

Security Council Open Debate on Protection of civilians in armed conflict, February 12th 2013, Security Council Chamber

Statement by Mr. Mammadyarov, Permanent Mission of Azerbaijan to the United Nations.

First of all, I would like to thank the Republic of Korea and you personally, Mr. Minister, for convening this important open debate on the protection of civilians in armed conflict and for submitting a concept note on the topic (S/2013/75, annex). We are also grateful to the Secretary-General, the United Nations High Commissioner for Human Rights and the Director for International Law and Cooperation of the International Committee of the Red Cross for their statements.

A response to the large-scale atrocities perpetrated during the Second World War served as the basis for the founding of the United Nations, the proclaiming of fundamental values, such as peace and respect for human rights, and the establishment of multinational judicial institutions. The significant development of international norms and standards for the protection of civilians and the engagement of the Security Council, including the adoption of a number of important documents and practical steps towards their implementation, have given rise to increased attention to the issue.

However, efforts to ensure a peaceful, just and prosperous world have not always been consistent and successful. As a consequence, civilians continue to suffer from inadequate protection and discriminatory treatment in situations of armed conflict. As the latest report of the Secretary-General on the topic acknowledges:

“Despite some progress, the reality on the ground continues to be characterized by the frequent failure of parties to conflict to comply with their obligations under international humanitarian law to respect and protect civilians as well as with relevant human rights obligations.” (S/2012/376, para. 4)

Azerbaijan's consistent position with regard to the issue under consideration is well known and stems from its keen interest in contributing to the achievement of sustainable peace and development and from our practical experience in addressing the impact of armed conflict on civilians. The war unleashed by neighbouring Armenia against my country and the military occupation of our territories have had a considerable impact on civilians. As a result of that aggression, Azerbaijan continues to suffer from having one of the highest numbers of refugees and displaced persons in the world. At present, approximately one of every nine persons in the country belongs to that category. Twenty-one years ago, an unprecedented massacre was committed against the Azerbaijani population in the town of Khojaly. In one night, more than 600 civilians were killed in that town only because they were Azerbaijanis. Not even women, children and elderly were spared by the invading Armenian troops and irregular local armed groups.

In all its four resolutions adopted in 1993 in response to the occupation of the territories of Azerbaijan (resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993)), the Security Council referred specifically to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and the bombardment of inhabited areas. We are confident that the consistent measures being taken at the national level, as well as the existing international legal framework, will serve to bring to justice those responsible for the grave offences committed against the civilian population of Azerbaijan during the conflict. It is incontrovertible today that no official or political status cloaks the person concerned with immunity for the most serious international crimes, such as war crimes, crimes against humanity, genocide and ethnic cleansing.

In recent years, important steps have been taken for the protection and vindication of rights and the

prevention and punishment of crimes that have an international dimension and scope. Indeed, ending impunity is essential not only for the purposes of identifying responsibility for both parties to the conflict and individual perpetrators but also for ensuring sustainable peace, truth, reconciliation, the rights and interests of victims and the well-being of society at large.

Unfortunately, not all grave violations of international humanitarian and human rights law have received due attention and a response at the international and regional levels. As a result, past wrongs left unpunished and unrecognized continue to impede progress in achieving the long-awaited peace and reconciliation and could even play a key role in the eruption of new conflicts and the commission of new crimes.

More resolute and targeted measures are required to end impunity in such situations. We concur with the Secretary-General that where national authorities fail to take the steps necessary to ensure accountability, the international community and the Council should play a more proactive role in ensuring an appropriate response, including through the establishment of international commissions of inquiry and fact-finding missions and in supporting the implementation of their recommendations. It is also essential to emphasize the role of the relevant humanitarian mandates in ensuring that all situations of armed conflict, including those of a protracted nature, receive due attention by the international community.

It is important to repeatedly recall that the establishment of truth in respect to gross violations of international humanitarian and human rights law, the provision of adequate and effective reparations to victims and the need for institutional actions to prevent the repetition of such violations are all necessary adjuncts to true conflict resolution and imperative with regard to the effective and politically uncompromising system of international criminal justice. In any event, the conflict resolution initiatives considered by the Security Council and regional arrangements must ensure that peace and justice work together effectively. Such an approach provides that no peace settlement can be reached if it is inconsistent with international law, particularly where peremptory norms and the rules and standards of international humanitarian and human rights law are concerned.

It is essential that peace efforts and peace agreements never encourage the acceptance of situations achieved by the unlawful use of force and other egregious violations of international law, such as war crimes, crimes against humanity, genocide and ethnic cleansing. On the other hand, in situations of protracted armed conflict, the lack of agreement on political issues cannot be used as a pretext for not addressing problems caused by continued and deliberate disrespect for international humanitarian human rights law.

Particular consideration must be given to implications for the protection of civilians in armed conflicts aggravated by population displacements and foreign military occupation. The impact of conflict on housing, land and property, as well as discrimination on ethnic grounds and forced demographic changes in such situations, require a more consistent approach in order to put an end to illegal practices and policies and to ensure the safe and dignified return of displaced populations to their homes.

It is important that the recognition of the right to return, along with increased attention to its practical implementation and concrete measures aimed at overcoming obstacles that prevent return, be applied by the international community with more systematic regularity. As the Secretary-General made clear in an earlier report on the protection of civilians in armed conflict,

“[e]nsuring the right to return constitutes a categorical rejection of the gains of ethnic cleansing ... and offers some measure of justice to those displaced from their homes and land, thereby removing a source of possible future tension and conflict” (*S/2007/643, para. 55*).

Among the pressing issues requiring urgent action and attention is that of civilians, including women and children, taken hostage and reported missing in connection with armed conflict. Azerbaijan continues its efforts to address that disturbing phenomenon, including through the relevant biannual resolution of the General Assembly and the Commission on the Status of Women, of which my country is a main sponsor.

It is important that the Security Council consistently maintain its focus on the protection of civilians. Azerbaijan would support more systematic and frequent discussions on the topic during briefings and consultations, as well as at informal meetings, such as Arria Formula meetings.

In conclusion, I would like once again to commend the initiative of the Republic of Korea to convene this open debate on the protection of civilians and to advance that significant theme in the work of the Security Council. We welcome the draft presidential statement to be adopted later as the outcome of today's meeting. It contains a number of the aforementioned key components of our position and approach on the topic.