioners held in August 2017 in Phnom Penh, Cambodia. This meeting was organised by USAID, the Australian Foreign Ministry, the Danish government and local partners from civil society. Discussions with over 50 participants from South East Asia underscored the relevance of R2P in the region and the value that R2P can add to development work.

Denmark can partner in this area with USAID, the European Union as well as international and local civil society. It will help to include R2P language into relevant policy documents and country papers, but the real progress will be measured in the actual inclusion of atrocity prevention into relevant development cooperation initiatives on the ground.

⁵⁸ On the Human Rights Up Front initiative see <https://undg.org/home/guidance-policies/country-programming-principles/human-rights/rights-up-front-initiative/>.

V. DENMARK AND THE IMPLEMENTATION OF R2P – LESSONS LEARNT AND RECOMMENDATIONS GOING FORWARD

This study has, in collaboration with Danish and international practitioners, explored how R2P can be implemented as part of Danish foreign policy in the areas of human rights and development cooperation. It has also been shown that atrocity prevention can be integrated into foreign policy while advancing Denmark's foreign policy interests. This is true both for Danish work on human rights and development cooperation.

It has also become clear that certain steps need to be taken to effectively integrate R2P into and implement it through Danish foreign policy. These issues need to be carefully considered and addressed, if the overall aim is to devise a coherent and functional approach to atrocity prevention.

As with all preventative efforts, it will ultimately remain difficult to assess to what extent the integration of R2P will help to prevent atrocity crimes. At the same time, cases such as South Sudan, where massive atrocity crimes were committed and atrocity prevention had not been integrated into initial development cooperation efforts, strongly suggest that the effective integration of R2P and its implementation are relevant to all prevention work.⁵⁹

This research study concludes by submitting the following recommendations for how to best realise R2P within Danish foreign policy:

1) announce specific R2P priorities and countries

- R2P is a cross-cutting agenda that has to impact all policy areas to achieve effective and timely atrocity prevention; it has to be thought of and implemented across departments but will as cross-cutting agenda also compete with other, similar agendas (climate, gender, etc.) for attention and resources; any internal R2P **implementation strategy** has to heed these conditions and **should prioritise specific R2P integration efforts**

⁵⁹ For an analysis of the positive impact of implementing R2P see Abdullahi Boru Halakhe, "R2P in Practice:" Ethnic Violence, Elections and Atrocity Prevention in Kenya, Global Centre for the Responsibility to Protect Occasional Paper Series, December 2013, 18-19 (available at http://www.globalr2p.org/media/files/kenya_occasionalpaper_web.pdf).

- one concrete step to operationalise R2P while being mindful of resource restraints would be to **establish annually an internal list of three R2P-priority countries** based on an atrocity risk assessment that draws on relevant actors inside the Ministry, Embassies and the early warning system of the European Union and partners; each year, the Danish R2P work could prioritise atrocity prevention efforts in these countries (without precluding the potential need to respond to other R2P needs or crises in third countries); such approach would allow to increase and focus R2P awareness across the system while working towards concrete results in a small number of cases, thus strengthening the overall recognition of R2P as relevant and practical framework as well as creating focus and accountability
- R2P is not a panacea and the work on how to operationalise atrocity prevention is only getting started; R2P should not be pushed as broad, *conceptual* agenda – rather its integration should be driven by a result-focused approach; fewer, **specific and targeted R2P initiatives** will gradually result into more R2P implementation and sustainable atrocity prevention; in regard to the policy areas under review here, such initiatives could include the integration of R2P into **relevant Universal Periodic Reviews and country programming**

2) make R2P more meaningful and visible within internal processes

- R2P is still, more than ten years after its inception, a new concept when it comes to operational matters; it is little known among practitioners on the ground, there are persisting misconceptions, and there is little help for how to apply it in practice; the Danish integration of R2P should therefore support the **development of practical guidance, including the production of short “how to do R2P” notes** addressing R2P and specific areas of foreign policy (human rights, development cooperation and so on) and R2P in regard to the aforementioned three “R2P priority countries”; this will also help to make atrocity prevention more sustainable in regard to the frequent rotation of relevant staff on key positions throughout the system
- R2P overlaps partially with the general work done on human rights and in the field of development cooperation and conflict prevention – but partially it is distinct; any effort to integrate atrocity prevention into these fields should **spell out how R2P will add** something to already existing measures; this will motivate those tasked to implement R2P and highlight the necessity for mainstreaming atrocity prevention
- **R2P has introduced a new and specific language** about responsibilities, atrocity crimes, pillars and more; when moving towards implementing atrocity prevention, **a balance needs to be struck** between adhering to this R2P language in speeches and programme documents order to strengthen the norm and raise awareness for the specific issues – and avoiding the “purist trap;” in some instances, to insist on R2P language may make it more difficult to work on atrocity prevention, as the terminology of R2P or atrocity prevention locally may be considered inappropriate or as too political; ultimately, it is the R2P content of a proposed policy that matters

3) strengthen the Danish R2P Focal Point

- R2P and its implementation depend on having an anchor inside the system who functions as catalyst, convener and driver of the process; the appointment of a senior official as central R2P Focal Point has proven essential for the Danish experience with operationalising R2P; only if there is such high-level attention to the matter, the topic can make progress

throughout the system and draw attention; **it is key the Focal Point and his/her role are known throughout the Ministry and embassies**; this also facilitates regular sharing of relevant information with the Focal Point and his/her team

- given the Focal Point's senior status, it is key to provide him/her with the necessary support; currently this is done, part time, through an adviser within the Human Rights and International Law department of the Foreign Ministry; the novelty and complexity of practicing R2P as well as the multi-actor processes of implementing R2P, both domestically and internationally, make it **essential to maintain, preferably increase, this support to the Focal Point**; this will enhance the efficiency of preventative work and help to strengthen R2P's implementation throughout relevant networks; R2P is too novel and, at first sight, abstract as that its implementation could function without a designated R2P desk officer; the example of other countries shows that the mere appointment of a R2P Focal Point alone does not generate any concrete efforts to implement atrocity prevention within and across the national system
- since the first appointment of a R2P Focal Point in the Danish Foreign Ministry of Affairs, the Danish Focal Point has been placed within the legal department, in the person of the **Undersecretary of Legal Affairs**; **this approach has proven to work well**, as it ensures conceptual clarity (i.e. R2P is *not* the same as every other policy run already by the Foreign Ministry) and allows for R2P implementation across different policy areas, geographical regions and the three pillars of R2P

4) do more R2P outreach inside and outside the MFA

- the implementation of R2P depends on staff beyond the R2P Focal Point and his/her direct support team; only a broader R2P awareness and knowledge as well as financial resources will allow for meaningful and effective work on R2P issues; this means that key officials inside the Ministry and at relevant embassies upon appointment will need to receive brief introductions to the relevance of R2P to their portfolio; this needs to be done on a regular basis to reach beyond the rotation cycles of relevant staff; in addition, **operational R2P knowledge should be integrated into country-specific pre-deployment briefings and other training opportunities for relevant staff**; in addition, the R2P Focal Point should on his/her travels, as appropriate, support the integration of R2P into relevant programmes
- the Danish Focal Point and his support team should **finalise the national Danish R2P report which seeks to outline R2P activities across the Danish government, including all three pillars and relevant work done outside the Foreign Ministry**; this will strengthen the public and inter-agency awareness of atrocity prevention, how it relates to Danish policies and what specific challenges it raises; at the international level, this national R2P report will serve as welcome and much needed example for how a government can work in practice with R2P as a whole; in particular an honest assessment of the difficulties of operationalising atrocity prevention may help to generate improved outcomes and a better understanding of R2P across international R2P networks
- in recognition of atrocity prevention being inherently interlinked with key goals of Danish foreign policy, the first **Danish R2P report should be endorsed and presented by the Danish Foreign Minister**; such acknowledgement would send a strong signal internationally and throughout the Danish system which could reinforce the awareness and willingness to integrate R2P

5) further strengthen R2P mainstreaming outside Denmark

- Denmark should continue to **work with the EU Focal Point on R2P and the Joint Office of the UN Special Advisers on the Prevention of Genocide and the Responsibility to Protect** in order to advance and strengthen atrocity prevention done by member states and throughout the EU and UN system; Denmark should in particular work with the European External Action Service to make use of the EU's early warning system to identify and respond to risks for atrocity crimes
- R2P is an international norm with its origin in the United Nations and relevance for national authorities, regional organisations as well as the UN; **Denmark should continue its leadership on strengthening R2P as norm and operational policy tool by engaging in relevant international fora** including the European Union, the United Nations (both in Geneva and New York, including the annual R2P dialogue in the UN General Assembly), the Global Network of R2P Focal Points, the two Groups of Friends of R2P, the Global Action Against Mass Atrocity Crimes (GAAMAC) and in smaller, informal settings
- R2P is sometimes, also by Danish officials, seen as a contentious norm, especially after the NATO intervention in Libya; some therefore believe that to integrate R2P would negatively impact other Danish foreign policy efforts; in reality, however, the support for R2P as a preventative norm remains strong and cross-regional; while remaining mindful of the issues, **Denmark should continue to champion R2P through statements and actions as the norm remains a key catalyser of international efforts to prevent atrocity crimes**; R2P has a strong basis in the unanimously agreed World Summit Outcome Document and provides for a helpful division of labour
- Denmark should in all its work on atrocity prevention **maintain the view that all three pillars of R2P are essential; they are mutually supportive and non-sequential**; R2P is due to its specific focus on the prevention of and protection against four atrocity crimes distinct from other efforts and requires special Danish and international attention and knowledge to be implemented effectively

The implementation of R2P and its integration into regular foreign policy making remain work in progress. This is true for Denmark as well as internationally. Nowadays there is much talk about operationalising R2P, but only the US government attempted to institutionalize atrocity prevention and established under the Obama administration the inter-agency *Atrocity Prevention Board*.⁶⁰ Many other states with a positive approach towards R2P translate their commitment only into a statement at the annual R2P dialogue in the UN General Assembly or focus on the normative side and seek to advance the incorporation of R2P language in UN resolutions. Other states have appointed an R2P Focal Point in their government, but only few have provided that official with a clear mandate or resources to implement R2P across the respective government.

The Danish focus has rightly shifted towards *doing* R2P rather than *talking* R2P. Denmark has successfully partnered with like-minded states such as Ghana, the Netherlands and the United States to unfold and advance the operational R2P agenda and to do so also outside the United Nations in New York. Denmark should continue to work towards increasing the number of governments and

⁶⁰ On the Atrocity Prevention Board see James P. Finkel, *Atrocity Prevention at Crossroads: Assessing the President's Atrocity Prevention Board After Two Years*, Research Study, US Holocaust Memorial Museum, 2014. At the time of writing, the new US administration has not yet announced to what extent it will continue these efforts.

other actors that focus on questions of implementations, including through the Global R2P Focal Point network.

Over the last couple of years, Danish work on atrocity prevention has with relatively few resources led to a number of concrete, tangible outcomes. This leadership has generated recognition within the UN system, by the US government and across civil society. With atrocity crimes continuing to be committed on a daily basis and with countless refugees fleeing from the horrors of crimes against humanity, Danish work on R2P is not a normative project, but a matter of national interest.

Department of Law

The Department of Law offers a traditional degree in law alongside a combined BA (jur)/MSc (Econ) course. The traditional law degree is offered both as a fulltime and as a part-time course. In addition, the department is responsible for teaching in other legal subjects offered at SDU.

To satisfy its aim of offering research-based courses, the department has a broad research profile and covers all areas of the law. In addition to the broad based research in the principal fields of the law, the department is working on a number of focus areas with a strong research profile. Current focus areas are: Cross-national exercise of legal majority, market activity in the public sphere and regulation of financial business and activity.

Dialogue and cooperation with its social environment are important for the department, and it is open to any form of knowledge exchange and collaboration.