

[It's time for the General Assembly to step up its response to massive human rights violations](#)

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In the face of inaction by the Security Council in response to mass atrocities in Syria, Myanmar and China, it is incumbent on States to explore and take action at the General Assembly, write Rebecca Barber and Alex Bellamy.



In March this year, the Independent International Commission of Inquiry on the Syrian Arab Republic (COI) released a [shocking report](#) on detention-related human rights violations. It said that the Syrian Government had committed 'war crimes on a massive scale', that there were reasonable grounds to believe that the Government was carrying out a 'widespread or systematic attack against the civilian population, in pursuance of a firmly established policy to commit such acts comprising the crimes against humanity of murder, extermination, imprisonment, enforced disappearance, sexual violence, torture and other inhumane acts'. It further said that there were no signs the Government intended to discontinue such practices.

Shortly after the release of the COI's report, the Special Rapporteur on Human Rights in Myanmar [told the Human Rights Council](#) that the Myanmar military was 'likely engaging in crimes against humanity, including the acts of murder, enforced disappearance, persecution, torture, and imprisonment in violation of fundamental rules of international law.'

At around the same time, a US-based think-tank released an [independent expert examination](#) into China's treatment of the Uyghur people in Xinjiang province. Based on 'an extensive review of the available evidence and application of international law to the evidence of the facts on the ground', it concluded that China was committing genocide.

To date, the UN Security Council has not responded to any of these reports. Nor is it likely to, due to the power of veto of its permanent members, in particular Russia and China.

In 2019, the International Law Commission (ILC) adopted (on first reading) [Draft Conclusions](#) on Peremptory Norms of International Law. The Draft Conclusions assert that states have a *positive duty* to cooperate to bring an end to any serious breach of a peremptory norm of international law. It is uncontroversial that the prohibition of genocide is a peremptory norm of international law. The norms prohibiting crimes against humanity and war crimes have also been [implicitly accepted](#) by the International Court of Justice (ICJ) as peremptory in nature. As such, at least according to the ILC, states have a *legal obligation to cooperate* to bring an end to genocide, war crimes and crimes against humanity - irrespective of treaty obligations.

Whether the obligation to cooperate to end serious breaches of peremptory norms of international law is in fact enshrined in customary international law is controversial. But in the face of the atrocities currently underway in Syria, Myanmar, China and elsewhere, it seems perverse to quibble over the legal status of the obligation. Few would dispute that there is at least a moral imperative to respond. The General Assembly recognised as such in 2005, when it accepted that states have a [responsibility to protect](#) populations from genocide, war crimes and crimes against humanity.

In a statement to the Human Rights Council in February, the UN Special Envoy on Myanmar [suggested](#) - in relation to the crimes of the Myanmar military - that if discussions in the Security Council and the General Assembly fail to bring about a 'forceful and timely response', perhaps existing structures are 'in need of reforms'.

Existing structures do need reform. But reform of the international system is a long road, and won't come in time for those in detention in Syria, or the protesters in Myanmar, or Turkic Muslims and other minorities in Xinjiang. In the meantime, the structures we do have can be used to much greater effect. And this, perhaps, is the more constructive conversation right now.

The [UN Charter](#) empowers the General Assembly to make recommendations on human rights, and on international peace and security. It cannot make recommendations on a matter of international peace and security at the same time as the Security Council, and its resolutions are not binding, but within these constraints, there are many things the General Assembly can unequivocally do.

The General Assembly can, for example:

- Make recommendations to the Security Council. It can recommend that the Council impose arms embargoes and/or sanctions, or that it refer suspected perpetrators of atrocity crimes to the International Criminal Court.
- Request special reports from the Security Council regarding its handling of a matter. Such requests could, for example, be made any time a veto is cast to block Security Council action on genocide, war crimes or crimes against humanity, or following a report from a UN body alleging such crimes.
- Recommend to states that they impose sanctions. The General Assembly could, for example, recommend to states that they impose sanctions against the Myanmar military, the Syrian Government or officials in Xinjiang. Several states have already done so, but sanctions are most effective when they are coordinated; and in the absence of the Security Council, the General Assembly provides an alternative framework for such coordination.
- Pass resolutions recognising state conduct as likely constituting genocide, war crimes or crimes against humanity. Such resolutions can be relied upon by other states or international organisations as a basis for their own actions, or can be accorded evidentiary value by international courts – as, for example, the ICJ did when it [ordered provisional measures](#) to prevent genocide against the Rohingya in Myanmar.

The General Assembly's competence to do these things, and more, is laid out in a resource released last week by the Asia Pacific Centre for the Responsibility to Protect: a [Guidance Document on the Powers of the General Assembly to Prevent and Respond to Atrocity Crimes](#). In relation to situations such as those in Syria, Myanmar and China, the document aims to inspire more ambitious, creative thinking regarding what the General Assembly can do. We do not presuppose the political feasibility of the various options proposed, nor assume that any of the steps will in themselves suffice to bring an immediate end to atrocity crimes. We do, however, maintain that when states are aware that atrocity crimes are being committed, and the Security Council is effectively missing in action, it is incumbent upon states to, at the very least, explore what the General Assembly can do.

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Image: Jamtoli refugee camp, Bangladesh - October 26, 2017. Credit: Joel Carillet