

**Security Council Open Debate on the Protection of Civilians in Armed Conflict**

**Statement by Mr. John Holmes**

**Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator  
26 June 2009**

Mr. President,

Thank you for this opportunity to brief the Security Council.

On this day in 1945, fifty States gathered in San Francisco to sign the United Nations Charter in an expression of their determination, in the words of the preamble, to save succeeding generations from the “scourge” and the “untold sorrow” of war; and to ensure the use of armed force only in the “common interest”.

This determination to save succeeding generations from the scourge of war remains unfulfilled in all too many parts of the world. The sorrow and, I would add, the brutality of war continue to be felt by untold millions of civilians, trapped by conflict or forced into flight. It is precisely against them and their rights and interests that armed force is so often used with devastating effect.

As the report of the Secretary-General before you today makes clear, a large part of the reason for this distressing state of affairs lies in the fundamental failure of parties to conflict – deliberately or otherwise – to respect and ensure respect for their obligations to protect civilians.

It is a failure that demands, in the words of the Secretary-General, a reinvigorated commitment from us all to the Council’s protection of civilians agenda and to promoting respect for the principles of international humanitarian law, human rights law and refugee law.

Mr. President,

In the last ten years, the protection of civilians in armed conflict has assumed a prominent place on the Council’s agenda, as manifested in these regular open debates, the Secretary-General’s periodic reports, and the four thematic Security Council resolutions on the protection of civilians.

Most importantly, concern for the protection of civilians has increasingly permeated the country-specific deliberations and decisions of the Council. Regular meetings of the Expert Group on the protection of civilians and the systematic application of the revised Aide Memoire – a published, user-friendly version of which has been distributed to the Council this morning – should further enhance the Council’s response to protection issues in a more comprehensive and systematic way.

Yet, and as the five months since my last briefing have once again shown, the reality on the ground has not changed in the same way at all. We cannot be remotely satisfied with the situation we see in so many parts of the world today. Lip service to the principles of international law is no substitute for real action.

And the latter is in sadly short supply. Much greater efforts are required to enhance compliance and, for that matter, accountability on the ground. That is to say, compliance by all parties to conflict with the applicable law and the demands and decisions of this Council; and accountability for those individuals and parties that fail in these respects.

Mr. President,

The Secretary-General's report sets out five core challenges.

The first is enhancing compliance by parties to conflict with international humanitarian law and human rights law, with particular concern over the conduct of hostilities.

The lack of compliance leads not only to the death and injury of hundreds of civilians in conflicts every week, but to the displacement of thousands more. The word displacement does not do justice to the reality - that is thousands of innocent civilians forced every single week to flee attacks and the destruction of their homes, their communities and their livelihoods, and to fall into an existence marked by danger, suffering and psychological anguish.

While the weapons have finally – and thankfully – fallen silent in Sri Lanka, deaths of civilians in such places as Somalia, Afghanistan and the Democratic Republic of Congo (DRC) constantly remind us of the urgent need for parties to conflict to be much more scrupulous in their efforts to spare civilians from the effects of hostilities.

In the Somali capital Mogadishu, the eruption last month of renewed hostilities between forces aligned with the Transitional Federal Government and non-State armed groups has been marked by the bombing of civilian areas and street battles with little or no regard for the safety and security of the civilian population. Since the first week of May, more than 200 civilians have been killed and over 800 wounded, while some 160,000 more people have fled their homes.

In Afghanistan, the number of civilians killed and injured in the fighting continues to rise as the conflict intensifies, particularly in the south. The United Nations Assistance Mission (UNAMA) reports that 261 civilians were killed in May alone. Anti-government elements remain responsible for the majority of these civilian deaths through attacks on residential areas and schools, the use of improvised explosive devices (IEDs), and often targeted or otherwise reckless suicide attacks.

Suicide attacks and bombs left in public places have become so common place, not just in Afghanistan but also in such places as Iraq and Somalia, as to warrant no longer the same

degree of attention and outrage as they once did. Yet their impact on civilians is no less devastating; the responsibility of those who orchestrate them, no less grave; and the need for systematic and effective condemnation from those in positions of authority and influence, including religious authorities, no less urgent.

Civilians continue to die in Afghanistan also as a result of the actions of pro-Government forces, particularly during air strikes. I welcome recent statements from the incoming leadership of United States and international armed forces in Afghanistan on the need to reduce civilian casualties, to review rules of engagement and ensure their strict observance.

We will monitor such efforts closely, just as we continue to carefully monitor the situation of the civilian population in the North and South Kivu provinces of the DRC. Since January, a wave of attacks on the civilian population by the Democratic Front for the Liberation of Rwanda (FDLR), including all too common acts of rape and other forms of sexual violence, has driven more than 370,000 people from their homes.

Alarming, the allegations of violence and abuse committed against civilians extend to members of the Congolese armed forces (FARDC) engaged in Operation Kimia II in South Kivu. Elsewhere in the region, the Lord's Resistance Army continues to spread fear and death among the civilian population, with frequent attacks and abductions in the Haut-Uele Province.

Mr. President,

The choice of weapons is critical in minimizing and reducing the impact of hostilities on civilians. We have seen significant progress in efforts to address the humanitarian impact of cluster munitions, with the adoption last year of the Convention on Cluster Munitions.

Such progress is welcome but there is a broader concern, expressed in the report, at the indiscriminate and severe humanitarian impact of explosive weapons more generally, particularly when used in densely populated areas, as we have seen in recent conflicts. I would join the Secretary-General in urging Member States, in consultation with relevant United Nations and other actors, to consider this issue further, including addressing the widespread use of IEDs in densely populated areas.

Mr. President,

As noted in the Secretary-General's report, the Council has an important role to play in promoting systematic compliance with the law in situations on its agenda. This includes consistently condemning violations, without exception, and demanding compliance. It also includes the threat and application of targeted measures in cases of non-compliance; and requests for reports on violations and the mandating of commissions of inquiry where concerns exist regarding serious violations of international humanitarian and human rights law.

But the Council's concern cannot be limited only to those situations formally on its agenda. Even conflicts that are not perceived by all Council members to have implications for international peace and security can have a dramatic impact on the protection of civilians and can warrant Council action.

Mr. President,

As I mentioned in my briefing in January, it is relatively straightforward, if not always productive, for us to raise concerns over the conduct of hostilities and other protection issues directly with States and national armed forces.

But we cannot, as humanitarians, talk to only one side. We must be able to engage and seek compliance by all parties to conflict, including non-State armed groups – the second of the five challenges identified in the report.

Unpalatable though this may be for some States, the simple yet brutal reality is that the failure to engage armed groups is always likely to mean more, not fewer, civilians killed and wounded. It is essential also to gaining access to those in need and to establishing a safe and secure environment in which the activities of humanitarian organizations are accepted and respected.

Various initiatives can and have been pursued to this end. These include training and the conclusion of special agreements or codes of conduct, through which groups commit to comply with their obligations.

As recommended by the Secretary-General, as a first step towards a more comprehensive approach to addressing the actions of non-State armed groups, I would urge the Council to convene an Arria formula meeting to discuss the experience of United Nations and non-governmental actors in engaging armed groups; and to help identify additional measures that the Council and Member States could take to improve their compliance.

Mr. President,

The inclusion of protection activities in the mandates of United Nations peacekeeping and other relevant missions has been a significant feature of the Council's efforts to improve protection on the ground. From Sierra Leone in the past, to present day Democratic Republic of Congo and Sudan, peacekeeping operations have made, and continue to make, important contributions to the safety and security of civilians.

The challenge now, as identified in the report, is to maximise their impact by addressing the disconnect between mandates, intentions, expectations, interpretations and implementation capacity.

Practically, that means providing clear and practical guidance to heads of missions and force commanders on implementing protection mandates.

It means the development, on a more systematic basis, of mission-specific protection strategies, and the spread of best-practice innovations.

And it also means, to paraphrase resolution 1674, ensuring not only that protection is prioritized in decisions concerning the use of available capacity and resources, but more crucially still, that the capacity and resources provided are genuinely appropriate for the task of protecting civilians.

These and other issues will be addressed in the forthcoming independent study, commissioned by the Office for the Coordination of Humanitarian Affairs and the Department for Peacekeeping Operations, to be completed this summer. Its recommendations for improving the impact of protection mandates will be shared with the Council.

Mr. President,

Among the protection tasks assigned to peacekeeping missions, creating conditions conducive to the provision of humanitarian assistance has in many cases been critical. It has, undoubtedly, helped save lives in such places as Chad, DRC and Sudan.

But peacekeeping missions are not present in all situations. Moreover, humanitarian organizations should not need to rely on such missions to help ensure their access to civilians in need.

The Council itself has called on all parties concerned, including non-State actors and neighbouring States, to cooperate fully with the United Nations in providing safe, timely and unimpeded access to civilians in armed conflict.

Yet, as detailed in the annex to the report, our access to conflict-affected populations is too often unsafe and not timely enough, and too frequently impeded. Millions of vulnerable people are deprived of assistance as a result. Enhancing access to those in need is identified as the fourth challenge in the report.

Many factors interfere with access. But three constraints are the most severe and most widespread.

First is burdensome bureaucracy: permissions and travel notifications restrict movement of humanitarian actors, while customs and quotas on goods stifle the flow of aid. The result is those in need not receiving the assistance they need, when and where they need it.

In Gaza for example, the criteria used by the Israeli authorities for allowing the import of goods remain unpredictable. Medical supplies can be subject to particularly long delays. Israel's decision in March of this year to allow the unrestricted entry of all foodstuffs from Government-approved sources remains largely unimplemented. Despite major shelter and reconstruction needs following the hostilities earlier this year, only a fraction of the required construction materials have so far been allowed into Gaza.

In Sudan, the convening of the now-expanded High Level Committee represents significant progress towards renewed cooperation to facilitate humanitarian action in Darfur. The Committee must now be replicated at the state level in Darfur, in order to eliminate inconsistencies in implementation and maximise aid effectiveness, especially given the upcoming “hunger gap” and rainy season.

Secondly, all too often parties to conflict neglect to ensure the well-being of conflict-affected populations during intense hostilities, even when they need emergency medical assistance.

In Somalia, for example, the renewed hostilities in Mogadishu have led some humanitarian actors to cease activities in recent weeks, including medical services for the civilian population at a time when humanitarian needs are significantly rising.

It is critical that parties to conflict allow and facilitate the delivery of humanitarian assistance in such circumstances, including through such operational measures as de-conflicting arrangements, days of tranquillity, and humanitarian pauses. They must also allow safe passage to civilians seeking to flee zones of fighting.

The most abhorrent and worrying constraint on access stems from violence against humanitarian operations and staff themselves, which has steadily increased over the past decade, including a sharp rise in attacks affecting United Nations agencies since 2006. 2008 was the worst year on record for all humanitarian actors taken together.

I am currently particularly concerned for humanitarian personnel in Afghanistan, Chad, DRC and Somalia. The dangers and deaths in Somalia and Afghanistan are well known. Three local NGO humanitarian workers were murdered earlier this week in Afghanistan.

In Chad, violent criminality continues to impede humanitarian operations, including situations where humanitarian convoys have been caught in the crossfire when accompanied by armed escorts. In the DRC, attacks on humanitarian workers have averaged one every three days since the start of 2009.

Such incidents are unfortunately not aberrations, and they will not disappear without concerted action. Humanitarian workers are targeted on occasion for political reasons. Relief supplies and assets are viewed as soft targets for criminal exploitation.

Critical in this regard is broadening the understanding and acceptance among all actors – State and non-State – of the purpose of independent, neutral and impartial humanitarian action.

The Council has an important role to play in bringing this about.

Possible steps in particular situations include calling on parties to allow and facilitate the provision of assistance; to allow safe passage for civilians seeking to flee zones of fighting; to conclude and implement agreements to expedite the deployment of humanitarian staff and assets; and to condemn systematically acts of violence targeting humanitarian workers.

Above all, the Council should ensure that constraints on access have consequences for those that impose them and not just for those that suffer from them. That means, for example, applying targeted sanctions against individuals obstructing access, or perpetrating attacks against staff; and even being ready to refer situations involving the prolonged and wilful impediment of relief, or attacks against humanitarian workers, to the International Criminal Court (ICC).

Mr. President,

Just as constraints on access must have consequences, so too must other violations of international humanitarian law and human rights law. And with obvious good reason. It is to a large degree the absence of accountability and, worse still, the absence in many instances even of any expectation or fear of accountability, that allows violations to thrive. Addressing this culture of impunity is the fifth challenge identified in the report.

Ensuring accountability begins with training combatants on the law, issuing manuals, orders and instructions setting out their obligations and establishing effective disciplinary measures to ensure their observance.

It includes adopting national legislation for prosecuting genocide, crimes against humanity, war crimes and other serious violations of human rights law. And it extends to ratification of the ICC Statute and full cooperation with the Court and similar mechanisms.

For the Council, it means insisting on such cooperation and, if necessary, enforcing it through targeted sanctions. And it means systematically requesting reports on violations and mandating commissions of inquiry to examine situations of concern.

In practical terms, in the DRC, for example, this translates into ensuring accountability for the seemingly endless and appalling stream of acts of sexual violence attributable to all parties. It also means that allegations of violations committed by members of the FARDC, including but not only in the context of Operation Kimia II, be investigated and their perpetrators held to account.

The establishment by MONUC of a rapid response and early warning cell to collect information on cases of ill-discipline and human rights violations committed by the FARDC is a welcome step. In the meantime, the FARDC should itself redouble its efforts to instil discipline and respect for the law into its troops.

In Afghanistan, accountability means prompt and credible investigations into air strikes, and other incidents causing the death or injury of civilians or damage to civilian property, with adequate and timely information provided on the outcome of investigations and payments made to those affected.

And in situations like that of Sri Lanka, it means key members of the international community and this Council supporting international calls for an independent investigation into alleged violations committed during the hostilities.

Accountability also means reparations. I would urge the Council to call on States to establish, or itself to mandate, in relevant contexts, mechanisms to receive claims alleging violations of international humanitarian law and human rights law.

Mr. President,

The last ten years have provided us with a tantalizing sense of the potential of the protection of civilians agenda. We now have to realize that potential by meeting these five core challenges.

We will consult with Member States on further possible steps to make the most of the tools at the Council's disposal in advance of the next protection of civilians debate in November, which will mark the tenth anniversary of the Council's consideration of the protection of civilians as a thematic issue.

Ultimately, the aim must be to enhance compliance and accountability, not just in respect of the law but also, crucially, in respect of the demands and decisions of this Council. The Council's willingness and ability to uphold and enforce its own demands and decisions is inevitably the real test of its commitment to the protection of civilians.

Thank you very much.