

### 39. Protection of civilians in armed conflict

#### Deliberations of 14 June 2004 (4990th meeting)

At its 4990th meeting, on 14 June 2004, the Security Council included in its agenda a report of the Secretary-General on the protection of civilians in armed conflict.<sup>1</sup> The Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Following the briefing, statements were made by all Council members and 20 other speakers.<sup>2</sup>

In his report, the Secretary-General recalled that, in December 2003, the Under-Secretary-General for Humanitarian Affairs had presented to the Security Council the elements of a 10-point platform on the protection of civilians in armed conflict. The platform embodied many of the key issues set out in the broader protection framework provided by the aide-memoire on the protection of civilians, an updated version of which the Council had adopted on 15 December 2003.<sup>3</sup> The report examined the issues outlined in the platform and identified specific ways in which performance could be improved. Among other points, the Secretary-General observed that, in line with Council resolution 1296 (2000) of 19 April 2000, mandates of peacekeeping operations had been broadened to allow troops to physically protect civilians under imminent threat of violence, as seen in the mandates of the United Nations Mission in Sierra Leone (UNAMSIL);<sup>4</sup> the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC);<sup>5</sup> the United Nations Mission in Liberia (UNMIL);<sup>6</sup> the United Nations Operation in Côte d'Ivoire (UNOCI);<sup>7</sup> and the United

Nations Operation in Burundi (ONUB).<sup>8</sup> The inclusion of programmes for the disarmament, demobilization, reintegration and rehabilitation of combatants in the mandates of UNAMSIL, the United Nations Assistance Mission in Afghanistan,<sup>9</sup> and further in the mandates of MONUC, UNMIL, UNOCI and ONUB; and of measures to protect refugees and returnees in decisions relating to UNOCI and ONUB was also key to meeting protection needs. Furthermore, by stressing in its resolutions that human rights violations and denial of humanitarian access were unacceptable, the Council had reinforced a message which humanitarian and other actors on the ground could use. The Secretary-General noted that the Council should continue to systematically emphasize these concerns. He stressed that efforts to deter war crimes, crimes against humanity and genocide and to break the prevailing culture of impunity in situations of armed conflict had been boosted by the establishment of the International Criminal Court and the jurisprudence of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, as well as the Special Court for Sierra Leone.

The Secretary-General recalled in his report that the Council had made a number of important commitments to the protection of civilians, by its resolutions 1265 (1999) and 1296 (2000). Issues already identified by the Council, which formed the basis of the 10-point platform, were (a) improving humanitarian access; (b) improving the safety and security of humanitarian personnel; (c) improving measures to respond to the security needs of refugees and internally displaced persons; (d) ensuring that the special protection and assistance requirements of children in armed conflict were fully addressed; (e) ensuring that the special protection and assistance requirements of women in armed conflict were fully addressed; (f) addressing shortcomings in the approach to disarmament, demobilization, reintegration and rehabilitation; (g) addressing the impact of small arms and light weapons on civilians; (h) combating

<sup>1</sup> S/2004/431.

<sup>2</sup> The representatives of Argentina, Canada (on behalf also of Australia and New Zealand), Colombia, Côte d'Ivoire, Ecuador, Egypt, Fiji, Ireland (on behalf of the European Union), Japan, Liechtenstein, Malaysia, Mexico, Myanmar, Nepal, Norway, South Africa, Switzerland, the Syrian Arab Republic, Uganda and Ukraine.

<sup>3</sup> S/PRST/2003/27, annex.

<sup>4</sup> Resolution 1270 (1999).

<sup>5</sup> Resolution 1417 (2002).

<sup>6</sup> Resolution 1509 (2003).

<sup>7</sup> Resolution 1528 (2004).

<sup>8</sup> Resolution 1545 (2004).

<sup>9</sup> Resolution 1401 (2002).

impunity; (i) developing further measures to promote the responsibility of armed groups and non-State actors; and (j) ensuring the provision of the necessary resources to address the needs of vulnerable populations in “forgotten emergencies”. In his concluding observations, the Secretary-General noted that, in the five years since the framework to strengthen the protection of civilians in armed conflict was initiated, the system of public international order had been under unprecedented strain. He urged the international community to recommit itself to the principles of international law based on justice, peaceful settlement of disputes and respect for human dignity.

Presenting the report of the Secretary-General, the Under-Secretary-General stated that the tenth anniversary of the “collective failure to protect 800,000 defenceless men, women and children” from the brutal deaths they had suffered in Rwanda provided a chilling impetus to reflect on ways to better protect vulnerable civilian populations during crises and their immediate aftermath. He stressed that the Council’s renewed commitment to act decisively to protect civilians in armed conflict was needed now more than ever. In the years since the Council adopted its first resolution on the protection of civilians in armed conflict, peacekeeping mandates had been broadened and had assumed a stronger protection focus. Those mandates had also been complemented by swifter deployments of peacekeeping troops to avert immediate crises of protection and to restore order. In concluding, the Under-Secretary-General reiterated the Secretary-General’s recommendation in his report that the Council should consider adopting a new resolution on the protection of civilians in armed conflict. To that end, the Secretary-General had set forth a number of recommendations, including measures to enable the humanitarian community to assist in the Council’s response through more systematic provision of information on key protection issues and earlier reporting on situations of concern.<sup>10</sup>

In the ensuing debate, speakers welcomed the advances made in the protection of civilians in armed conflict, especially with regard to swifter deployment of peacekeeping forces and entrusting greater responsibility for the protection of civilians to regional organizations, but cautioned that continued impunity

<sup>10</sup> S/PV.4990, pp. 2-6.

and increased attacks against humanitarian personnel, as well as acts of terrorism and sexual violence against civilians posed challenges that had to be addressed. Moreover, many stressed that all parties, including United Nations peacekeepers and humanitarian personnel, must demonstrate respect for human dignity and uphold the principles of international humanitarian and human rights law. Speakers also highlighted the important role which regional organizations could play in the efforts to enhance the protection of civilians. Speakers further described the protection of civilians as one of the core issues on the Council’s agenda and fundamental to the precepts of the Charter of the United Nations, owing to its link to the maintenance of international peace and security. Most speakers also highlighted, as a main challenge for the protection of civilians, the need for non-State actors to comply with international humanitarian law.

The representative of the United States encouraged the Secretary-General, the Under-Secretary-General and other key actors to present country-specific recommendations for the Council’s consideration.<sup>11</sup> The representatives of Spain, the United Kingdom, Brazil and Fiji highlighted the need for cross-cutting integration of the protection of civilians into all United Nations activities, so that that issue was not seen as an isolated one.<sup>12</sup>

Speakers emphasized the significant role the International Criminal Court could play in the international community’s fight against impunity, the representative of the United Kingdom noting the potential for the Council to make referrals to the Court’s Prosecutor for investigation.<sup>13</sup> The representative of Ireland, speaking on behalf of the European Union, concurring with the Secretary-General’s observation that impunity could be a dangerous recipe for sliding back into conflict, stated that while amnesties could provide a measure for dealing with lesser crimes, they must never be granted for serious violations of international humanitarian and human rights law.<sup>14</sup>

<sup>11</sup> *Ibid.*, pp. 8-9.

<sup>12</sup> *Ibid.*, pp. 11-12 (Spain); pp. 18-20 (United Kingdom); pp. 20-21 (Brazil); S/PV.4990 (Resumption 1); pp. 2-3 (Fiji) and pp. 14-16 (Canada).

<sup>13</sup> S/PV.4990, pp. 18-19.

<sup>14</sup> *Ibid.*, pp. 28-29.

The representative of Romania stated that although the responsibility to protect its citizens rested with States, it was up to the Security Council to intervene when Governments were unwilling or unable to take responsibility for protecting civilians in armed conflict.<sup>15</sup>

The representative of Norway highlighted the need to achieve a clear division of labour between humanitarian actors on the one hand, and political and military actors on the other in the ongoing debate about integrated United Nations missions. While striving for greater coherence, he cautioned that humanitarian integrity must not be compromised. He urged the United Nations system and Member States to take into account the guidelines on civil-military relationships in complex emergencies elaborated by the Office for the Coordination of Humanitarian Affairs in the planning and implementation of international operations.<sup>16</sup>

The representative of Romania stressed that the emergence of non-State actors had presented the United Nations with the choice of either opening channels of dialogue to engage such armed groups in humanitarian negotiations, thus legitimizing groups with sometimes dangerous agendas, or to keep them at a distance, thus relinquishing the possibility of exercising positive leverage.<sup>17</sup> The representative of Germany, while noting that constructive engagement with non-State armed actors was needed more than ever, cautioned that such constructive engagement required flexibility and realism, and should not come at the expense of the need to address impunity.<sup>18</sup>

The representative of Colombia warned that negotiating with terrorist organizations, traffickers of illicit drugs and criminals in order to gain access to specific populations not only legitimized such organizations but also strengthened their operations. He said that such political negotiations between humanitarian organizations and illegal armed groups violated the basic principles of neutrality, impartiality and transparency of humanitarian work.<sup>19</sup>

The representative of China acknowledged that, due to continued conflict in some regions, including Africa, the Middle East and Iraq, much remained to be

accomplished in pursuit of the goal of protecting civilians in armed conflict. He opined that, to mitigate the difficult situations faced by those civilians, the international community should adopt a comprehensive strategy that addressed both root causes and symptoms of conflict.<sup>20</sup>

**Decision of 14 December 2004 (5100th meeting): statement by the President**

At its 5100th meeting, on 14 December 2004, the Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. At the meeting, all Council members and 16 other representatives made statements.<sup>21</sup>

In his briefing, the Under-Secretary-General updated the Council on developments over the previous six months in terms of the implementation of the 10-point platform he had presented to the Security Council the preceding year.<sup>22</sup> He listed seven key challenges: humanitarian access to civilians in need; the security of humanitarian personnel; protection of women and children, including against sexual violence and forcible recruitment of child soldiers; protection of refugees and internally displaced persons; compliance with international humanitarian, human rights and refugee law; disarmament, demobilization, reintegration and rehabilitation of former fighters; and neglected emergencies.

Turning to seven areas of action which he believed would strengthen the ability and enhance the United Nations response to the challenges outlined, the Under-Secretary-General highlighted the need to strengthen the overall response capacity of the humanitarian community to provide both effective and timely humanitarian assistance and protection. Secondly, he recalled that in his most recent report on protection of civilians in armed conflict<sup>23</sup> the Secretary-General had called for a mechanism that would provide better information in order to inform and facilitate the Council's deliberations. He stated that

<sup>20</sup> Ibid., pp. 22-23.

<sup>21</sup> The representatives of Argentina, Bangladesh, Canada, Colombia, Costa Rica, Côte d'Ivoire, Egypt, Japan, Kenya, Honduras, Liechtenstein, the Netherlands (on behalf of the European Union and associated States), New Zealand (also on behalf of Australia), Peru, Nigeria and Switzerland.

<sup>22</sup> See S/PV.4877.

<sup>23</sup> S/2004/431.

<sup>15</sup> Ibid., pp. 6-7.

<sup>16</sup> Ibid., pp. 30-31.

<sup>17</sup> Ibid., pp. 6-7.

<sup>18</sup> Ibid., pp. 23-25.

<sup>19</sup> S/PV.4990 (Resumption 1), pp. 11-14.

work had begun with United Nations agencies to develop a systematic methodology which would allow better comparative analysis and monitoring of protection trends. Thirdly, the Under-Secretary-General pointed to the need to ensure a more consistent response to crises and to highlight neglected emergencies. Fourthly, he stated that it was essential to place greater emphasis on the role of national actors, including through developing approaches and tools that would strengthen their ability to provide protection. Fifthly, he stated that it was essential to assess and mitigate any potential humanitarian consequences of sanctions. His Office, in collaboration with the Inter-Agency Standing Committee, had developed a methodology to assess the human impact of sanctions. He strongly encouraged the Council members to use that methodology during their deliberations to enhance sanctions as a tool. As a sixth point, he stressed the importance of regional organizations in providing protection in armed conflicts. Finally, with respect to incidence of sexual abuse and exploitation by peacekeeping and humanitarian personnel, he appealed to contributing Member States to give that issue their urgent attention and ensure that appropriate accountability mechanisms were in place.<sup>24</sup>

During the ensuing debate, most speakers expressed support for the 10-point platform presented by the Secretary-General in his report. Speakers expressed concern over the continued plight of civilians in armed conflict, in particular the continuation of sexual violence against women during armed conflict, and the recruitment of child soldiers. They called for ending impunity through effective use of national and international legal institutions, and also expressed concern with respect to the frequency of attacks on United Nations and other humanitarian personnel.

The representative of France proposed that the reports of the Secretary-General on the protection of civilians should be presented annually, instead of every 18 months. He stated that the report should list particularly serious situations pertaining to the refusal to grant humanitarian access and cases in which camps for refugees or displaced persons were attacked by armed elements, as well as provide more specific

<sup>24</sup> S/PV.5100, pp. 2-7.

information with respect to those victimized by sexual violence and used as a weapon of war.<sup>25</sup>

The representative of the United Kingdom, while stressing the need to strengthen the collaborative approach to protection, noted “a serious lack” of results-based reporting on protection objectives in humanitarian programmes, and proposed that this could be considered along with the Secretary-General’s proposal for a mechanism to provide better facts and statistics on protection.<sup>26</sup> The representative of Chile expressed support for the initiative to establish an ad hoc group on the protection of civilians, which would make recommendations and provide follow-up to the decisions taken by the Council.<sup>27</sup>

Many speakers addressed the issue of the principle of the “responsibility to protect”. Welcoming the endorsement by the High-level Panel on Threats, Challenges and Change of the collective international responsibility to protect,<sup>28</sup> the representative of Canada, echoed by the representative of Peru, believed that the Council should review the criteria presented by the Panel for the authorization of the use of force in that context, with a view to adopting them.<sup>29</sup> The representatives of France and Spain contended that if a Government did not have the ability to protect its own population, or was not willing to do so, the international community, and in particular the United Nations, must fulfil that protective function. The representative of France further stated that the Council should deal directly with massive violations of international humanitarian law and that, in the most dramatic situations, a military intervention might be the only option to avoid or stop substantial loss of human life.<sup>30</sup> The representative of the United Kingdom, echoed by the representative of Liechtenstein, contended that the Council should engage more directly in the commitment to prevent and in the responsibility to protect.<sup>31</sup> The representative of New Zealand welcomed the Panel’s recommendations with respect to internal threats and the responsibility to

<sup>25</sup> *Ibid.*, pp. 12-14.

<sup>26</sup> *Ibid.*, pp. 16-17.

<sup>27</sup> *Ibid.*, pp. 9-11.

<sup>28</sup> See A/59/565 and Corr.1.

<sup>29</sup> S/PV.5100 (Resumption 1), pp. 3-5 (Canada); and pp. 13-14 (Peru).

<sup>30</sup> S/PV.5100, pp. 9-11 (Spain); and pp. 12-14 (France).

<sup>31</sup> *Ibid.*, pp. 16-17 (United Kingdom); and S/PV.5100 (Resumption 1), pp. 18-19 (Liechtenstein).

protect, and urged Council members and the wider United Nations membership to give them serious consideration.<sup>32</sup> The representative of Costa Rica, also referring to the report of the Panel, regretted that the Security Council had not shown itself to be willing or able to protect civilians effectively, and appealed to the Council to commit itself thereto.<sup>33</sup>

The representative of Colombia contended that concepts like “humanitarian intervention” and “responsibility to protect” should be “managed carefully and responsibly”, and that humanitarian assistance efforts must be undertaken with the full cooperation, coordination and consent of the Government.<sup>34</sup>

The representative of Canada stated that the Council must be steadfast and consistent in the messages it sent in response to war crimes and crimes against humanity, and must ensure follow-through when it threatened to impose measures unless conditions were met. Citing the situation in Darfur as one example, he further stressed that in cases in which measures were imposed, those measures must be monitored, and the Council must not tolerate a failure by parties to comply with its resolutions.<sup>35</sup>

With respect to addressing sexual abuse perpetrated by United Nations personnel, the representative of Costa Rica held that rules of confidentiality included in the Secretary-General’s bulletin on sexual exploitation<sup>36</sup> created “an atmosphere of impunity”, and called for all measures taken against alleged perpetrators to be taken with the greatest amount of transparency possible. She also contended that individuals involved should be subject to the jurisdiction of the territory in which the events occurred, or to that of the victim’s home country.<sup>37</sup>

After the debate, the President (Algeria) made a statement on behalf of the Council,<sup>38</sup> by which, the Council, *inter alia*:

[Stated that it was] gravely concerned that civilians were increasingly targeted by combatants and armed elements during armed conflict, in particular women, children and other

vulnerable groups, including refugees and internally displaced persons, and recognized the negative impact this would have on durable peace and national reconciliation;

Reiterated its call to all parties to armed conflict to take all necessary measures to ensure security and freedom of movement of United Nations and associated personnel as well as personnel of humanitarian organizations;

Stressed the need for regional cooperation in order to address cross-border issues such as disarmament, demobilization, reintegration and rehabilitation, cross-border movement of refugees and combatants, human trafficking, illicit flow of small arms and illegal exploitation of natural resources and post-conflict situations;

Condemned the increased use of sexual and gender-based violence as a weapon of war as well as the recruitment and use of child soldiers by parties to armed conflict in violation of international obligations applicable to them;

Urged the international community to ensure adequate and timely funding in response to humanitarian need across crises, so as to provide sufficient humanitarian assistance in alleviating the suffering of civilian populations, in particular those in areas affected by armed conflict or emerging from a situation of conflict.

**Decision of 21 June 2005 (5209th meeting):  
statement by the President**

At its 5209th meeting, on 21 June 2005, the Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Statements were made by all Council members and eight other representatives.<sup>39</sup> The Under-Secretary-General recalled that, five years earlier, the Council had adopted resolution 1296 (2000) and since then had been increasingly seized of the protection of civilians in armed conflict. Despite some progress, challenges associated with protecting civilians remained numerous and complex.

Recalling his 10-point plan, the Under-Secretary-General highlighted some key areas where the need to take action was particularly urgent. His first concern was the frequency and scale of deliberate displacement both within and across borders. He stressed that more had to be done to prevent and end displacement, and that the creation of a secure environment for displaced populations should be a primary objective for peacekeeping operations. Secondly, he stated that the

<sup>32</sup> S/PV.5100 (Resumption 1), pp. 22-23.

<sup>33</sup> *Ibid.*, pp. 11-13.

<sup>34</sup> *Ibid.*, pp. 23-24.

<sup>35</sup> *Ibid.*, pp. 3-5.

<sup>36</sup> ST/SGB/2003/13.

<sup>37</sup> S/PV.5100 (Resumption 1), pp. 11-13.

<sup>38</sup> S/PRST/2004/46.

<sup>39</sup> The representatives of Canada (on behalf also of Australia and New Zealand), Colombia, Côte d’Ivoire, Egypt, Luxembourg (on behalf of the European Union), Nigeria, Norway and Peru.

recurrent use of sexual violence was arguably one of the worst global protection challenges, owing to its scale, prevalence and profound impact, and information indicated that more and more women were being attacked. He cited the situation in North Kivu in the Democratic Republic of the Congo as a place where sexual violence had become endemic, warning that, if not stopped, such violence would have terrible long-term ramifications for the society, threatening future peace and stability. While expressing concern about the issue of humanitarian access and the interrelated issue of safety and security of humanitarian personnel, the Under-Secretary-General opined that a key objective of peacekeeping missions should be the creation of secure environments to facilitate the delivery of humanitarian assistance, safeguard humanitarian staff and protect essential services. He also stressed the need to develop appropriate guidance which maximized the capacity to provide physical protection while upholding humanitarian principles and safeguarding humanitarian space. He further reiterated that tackling impunity lay at the heart of protection concerns, and that the process of indictments by the International Criminal Court in Uganda, the Democratic Republic of the Congo and Darfur should signal a climate in which impunity would no longer be tolerated. At the same time, he said, “we must remain aware of the potential impact of such legal action on humanitarian operations, including the potential for reprisals against humanitarian staff”.

The Under-Secretary-General emphasized the critical role that regional and intergovernmental organizations had to play in terms of strengthening protection response. His office had developed a workplan which was to be presented at the forthcoming sixth high-level meeting of the Secretary-General with heads of regional and other intergovernmental organizations. Finally, pointing to the need to develop more systematic reporting to the Security Council to facilitate its deliberations and ensure that protection concerns were more fully reflected in its proceedings, he said that, under the guidance of the Executive Committee on Humanitarian Affairs, efforts were focused on establishing criteria and indicators to generate current overviews and trend analysis.<sup>40</sup>

In the ensuing debate, speakers expressed grave concern about the limited progress on the ground in ensuring the effective protection of civilians in

<sup>40</sup> S/PV.5209, pp. 2-6.

situations of armed conflict, and drew attention to a number of major “protection gaps”. These included the need to provide better physical protection for displaced populations, in particular women and children. Speakers considered that contributing to the establishment of a secure environment for vulnerable populations should be a key objective of peacekeeping operations. While the need to respond to sexual and gender-based violence was stressed, speakers also pointed to the proliferation of small arms and light weapons as another area that needed to be addressed.

Many speakers reiterated the need to strengthen the legal framework for the protection of humanitarian personnel. The representative of Canada called on the Council to encourage the General Assembly to conclude discussions on expanding the scope of the 1994 Convention on the Safety of United Nations and Associated Personnel, and to remove the “exceptional risk” requirement.<sup>41</sup>

Speakers further called for more reliable and predictable resources to assist those in need, noting the disparity between current funding levels and current requirements. Finally, speakers pointed to the need to ensure that humanitarian assistance was carried out in a non-discriminatory, balanced and proportionate manner.

At the end of the meeting, the President (France) issued a statement on behalf of the Council,<sup>42</sup> by which the Council, *inter alia*:

Reiterated its commitment to address the widespread impact of armed conflict on civilian populations;

Reaffirmed its strong condemnation of the deliberate targeting of civilians or other protected persons in situations of armed conflict, and called upon all parties to put an end to such practices; and expressed, in particular, its deep concern at the use of sexual violence as a weapon of war; and called upon all States to put an end to impunity in this regard;

Stressed the urgent need for providing better physical protection for displaced populations as well as for other vulnerable groups, in particular women and children;

Invited the Secretary-General to include in his next report recommendations on ways to better address the persisting and emerging protection challenges in the evolving peacekeeping environment; and expressed its intention to take further action to strengthen and to enhance the protection of civilians in armed

<sup>41</sup> *Ibid.*, pp. 28-29.

<sup>42</sup> S/PRST/2005/25.

conflict, including, if necessary, the possible adoption of a resolution in this regard.

### **Deliberations of 9 December 2005 (5319th meeting)**

At its 5319th meeting, on 9 December 2005, the Council included in its agenda the report of the Secretary-General on the protection of civilians in armed conflict.<sup>43</sup> The Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator and the Vice-President of the International Committee of the Red Cross (ICRC). In addition to all Council members, statements were made by 19 other representatives.<sup>44</sup>

The Under-Secretary-General said that much headway had been made in the six years since the Council had adopted its first resolution on the protection of civilians. This included the Council's expansion of peacekeeping mandates to include protection measures (although those should be augmented by "concrete measures" to facilitate a secure environment), and its focus on key protection concerns; engagement of regional and subregional organizations; strengthening of humanitarian assistance; increased ratifications of relevant international instruments; and the establishment of the International Criminal Court. Still, he stressed, civilians continued to bear the brunt of armed conflicts. The Under-Secretary-General lamented that only half of the 26 countries now in armed conflict were party to Additional Protocol II to the Geneva Conventions, which was the "most relevant" instrument on non-international conflicts. While noting that in many situations humanitarian actors operated in very insecure environments, he stressed that the presence of aid workers should not be used as an "alibi to camouflage" the absence of genuine efforts for lasting political solutions. The Under-Secretary-General highlighted three recommendations for action mentioned by the Secretary-General in his report. First, the current civilian protection framework needed to be updated to reflect the current environment of conflict.

<sup>43</sup> S/2005/740.

<sup>44</sup> The representative of Canada (on behalf also of Australia and New Zealand), Egypt, Germany, Iraq, Italy, Liechtenstein, Mexico, Nepal, Norway, Pakistan, Peru, Qatar, the Republic of Korea, Rwanda, Slovakia, South Africa, Spain, Switzerland, Uganda and the United Kingdom (on behalf of the European Union).

He urged the Council to adopt a resolution on the subject that included the "strongest possible language". Second, the collation of empirical data on specific and global trends should be improved to facilitate the Council's decision-making process. Third, he said that much more emphasis and support should be devoted to peacemaking, with all such efforts reflecting the needs of the civilian populations.<sup>45</sup>

The Vice-President of ICRC said that the lack of political will to fully respect humanitarian law was the major impediment to protecting civilians during conflict. He noted that ICRC took account of the specific needs of vulnerable populations, including internally displaced persons, and stressed the importance to enhance cooperation among humanitarian organizations to protect those populations. He further highlighted the need for neutrality and independence of such organizations, including ICRC, as that "added value" for protecting civilians. He also emphasized the need to address the root causes of conflict, so that renewal of hostilities would become less likely.<sup>46</sup>

In the debate that followed, most speakers expressed concern with the increased targeting of civilians in warfare, and stressed the need to protect vulnerable groups, particularly internally displaced persons, women and children. Many speakers cited the responsibility of the international community and of the Security Council, in particular, to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity if a State failed to do so.<sup>47</sup> The representative of Peru held that the permanent members of the Council should agree not to use their right to veto when such serious violations were involved.<sup>48</sup> The representative of the Russian Federation opined that it was "clearly premature" to advance the concept of responsibility to protect in Security Council documents.<sup>49</sup> Several representatives were also of the opinion that the concept should be

<sup>45</sup> S/PV.5319, pp. 2-6.

<sup>46</sup> *Ibid.*, pp. 7-8.

<sup>47</sup> *Ibid.*, pp. 8-9 (Argentina); pp. 12-13 (Italy); pp. 13-14 (Peru); pp. 21-22 (Greece); pp. 24-26 (United Republic of Tanzania); pp. 28-29 (Mexico); and pp. 30-32 (Denmark).

<sup>48</sup> *Ibid.*, pp. 13-14.

<sup>49</sup> *Ibid.*, p. 18.

discussed more in depth by the General Assembly before it was considered by the Council.<sup>50</sup>

While agreeing that the concept would be refined within the framework of the General Assembly, the representative of France believed that it “would not be unusual for the Security Council to refer to that notion”, because it had the consensus among State leaders, and further opined that the notion should guide the work of the Council, particularly in its role on the protection of populations.<sup>51</sup>

The representative of China, while noting that the World Summit Outcome<sup>52</sup> clearly referred to the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, held that a “cautious approach” should be taken in determining whether a Government was able or willing to protect its citizens. Arbitrary and hasty intervention should be avoided, as that might complicate situations and result in greater harm to innocent civilians. He also believed that constructive assistance should be provided to States in order to avoid violating State sovereignty and respect the will of the parties concerned.<sup>53</sup>

The representative of Egypt opined that the Council should not expand its authority by establishing general policies for dealing with humanitarian issues and human rights, as this fell within the mandate of the General Assembly. He was thus concerned at the mention in the report of the Secretary-General of the Council’s role in legislating and taking action under the “so-called responsibility to protect”. He also opposed the idea of imposing targeted sanctions under Chapter VII on States in order to ensure humanitarian access, as proposed in the report of the Secretary-General.<sup>54</sup>

In connection with the responsibility to protect, speakers stressed the role of regional organizations in humanitarian assistance and peacekeeping and the need to enhance cooperation with them and their funding.<sup>55</sup>

Several speakers noted with concern that access of humanitarian workers to the most vulnerable groups was often restricted. The majority of speakers called for strengthening humanitarian access and civilian protection in peacekeeping mandates. Referring to peacekeeping missions mandated with multiple tasks, the representative of Switzerland stressed that humanitarian work “must be carried out by civilians” in order to guarantee the observance of humanitarian principles. Noting the lack of clarity sometimes seen on the ground with respect to the respective roles of humanitarian and military actors, he called on the Council to follow the Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies.<sup>56</sup>

The representative of Uganda contradicted references made to his country in the Secretary-General’s report, including in terms of the number of internally displaced persons in northern Uganda and his Government’s limitations on the freedom of movement in that region. He then appealed for the assistance of the international community in executing the warrants issued by the International Criminal Court for the leaders of the Lord’s Resistance Army.<sup>57</sup>

The representative of the United Kingdom noted that it was time to take stock of the recommendations made by the Secretary-General over the past five years on how the Council could further improve the protection of civilians in armed conflict. His delegation had initiated a draft resolution to address the gaps as to prevention, protection and humanitarian access. Filling those gaps, he said, could only be done with combined action by parties to conflicts, individual States concerned and the international community.<sup>58</sup>

**Decision of 28 April 2006 (5430th meeting):  
resolution 1674 (2006)**

At its 5430th meeting, on 28 April 2006, the Council included in its agenda the report of the Secretary-General on the protection of civilians in armed conflict.<sup>59</sup> No statements were made by Council members during the meeting. The President (China) drew the attention of the Council members to a draft

<sup>50</sup> Ibid., pp. 9-10 (Brazil); pp. 18-19 (Russian Federation); pp. 26-27 (South Africa); pp. 28-29 (Mexico); and pp. 29-30 (China); S/PV.5319 (Resumption 1), pp. 2-3 (Algeria); and pp. 6-7 (Egypt).

<sup>51</sup> S/PV.5319 (Resumption 1), pp. 7-8.

<sup>52</sup> General Assembly resolution 60/1.

<sup>53</sup> S/PV.5319, pp. 29-30.

<sup>54</sup> S/PV.5319 (Resumption 1), pp. 6-7.

<sup>55</sup> S/PV.5319, pp. 18-19 (Russian Federation); and pp. 24-26 (United Republic of Tanzania); S/PV.5319

(Resumption 1), pp. 16-17 (Republic of Korea).

<sup>56</sup> S/PV.5319, pp. 27-28.

<sup>57</sup> S/PV.5319 (Resumption 1), pp. 3-4.

<sup>58</sup> Ibid., pp. 8-10.

<sup>59</sup> S/2005/740.



resolution;<sup>60</sup> it was then put to a vote and adopted as resolution 1674 (2006), by which the Council, *inter alia*:

Reaffirmed the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome<sup>61</sup> regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity;

Demanded that all parties concerned comply strictly with the obligations applicable to them under international law;

Called upon States that had not already done so to consider ratifying the instruments of international humanitarian, human rights and refugee law, and to take appropriate legislative, judicial and administrative measures to implement their obligations under those instruments;

Demanded that all States fully implement all relevant decisions of the Council, and in this regard cooperate fully with United Nations peacekeeping missions and country teams in the follow-up and implementation of those decisions;

Called upon all parties concerned to ensure that all peace processes, peace agreements and post-conflict recovery and reconstruction planning have regard for the special needs of women and children;

Urged the international community to provide support and assistance to enable States to fulfil their responsibilities regarding the protection of refugees and other persons protected under international humanitarian law;

Urged all those concerned, as set forth in international humanitarian law, to allow full unimpeded access by humanitarian personnel to civilians in need of assistance in situations of armed conflict, and to make available all necessary facilities for their operations, and to promote the safety, security and freedom of movement of humanitarian personnel and United Nations and associated personnel and their assets;

Requested the Secretary-General to submit his next report on the protection of civilians in armed conflict within 18 months of the date of the resolution.

#### **Deliberations of 28 June 2006 (5476th meeting)**

At its 5476th meeting, on 28 June 2006, the Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. In addition to all Council members, statements were made by eight representatives.<sup>62</sup>

<sup>60</sup> S/2006/267.

<sup>61</sup> General Assembly resolution 60/1.

<sup>62</sup> The representatives of Austria (on behalf of the European Union), Canada, Colombia, Guatemala, Iraq, Liechtenstein, Slovenia and Uganda.

In his briefing, the Under-Secretary-General stated that although resolution 1674 (2006) was fundamental to progress in the protection of civilians, it had failed to ensure a predictable response to the massive suffering of vulnerable civilians. He stated that the United Nations, and the Security Council specifically, had the responsibility to protect, as reaffirmed in resolution 1674 (2006). However, he noted, there were too many times when the United Nations did not come to the defence of civilian populations in need. Acknowledging that there were signs of progress in efforts to better protect civilians caught in conflict, he emphasized that civilians continued to bear the full “brunt of armed conflict and terror”, in particular in Iraq, the Sudan, Uganda, Somalia, Afghanistan and the Democratic Republic of the Congo. He stressed the importance of using the range of protection tools at the Council’s disposal more effectively, including to make resolution 1674 (2006) a “real platform for action”. He said that peacekeeping missions must be equipped with better, more comprehensive mandates and the means to fulfil them. In addition, peacekeepers must be given tools, guidance and support if they were to respond to threats and provide better protection. Furthermore, he observed that targeted sanctions should be employed at the earliest opportunity, where violations against civilians prevailed, to signal international concern and serve as a first step to protect.<sup>63</sup>

Most speakers welcomed the recent adoption of resolution 1674 (2006), which they opined contained a number of crucial elements for improving the international protection regime for civilians in armed conflict. The representative of the United Kingdom, echoed by the representatives of Ghana and the Congo, stressed that efforts to protect civilians from the effect of armed conflict must be at the heart of the Council’s work, which was why the Council had reaffirmed in resolution 1674 (2006) that it had a shared responsibility to protect populations from large-scale abuses and, in particular, from crimes against humanity, including the prospect of genocide.<sup>64</sup>

Speakers expressed concern in particular about the ongoing crisis in Darfur, and especially the impact of conflict on civilians in that region. The representative of the United States said that the

<sup>63</sup> S/PV.5476, pp. 2-6.

<sup>64</sup> *Ibid.*, pp. 6-8 (United Kingdom); pp. 11-12 (Ghana); and pp. 15-16 (Congo).

situation in Darfur illustrated the urgent role that States must play to safeguard civilians.<sup>65</sup> The representative of the United Kingdom expressed the view that “politically and practically”, a United Nations mission could not be deployed to Darfur unless the protection of civilians was tackled and provided.<sup>66</sup>

While welcoming resolution 1674 (2006), the representative of Liechtenstein stated that he would have welcomed clear language on the role that the Security Council was willing to assume with regard to the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. He also expressed his disappointment at the fact that the resolution did not contain a reference to the vital role of the International Criminal Court.<sup>67</sup>

In order to promote the protection of civilians, speakers generally highlighted the need to pay closer attention to efforts to prevent conflict; to bring those responsible for crimes against civilians to justice, thereby ending the culture of impunity; and to bolster the role of peacekeeping missions in providing protection for civilians. They stressed that peacekeepers should be provided with a realistic, but also a clear and robust, mandate to protect civilians and facilitate a secure environment.

The representative of the Russian Federation said that it was necessary to establish systematic and coordinated measures at national, regional and international levels for protecting civilians from instances of armed conflict.<sup>68</sup> The representative of France said that when peacekeeping mandates were being drawn up, they should spell out responsibilities towards civilians in a precise manner. At the same time, he stressed the importance of ensuring that mandates were realistic, so that the United Nations peacekeepers did not find themselves helplessly watching massacres of civilians. Echoed by the representatives of Austria and Canada, the representative of France further stated that peacekeeping operations must be given the mandates and resources to discharge their mission to protect people.<sup>69</sup>

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<sup>65</sup> Ibid., p. 17.

<sup>66</sup> Ibid., pp. 6-8.

<sup>67</sup> Ibid., pp. 26-27.

<sup>68</sup> Ibid., pp. 14-15.

<sup>69</sup> Ibid., pp. 20-21 (France); pp. 22-23 (Austria, on behalf of the European Union); and pp. 27-28 (Canada).

The representative of Slovenia, speaking on behalf of the Human Security Network, expressed the Network’s commitment to further promoting the understanding of the notion of “responsibility to protect”, and in that context encouraged the permanent members of the Council to refrain from exercising their right to veto powers with regard to genocide, war crimes, crimes against humanity and ethnic cleansing. He also expressed full support for the mandate of the Special Adviser to the Secretary-General on the Prevention of Genocide.<sup>70</sup>

The representative of China stated that the international community, while providing assistance and support, should not undermine the sovereignty and territorial integrity of the countries concerned.<sup>71</sup>

The representative of Japan noted that sometimes when a peacekeeping mission had a protection mandate, the mandate was interpreted differently by battalions drawn from different countries. For example, Council resolutions occasionally authorized a protection mandate for “civilians under imminent threat”, but there was a lack of clarity as to what sort of situation constituted an imminent threat. In order to address the problem, he suggested that the Secretariat should develop practical guidance on the day-to-day activities of peacekeeping troops.<sup>72</sup>

The representative of Ghana believed that in the event of the failure by both governments and armed groups to abide by their commitments under international humanitarian law, it behoved the United Nations to intervene and protect innocent populations against human rights violations. He also believed that the International Criminal Court could contribute immensely towards containing and combating crimes against innocent populations in conflict areas.<sup>73</sup>

The representative of the Congo, echoed by the representatives of Argentina and Guatemala, believed that the Council must put in place a multi-sectoral monitoring and follow-up mechanism to make it possible to collect all the information necessary to assess and respond to the need to protect civilians in countries on the Council’s agenda.<sup>74</sup>

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<sup>70</sup> S/PV.5476, pp. 24-26.

<sup>71</sup> Ibid., pp. 9-10.

<sup>72</sup> Ibid., pp. 10-11.

<sup>73</sup> Ibid., pp. 11-12.

<sup>74</sup> Ibid., pp. 15-16 (Congo); pp. 16-17 (Argentina); and

**Deliberations of 4 December 2006  
(5577th meeting)**

At its 5577th meeting, on 4 December 2006, the Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. All Council members and seven other representatives made statements during the meeting.<sup>75</sup>

In his briefing, the Under-Secretary-General said that, over the past three years, he had been encouraged to see that the protection of civilians had steadily gained prominence in the Council's deliberations, and had been reflected in United Nations humanitarian and peace operations. He opined that the real measure of the success of the United Nations would be judged by the extent to which its actions had made a difference in securing the protection, the rights and the freedoms of the civilian population. He recalled that the Council had solemnly pledged to accept the responsibility to protect civilian populations, but lamented that this responsibility was far from being translated into predictable and adequate action to provide protection for all beleaguered and threatened communities. He then pointed to some situations, such as Liberia, Sierra Leone, the Democratic Republic of the Congo and South Sudan in which the United Nations had succeeded in providing security for civilians when the Council was united. Conversely, he stated, there had not been the same unity of purpose and action in places like Darfur or Gaza. He further stressed that violent attacks against non-combatants had increased by 55 per cent from 1989 to 2005, and that the key concerns for the protection of civilians remained the same as those listed in his 10-point action plan. He noted that humanitarian access, the situation of internally displaced persons and refugees, sexual violence, the protection of children, and direct attacks on civilians continued to cause grave concern. In concluding, the Under-Secretary-General suggested five issues as future priorities for the Council. First, the continuation of thematic briefings, Arria formula meetings and other means to ensure adequate information and analysis of the situation; secondly, effective use of mechanisms at the Council's disposal to prevent violations of

international human rights and humanitarian law, including targeted sanctions; thirdly, conflict mediation and the timely and effective use of good offices; fourthly, enhancement of comprehensive and predictable funding; and fifthly, ensuring sufficient guidance and support to peacekeeping operations.<sup>76</sup>

In the ensuing debate, speakers expressed grave concern at the continuing attacks on civilians in armed conflict, including sexual violence against women and the forced recruitment of child soldiers. They also expressed concern at the increase in attacks on humanitarian workers, which exacerbated the impediments to humanitarian access, and called for an end to impunity for violations of international humanitarian and human rights law. Speakers also stressed that the increase in attacks on journalists and media workers in conflict areas was of grave concern, and drew attention to the suffering of civilians caused by the proliferation of small arms and light weapons, and by the use of landmines and cluster munitions.

Many speakers called for the full implementation of resolution 1674 (2006), including the principles for the responsibility to protect as laid out in that resolution. The representative of China stressed the importance of humanitarian agencies respecting the principles of impartiality, neutrality, objectivity and independence, in order to maintain the humanitarian nature of their operations and to avoid becoming involved in local political disputes or negatively affecting a peace process.<sup>77</sup> The representative of the United States reiterated that in situations of violent conflict where a State was unwilling or unable to its civilians, the international community had "a distinct role".<sup>78</sup>

**Decision of 23 December 2006 (5613th meeting):  
resolution 1738 (2006)**

At the 5613th meeting, on 23 December 2006, no Council members made statements. The President (Qatar) drew the attention of the Council to a draft resolution;<sup>79</sup> it was put to a vote, and adopted as resolution 1738 (2006), by which the Council, *inter alia*:

pp. 30-31 (Guatemala).

<sup>75</sup> The representatives of Canada, Colombia, Finland (on behalf of the European Union), Israel, Lebanon, Myanmar and Norway.

<sup>76</sup> S/PV.5577, pp. 2-7.

<sup>77</sup> *Ibid.*, p. 8.

<sup>78</sup> *Ibid.*

<sup>79</sup> S/2006/1023.

Condemned intentional attacks against journalists, media professionals and associated personnel, as such, in situations of armed conflict, and called upon all parties to put an end to such practices;

Reaffirmed its condemnation of all incitements to violence against civilians in situations of armed conflict, further reaffirmed the need to bring to justice, in accordance with applicable international law, individuals who incited such violence;

Recalled its demand that all parties to an armed conflict comply fully with the obligations applicable to them under international law related to the protection of civilians in armed conflict, including journalists, media professionals and associated personnel;

Urged States and all other parties to an armed conflict to do their utmost to prevent violations of international humanitarian law against civilians, including journalists, media professionals and associated personnel;

Urged all parties involved in situations of armed conflict to respect the professional independence and rights of journalists, media professionals and associated personnel as civilians;

Requested the Secretary-General to include as a sub-item in his next reports on the protection of civilians in armed conflict the issue of the safety and security of journalists, media professionals and associated personnel.

#### **Deliberations of 22 June and 20 November 2007 (5703rd and 5781st meetings)**

At its 5703rd meeting, on 22 June 2007, the Council heard a briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. In addition to all Council members, statements were made by 14 representatives.<sup>80</sup>

In his briefing, while highlighting some improvements in the protection of civilians in armed conflict in several areas, the Under-Secretary-General stressed that in many places the picture remained “sombre and profoundly worrying”. He elaborated on three main areas of concern, namely, the issue of targeting of civilians; the continuing displacement of civilians as a result of conflict; and the lack of access to people in need and of security for humanitarian workers. He highlighted that the Council had taken important steps towards better protection of civilians, exemplified by more robust peacekeeping and more

strategic and protection-related deployment of peacekeepers in the Democratic Republic of the Congo. For future peacekeeping deployments, he suggested drawing lessons from the practical effect that the inclusion of protection of civilians in a number of peacekeeping mandates had had on the ground.

He recalled the General Assembly’s agreement at the 2005 World Summit on a fundamental “responsibility to protect” as a norm that not only emphasized the primary responsibility of States to protect its citizens and those within its jurisdiction against genocide, war crimes, ethnic cleansing and crimes against humanity but also recognized the role of the international community and the United Nations in helping States to exercise that responsibility. He urged the Council to invest more in conflict prevention and in post-conflict measures to prevent rapid relapse into conflict. He also said he would continue to ensure that protection concerns were fully integrated into peacekeeping efforts, and bring situations of grave humanitarian concern to the Council’s attention.<sup>81</sup>

While noting the progress achieved in the protection of civilians in armed conflict, speakers stressed that much remained to be done to comprehensively protect them and to ensure the protection and promotion of their human rights. Speakers were concerned in particular about the growing number of refugees and internally displaced persons worldwide. Many delegations expressed particular concern over the declining security situation in Darfur, despite the agreement on the hybrid force, and over the humanitarian situations in the Gaza Strip, Afghanistan, Somalia and Sri Lanka, among other areas, where civilians continued to be the victims of conflicts.

Reiterating resolution 1674 (2006), and while acknowledging that the parties to armed conflict bore the primary responsibility to protect civilians, a number of speakers stated that when those parties failed to do so, the international community had the duty to intervene.<sup>82</sup> Many delegations shared the view that efforts to protect civilians must be placed at the heart of the Council’s work, and called on the Council

<sup>80</sup> The representatives of Argentina, Canada (on behalf also of Australia and New Zealand), Colombia, Germany (on behalf of the European Union), Guatemala, Israel, Italy, Japan, Liechtenstein, Mexico, Myanmar, Nigeria, the Republic of Korea and Rwanda.

<sup>81</sup> S/PV.5703, pp. 2-7.

<sup>82</sup> *Ibid.*, pp. 7-8 (Panama); pp. 8-9 (Peru); pp. 9-10 (United States); pp. 10-11 (Italy); pp. 19-20 (United Kingdom); pp. 23-24 (Belgium); pp. 33-35 (Canada, on behalf also of Australia and New Zealand); pp. 35-36 (Liechtenstein); and pp. 37-38 (Rwanda).

and the Organization as a whole to do more to promote the principle of the “responsibility to protect”.

The representative of the Russian Federation said that while the responsibility for the protection of civilians fell on the Governments of States where conflict was occurring, such responsibility “should also be kept in mind by other parties that might be drawn into various conflict situations”. The concept of the responsibility to protect must be interpreted in strict compliance with the 2005 World Summit Outcome, and its implications must be considered by the General Assembly on the basis of the principles of the Charter and international law.<sup>83</sup>

The representative of China reiterated that the concept of the responsibility to protect should be understood and applied “correctly”. He recalled that the 2005 World Summit Outcome had requested the General Assembly to continue its consideration and enrichment of the concept. He stressed that there were still differing understandings and interpretations of the concept among Member States, and that the Security Council should therefore refrain from invoking the concept of the responsibility to protect.<sup>84</sup>

In order to promote the protection of civilians, many delegations called for the steady implementation of resolution 1674 (2006), through better monitoring and other measures. The representatives of France and the United Kingdom opined that the Council could continue to ensure that, where appropriate, United Nations peacekeepers were given robust mandates and necessary support to protect civilians from violence, and that the doctrine of protection of civilians in peacekeeping operations should be elaborated.<sup>85</sup> The representative of Canada called for the development of clear guidance for the implementation of resolution 1674 (2006).<sup>86</sup> The representative of the Republic of Korea believed that, because each conflict was different, the Council should develop a mechanism for case-by-case analysis of the situation of the respective civilian populations.<sup>87</sup>

At its 5781st meeting, on 20 November 2007, the Council included in its agenda the report of the

Secretary-General on the protection of civilians in armed conflict.<sup>88</sup> The Council heard statements by the Secretary-General, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, and the Director General of ICRC. In addition to Council members, statements were made by 20 representatives.<sup>89</sup>

In his report, the Secretary-General outlined the persistent challenges to the protection of civilians in various conflicts around the world. The report contained an update on progress made in implementing resolution 1674 (2006) and on strengthening the framework for the protection of civilians elaborated by the Council and other partners in recent years. He observed that a critical and consequential next step towards operationalizing resolution 1674 (2006) and ensuring action that would have a tangible impact on the ground would be more systematic attention in the daily deliberations of the Council to the concerns and recommendations made in this and previous reports on the protection of civilians.

The Secretary-General highlighted in his report four challenges of particular importance, and in regard to which the Council and Member States could take action to ensure a more systematic and robust response, and for which he also introduced a set of recommended actions. To face the first challenge, ensuring access to civilians in need, the Secretary-General recommended the establishment of arrangements to agree upon the routes and timing of humanitarian convoys and airlifts to avoid accidental strikes on humanitarian operations; high-level diplomacy to promote humanitarian corridors and days of tranquillity; and the development of a standard moratorium on visa requirements and travel permits for humanitarian workers, and on Customs duties and import restrictions on humanitarian goods and equipment. The moratorium could be activated upon the recommendation of the Emergency Relief Coordinator where there was a need for rapid and life-saving assistance. For the second challenge, ensuring a more robust response to sexual violence, he called first on Member States to ensure that incidents of sexual

<sup>83</sup> *Ibid.*, pp. 22-23.

<sup>84</sup> *Ibid.*, pp. 16-17.

<sup>85</sup> *Ibid.*, pp. 13-14 (France); and pp. 19-20 (United Kingdom).

<sup>86</sup> *Ibid.*, pp. 33-35.

<sup>87</sup> *Ibid.*, pp. 36-37.

<sup>88</sup> S/2007/643.

<sup>89</sup> The representatives of Angola (on behalf of the Group of African States), Argentina, Australia, Austria, Canada, Colombia, Guatemala, Iceland, Israel, Japan, Liechtenstein, Mexico, Nepal, New Zealand, Nigeria; Norway, Portugal (on behalf of the European Union), Senegal, Switzerland and Viet Nam.

violence were investigated and punished, including through the deployment of the principle of command responsibility and amending national legal systems to that effect; secondly, he called on prevention and response activities by humanitarian actors to be strengthened and better coordinated, including through the establishment of a clear and dedicated “institutional home” within the United Nations to coordinate activities, ensure provision of expertise in the field, develop system-wide advocacy and act as a repository of best practices. Regarding the third challenge, ensuring a more effective response to housing, land and property issues, he recommended relevant parties, including United Nations peacekeeping operations to take the following actions: preventive and deterrent actions, including strategic deployment of peacekeepers to prevent evictions and illegal expropriations, and the identification and prosecution by national courts or the International Criminal Court of those criminally responsible for the illegal appropriation or destruction of land and property; preparatory actions, such as early identification and registration of land and property abandoned by internally displaced persons and refugees to facilitate restitution or compensation, and the issuance of ownership documentation where this has been lost or destroyed; and restorative actions, such as the inclusion of the right to return and restitution of housing, land or property in all future peace agreements and all relevant Council resolutions, and the inclusion of housing, land and property issues as an integral part of future peacekeeping and other relevant missions. Lastly, with respect to the fourth challenge identified, eliminating the humanitarian impact of cluster munitions, the Secretary-General called on Member States to conclude a treaty which prohibited the use, production and stockpiling of such munitions, required the destruction of current stockpiles, and provided for clearance and other risk-mitigating activities; and, until such a treaty was concluded, to immediately freeze the use and transfer of cluster munitions. In concluding, the Secretary-General recommended the establishment of a dedicated, expert-level working group to facilitate the systematic and sustained consideration and analysis of protection concerns, and ensuring consistent application of the aide-memoire for the consideration of issues pertaining to the protection of civilians<sup>90</sup> in Council deliberations on the mandates of United

<sup>90</sup> S/PRST/2003/27, annex.

Nations peacekeeping and other missions, draft resolutions and presidential statements and other relevant tasks.

In his opening remarks, the Secretary-General noted that the protection of civilians remained an “absolute priority” for the United Nations, and above all for the Member States with whom the primary responsibility for protecting civilians rested. He stated that there had been some progress in recent years, but the establishment of a Security Council working group on the protection of civilians was almost an “inevitable next step”. He noted that thousands of children had been killed and wounded in conflict each year, and that the new monitoring mechanisms and a dedicated Special Representative were vital tools to help remedy that situation.<sup>91</sup>

Introducing the report of the Secretary-General, the Under-Secretary-General stated that its recommendations for action would be critical for a more systematic consideration by the Council of protection of civilians concerned, and the implementation of the Council’s landmark resolution 1674 (2000). He then described the appalling conditions and threats facing civilians around the world, including the increasing trend of suicide attacks, which often directly targeted civilians.<sup>92</sup>

The Director General of the International Committee of the Red Cross stated that despite recent operational initiatives and developments in international legal norms, the world’s response to forced displacements, forced disappearances and sexual violence remained inadequate. Recognizing that Council resolutions incorporated the protection of civilians as a standard aspect of peacekeeping operations, he stressed that their protection by United Nations peacekeepers implied a military and security dimension which must be clearly distinguished from protection activities carried out by humanitarian actors.<sup>93</sup>

In the ensuing debate, speakers expressed concern about restrictions imposed on humanitarian organizations to access the civilian population in conflict areas, and called upon parties to the conflict to comply with the relevant humanitarian laws. Stressing the importance of unhindered access to civilian populations in armed conflict, speakers expressed

<sup>91</sup> S/PV.5781, pp. 2-4.

<sup>92</sup> *Ibid.*, pp. 4-7.

<sup>93</sup> *Ibid.*, pp. 27-29.

support for the Secretary-General's proposal to report problems of access to the Council.

In order to improve the work of the protection of civilians in armed conflict, speakers noted the need for the Council to ensure that parties to the conflict and peacekeeping complied with international humanitarian law and human rights. Most speakers condemned sexual violence and shared the view that those responsible for that crime should be brought to justice. The representative of the United States applauded the adoption by the Third Committee of the General Assembly of a draft resolution calling on States to end impunity by prosecuting those responsible for sexual violence.<sup>94</sup> The representative of the United Kingdom emphasized that United Nations peacekeeping missions should have a crucial role in tackling sexual violence,<sup>95</sup> and several speakers expressed concern about acts of sexual exploitation and abuse by United Nations peacekeepers. The representative of South Africa stressed that it was important to ensure that all peacekeepers were adequately trained before deployment to address the specific needs of women and children.<sup>96</sup>

With regard to the functions of the proposed special representative on the prevention of genocide and mass atrocities, the representative of the Russian Federation requested that the Secretary-General provide more details on the broadening mandate of the Special Representative. He stated that this would help the Council to clarify what exactly was meant by the term "mass atrocities" and how the new mandate would

interface with the work of other agencies in the United Nations system.<sup>97</sup>

Regarding the proposed establishment of a working group on protection of civilians, the representatives of France, Italy, Slovakia, Liechtenstein and Senegal welcomed the initiative.<sup>98</sup> The representative of Panama emphasized that, before developing new structures, there was a need to address the Council's working methods.<sup>99</sup> The representative of the Russian Federation expressed reservations, however, because he felt it was a bureaucratic step, and that instead of developing new bureaucratic structures the United Nations should be ready to act quickly in alignment with international humanitarian law and decisions of the Security Council.<sup>100</sup> While welcoming the idea of inviting Council members to informal briefings by the Office for the Coordination of Humanitarian Affairs, the representative of the United States was not convinced that a formal working group was necessary.<sup>101</sup>

A number of speakers expressed concern about the impact of cluster munitions on civilians and supported measures aimed at restricting their use. Noting that cluster munitions continued to be legitimate weapons when employed properly and in accordance with existing international humanitarian law, the representative of the United States opined that the Convention on Certain Conventional Weapons was the right framework in which to take up that issue.<sup>102</sup>

<sup>94</sup> Ibid., pp. 19-22. The draft resolution was adopted by the General Assembly as resolution 62/134.

<sup>95</sup> S/PV.5781, pp. 11-12.

<sup>96</sup> Ibid., pp. 14-15.

<sup>97</sup> Ibid., pp. 8-9.

<sup>98</sup> Ibid., pp. 12-14 (France); pp. 16-17 (Italy); pp. 22-23 (Slovakia); S/PV.5781 (Resumption 1), pp. 15-17 (Liechtenstein); and pp. 8-9 (Senegal).

<sup>99</sup> S/PV.5781, pp. 10-11.

<sup>100</sup> Ibid., p. 9.

<sup>101</sup> Ibid., pp. 19-22.

<sup>102</sup> Ibid.

## 40. Small arms

### **Decision of 19 January 2004 (4896th meeting): statement by the President**

At its 4896th meeting, on 19 January 2004, the Security Council included in its agenda the report of the Secretary-General on small arms of 31 December 2003.<sup>1</sup> The report reflected initiatives undertaken to

implement the recommendations of the Secretary-General on ways and means in which the Council could contribute to dealing with the question of illicit trade in small arms and light weapons in situations under its consideration.<sup>2</sup>

<sup>1</sup> S/2003/1217, submitted pursuant to the statement by the President of 31 October 2002 (S/PRST/2002/30).

<sup>2</sup> Recommendations contained in the Secretary-General's report on small arms of 20 September 2002 (S/2002/1053).