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**Report of the Secretary-General on the implementation
of the Five Point Action Plan and the activities of the
Special Adviser on the Prevention of Genocide**

Executive Summary

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

Firstly, the report refers to developments in the overall United Nations framework for the prevention of genocide:

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

The report also briefly covers the "Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" as embodied in the 2005 World Summit Outcome Document. On 21 February 2008, the Secretary-General announced the appointment of a Special Adviser to work on the development of ideas relating to paragraphs 138 and 139 of the 2005 World Summit Outcome Document to assist the General Assembly to continue consideration of the responsibility to protect.

The report covers the establishment of the Advisory Committee on the Prevention of Genocide and its contributions to the work of the mandate, including suggestions for strengthening the capacity of the Office of the Special Adviser on the Prevention of Genocide.

Secondly, the report covers the mandate and activities of the Special Adviser on the Prevention of Genocide.

With regard to responsibilities and methodology, the report emphasizes the importance of ensuring that the work of the SAPG is adapted to the challenges of prevention on the ground. This includes the mandate's four inter-related initial areas of focus: protecting populations at risk, accountability, humanitarian assistance and addressing underlying causes of conflict.

While upholding the well established normative framework and legal principles enshrined in the 1948 Genocide Convention, in order to facilitate cooperation with the States to promote early detection and prevention, the SAPG remains committed to an

approach that recognizes and fully respects the sovereignty of States and sees sovereignty as a positive concept of State responsibility to protect those under its jurisdiction, respect their human rights, and seek international support when needed. Constructive engagement and transparency are key principles for interaction and cooperation with Member States.

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

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

In outlining the challenges and opportunities facing the United Nations' prevention of genocide, the report underlines that the United Nations has experienced difficulty in the past in giving priority to recognizing risks of large scale violence and acting early enough to ensure timely and effective prevention. The SAPG could make a significant contribution by ensuring that risks of large scale violence are promptly recognized, and opportunities opened for United Nations agencies, departments and programs to play an effective preventive role.

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I. Introduction

1. In April 2004, on the 10th anniversary of the Rwandan genocide, then Secretary-General of the United Nations Kofi Annan announced a Five Point Action Plan for the Prevention of Genocide (elaborated below).
2. In a letter of 12 July 2004 (S/2004/567), the Secretary-General informed the President of the Security Council of his decision to establish the mandate of Special Adviser on the Prevention of Genocide (SAPG). In his reply of 13 July 2004 (S/2004/568), the President indicated that the Council had taken note of this decision. The Secretary-General appointed Juan Méndez as the first Special Adviser, effective 1 August 2004.
3. In April 2005, the Commission on Human Rights requested the Secretary-General “to make available to the Commission at its sixty-second session a report on the implementation of the Five Point Action Plan and on the activities of the Special Adviser” (resolution 2005/62). In March 2006, the Secretary-General submitted a report (E/CN.4/2006/84) on the implementation of the Action Plan and the SAPG’s activities.
4. Secretary-General Ban Ki-moon appointed Francis Deng as successor to Juan Méndez, effective 1 August 2007. On 28 September 2007, the Human Rights Council asked the Secretary-General “to make available to the Council at its seventh session an updated report” (resolution 6/104). The present report is submitted pursuant to the Human Rights Council’s request. The report provides an update on developments concerning the United Nations’ framework for the prevention of genocide and a description of the activities of the SAPG.

II. Developments concerning the United Nations’ framework for the prevention of genocide

A. Five Point Action Plan to prevent genocide

5. On 7 April 2004, the Secretary-General outlined a Five Point Action Plan to prevent genocide, including (a) preventing armed conflict; (b) protection of civilians in armed conflict; (c) ending impunity through judicial action in both national and international courts; (d) early and clear warning of situations that could potentially degenerate into genocide and the development of a United Nations capacity to analyze and manage information; and (e) swift and decisive action along a continuum of steps. Additional details on the Action Plan can be found in the Secretary-General’s report E/CN.4/2006/84. Updates on the implementation of the Five Point Plan are provided in a series of reports by the Secretary-General, cited below.
6. Developments on preventing armed conflict, point (a) of the Five Point Action Plan, are presented in the Secretary-General’s “Progress report on the prevention of armed conflict” (A/60/891), of 18 July 2006. The report contends that a culture of prevention is

evolving at the United Nations and that considerable progress has been made at both the international and the national levels, with new tools and mechanisms being developed. Noting that there nonetheless remains a gap between rhetoric and reality, the report examines the potential for operational and structural prevention and introduces a concept of ‘systemic prevention’ involving measures to address global risks of conflict that transcend particular States. The report also reviews efforts to strengthen the United Nations’ capacity and what gaps need to be addressed so that the Organization can better fulfill its preventive mission.

7. A progress report on the protection of civilians, point (b) of the Five Point Action Plan, is provided in the sixth report of the Secretary-General on the protection of civilians in armed conflict (S/2007/643) of 28 October 2007. The report describes progress and challenges in implementing the framework for the protection of civilians laid out under resolution 1674 (2006), including: the denial of life-saving access to civilians in need; the practice of sexual violence in conflicts and its devastating impact on individuals and communities; the critical need to address more consistently the impact of conflict on housing, land and property; and the importance of eliminating the humanitarian toll of cluster munitions. The report ends by proposing a set of key actions for the Security Council's consideration, all aimed at further strengthening the protection framework in areas that require more prompt and systematic action.

8. An update on ending impunity, point (c) of the Five Point Action Plan, is provided in the Secretary-General's report “Uniting our strengths: enhancing United Nations support for the rule of law” (A/61/636 – S/2006/980) of 14 December 2006. While noting progress, the report highlights acute needs with regard to the rule of law and transitional justice expertise in conflict and post-conflict societies. The centrality of the rule of law to the Organization has resulted in many parts of the system becoming engaged in a wide range of rule of law activities. The Secretary-General in early 2007 established a Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General, to ensure quality control, greater policy coherence and coordination. The Rule of Law Unit was established also to support the Deputy Secretary-General and the Group in carrying out and implementing their functions.¹ The Unit provides a central address for the rule of law to strengthen and rationalize United Nations rule of law capacities among various departments, agencies, funds and programs by serving as the focal point for system-wide rule of law activities to ensure coordination and coherence; develop system-wide strategies, policy direction and guidance; and to enhance partnerships between the United Nations and the many other actors engaged in the rule of law.

9. ‘Early and clear warning’ and ‘swift and decisive action’, points (d) and (e) of the Five Point Action Plan, are not the subject of a specific report, although the issues are taken up through the multiple reports on activities of many United Nations entities, including those of the SAPG. The situation in Kenya (see also paragraph 28) following the December 2007 elections provides the most recent example of a crisis and international reaction. The response from the international community appears to have

¹ The establishment of the Group and Unit was endorsed by the General Assembly on 6 December 2007 (A/RES/62/70).

been strong and concerted, in comparison to actions on previous country situations, although it is too early to determine the long-term effectiveness of the response. Based on initial indications, the SAPG notes that there was some early warning within the United Nations system with regard to a potential crisis in the context of the elections. However, warnings may not have received adequate recognition or response. The situation in Kenya offers the opportunity for a case study to draw lessons learned for the purpose of improving ‘early warning’ and ‘swift and decisive action’.

10. The post of SAPG on the Prevention of Genocide was described as one element of the ‘early and clear warning’ component of the Five-Point Action Plan and is referred to in Section III, below.

B. Responsibility to protect

11. The 2005 World Summit Outcome Document adopted by the High-level Plenary Meeting of the sixtieth session of the General Assembly (resolution 60/1) includes a section entitled, “Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. Under this heading, Member States stated that “Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity” (paragraph 138). Member States recognized that the international community, through the United Nations, also has a responsibility to assist states to meet their protection obligations and to respond in cases of manifest failure (paragraph 139). Both paragraphs emphasize early warning, prevention and support from the international community in helping States build the capacity to protect. It is noteworthy that the Outcome Document expressed full “Support [for] the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide”.

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

C. Advisory Committee on the Prevention of Genocide

13. In May 2006, at the suggestion of the SAPG, the Secretary-General established the Advisory Committee on the Prevention of Genocide to provide guidance and support to the work of the SAPG and contribute to the broader efforts of the United Nations to prevent genocide. The Committee is composed of distinguished individuals with a

diverse backgrounds related to conflict prevention, human rights, peacekeeping, diplomacy and mediation¹.

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

15. Among other points, the Advisory Committee concluded that the SAPG: would benefit from a broader title that would more readily facilitate examination of situations of massive violations of human rights and international humanitarian law prior to genocide; should be able to address situations where the risk of genocide or other crimes against humanity is longer term rather than imminent; should have a direct formal reporting line to the Secretary-General; should have a full-time rather than part-time position, at the rank of Under-Secretary-General rather than Assistant Secretary-General; and should receive adequate resources. The Committee is expected to meet again in the autumn of 2008.

III Mandate and Activities of the Special Adviser on the Prevention of Genocide

A. Responsibilities and methodology – challenges and opportunities

16. In a 2004 letter (S/2004/567) to the President of the Security Council, the Secretary-General listed the SAPG's responsibilities as follows:

- to collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide;
- to act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention situations that could potentially result in genocide;
- to make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide;
- and to liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations' capacity to analyze and manage information regarding genocide or related crimes.

17. While the methodology of the SAPG must be based on these responsibilities, it must also be designed to respond to conditions on the ground. With the experience acquired in the first three years of the SAPG mandate, and taking into consideration the 2005 World Summit Outcome Document and the on-going of United Nations reform, the SAPG is in the process of developing his strategy and methodology to identify and address existing gaps and utilize opportunities in the United Nations' method of response to specific

¹ The Committee is composed of: David Hamburg (Chair); Monica Andersson; Zackari Ibrahim; Gen. Roméo Dallaire; Gareth Evans; Roberto Garretón; Juan Méndez; Sadako Ogata; and Archbishop Desmond Tutu. By virtue of his office, Francis Deng is also a member.

country situations. The SAPG has also engaged in a process of informal consultation with United Nations agencies, departments, Member States and civil society organizations.

B. Update on the activities of the Special Adviser

- SAPG initial focus

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

- Constructive Engagement and awareness-raising

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

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

- Prevention as a priority

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

22. The report of the Independent Inquiry on United Nations actions in Rwanda in 1994 indicates that political interests were given priority over responding to genocide, war crimes, ethnic cleansing and crimes against humanity that were occurring. The report, as well as subsequent General Assembly and Security Council resolutions, acknowledged that this was wrong and should never be repeated. Nevertheless, since 1994, in multiple situations stretching across all continents, millions of people have been killed, severely injured or forced from their homes under circumstances that purportedly included war crimes, ethnic cleansing and crimes against humanity, as well as allegations of genocide. Indicators that these crimes or acts were imminent were ignored, or received inadequate or late responses. As in Rwanda, prevention has not been given sufficient priority. A strategic contribution by the SAPG could involve ensuring that risks of large scale violence are understood and given the appropriate priority.

- Opportunities and preparedness for prevention

23. Prevention can mean different things depending on how a problem is analyzed and at what stage it is addressed. Effective preventive responses to genocide, war crimes, ethnic cleansing or crimes against humanity may require attention to humanitarian, political, human rights, developmental and environmental factors, according to each situation. All these factors are currently addressed by Member States and NGOs, as well as by specialized United Nations agencies and departments with expertise in the programmatic areas – such as the rule of law, human rights, political affairs, good governance, humanitarian assistance and development. Human rights Treaty Bodies and Special Rapporteurs also play an important role in addressing aspects of these areas thematically and in specific countries. Collectively, these various mandates can be said to cover every substantive aspect of prevention of large scale violence that a given situation might require. And yet, in practice, allegations of genocide, war crimes, ethnic cleansing and crimes against humanity continue to be made.

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

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

be to foster and encourage consensus-building where there is a risk of large-scale violence.

- Country focus

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

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

28. More specifically, in the immediate wake of the violence that followed Kenya's December 2007 elections, the SAPG closely monitored developments, assessing the potential for escalation of the violence that was occurring, and the need for preventive action. Central to the SAPG's assessment was the ethnic factor in the violence, the extent to which it was organized or instigated and the risks of becoming genocidal. In January 2008, the SAPG held a meeting with the Permanent Representative of Kenya to the United Nations in New York to discuss the situation and to inform the Government of his intention to send staff to Kenya to gather first-hand information – an initiative which was welcomed by the Ambassador. Through a 6 February presidential statement (S/PRST/2008/4), the Security Council also welcomed the SAPG's focus on Kenya and requested to be informed of his findings. The SAPG has conveyed his findings to the Secretary-General, including recommendations for preventive actions.

- Consultations and thematic focus

29. Since assuming his office in August, the current SAPG has maintained an extensive process of engagement and consultation with Member States, most commonly through their Permanent Representatives, Heads of agencies, departments and programs within the United Nations and other staff members, to explain his approach to the mandate and share information and concerns. Several Permanent Missions have hosted discussions on the prevention of genocide and the related responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The SAPG has also met with interlocutors of regional organizations – among them the African Union and the European Union.

30. The SAPG has continued to be in close contact with academic institutions and NGOs at both the international and national level to exchange views on country situations and thematic issues. In addition, the SAPG and his staff have attended conferences, participated in numerous events and made public presentations to concerned audiences. In December of 2007, the Centre for Conflict Resolution, the International Peace

Academy and the Office of the SAPG convened a roundtable in Stellenbosch, South Africa, on “Prevention of Genocide and the Responsibility to Protect: Challenges for the United Nations and the International Community in the 21st Century”.

31. Other examples of specific activities include: the participation on a panel in a conference organized by the Carter Center on “Faith and Freedom: Protecting Human Rights as Common Cause”, in September 2007; the delivery of a presentation at the annual meeting of the Special Representatives and Envoys of the Secretary-General in October 2007; the participation in a conference organized by the UN University and International Crisis Group on the Prevention of Mass Atrocities, in October 2007; the attendance in an Inter-Faith Conference on Christian Response to Genocide, in November 2007; the delivery of opening remarks at a seminar organized by the United Nations Department of Public Information entitled “From Kristallnacht to Today: How do we combat Hatred” in November 2007; the presentation of an address to the Africa Committee of the New York Bar Association on the work of the genocide prevention mandate, January 2008; the delivery of a presentation to the Board of Jacob Blaustein Institute on the mandate; the participation in a workshop on “Effective Global Conflict Prevention Strategy in Africa: The Role of the Security Council”, in November 2007; the delivery of a public lecture at the University of California, Long Beach, including students, faculty and community representatives, in February 2008; and the participation in a meeting of genocide scholars, representatives of research institutions and members of civil society engaged in genocide prevention programs, organized by the United Nations Institute of Peace to support the mandate, March 3, 2008.

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

IV Conclusions

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

34. Fundamental contributions to prevention by the SAPG could involve ensuring that concerns falling within the scope of the mandate are given priority within the United Nations, and that opportunities are open for United Nations agencies, departments and programs to play a preventive role. With regard to both contributions, a key challenge in the past has been ensuring that action is taken early enough to be genuinely preventive.

Raising awareness within the United Nations as well as among Member States and regional groups of States is a useful method of preparing for future problems, and is a preventive action in and of itself. The SAPG mandate's initial focus on protecting populations at risk, accountability, humanitarian assistance and addressing underlying causes of conflict remains a valuable basis for analysis. And, lastly, recognizing that the responsibility of State sovereignty provides a framework for effective engagement.

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