

**Security Council Open Debate on Women, Peace and Security**  
**Tuesday, 26th October 2010, Security Council Chamber (GA-TSC-01)**

***Statement by Baroness Valerie Amos, Head of UN OCHA***

This briefing to the Security Council on the protection of civilians in armed conflict is an opportunity to measure the progress made by parties to conflict in meeting their obligations to protect civilians.

The Secretary-General's report (S/2010/579) paints a very bleak picture of the state of the protection of civilians. Any positive and encouraging developments are heavily outweighed by what is happening on the ground: the continuing and frequent failure of parties to conflict to observe their international legal obligations to protect civilians. Complementary to that is the failure of national authorities and the international community more broadly to ensure their accountability in any meaningful, comprehensive and systematic sense.

As the Secretary-General's report notes, the progress made in the last 18 months has been in the further strengthening of the Council's approach to protection. That has been embodied in the Council's thematic resolutions on the protection of civilians, on women and peace and security, and on children and armed conflict. Increasingly, that progress has been embodied in situation-specific resolutions, where the Council's informal Expert Group on the Protection of Civilians has played an important role; in the further development of international legal standards; in the efforts of United Nations actors — in particular humanitarian agencies and peacekeeping missions — and other international and non-governmental organizations to enhance protection on the ground; and above all, in the courage and ingenuity of the affected populations themselves. Those are all important and welcome developments, but as the report of the Secretary-General makes clear, more needs to be done to tackle the five core challenges that inhibit more effective protection for civilians. Those challenges are: to enhance compliance by parties to conflict with international law, to enhance compliance by non-State armed groups, to enhance protection by United Nations peacekeeping and other relevant missions, to enhance humanitarian access, and to enhance accountability for violations.

Improving compliance by parties to conflict with international humanitarian law and human rights law remains particularly important, especially in the conduct of hostilities. In countries like Afghanistan, the Democratic Republic of the Congo, Somalia and the Sudan, civilians are frequently targeted or fall victim to indiscriminate or disproportionate attacks. In the Democratic Republic of the Congo, the Lord's Resistance Army (LRA) has carried out over 200 attacks on villages in the North-East of the country since January. Between July and September, 75 attacks were reported in the Central African Republic, the Democratic Republic of the Congo and Southern Sudan. Ninety civilians were killed in these attacks, and over 100 abducted. In Somalia, clashes in Mogadishu and the southcentral part of the country continue to result in high numbers of civilian casualties, deaths and displacement. Between July and September, at least 300 people were killed and over 500 wounded by fighting between Government forces and their allies and insurgent groups. At least 8,000 Somalis flee the country every month.

I remain profoundly concerned at continuing reports of attacks, including aerial bombing, carried out by the Sudanese Armed Forces in populated areas of the Jebel Marra region of Darfur. These have resulted in civilian deaths and injuries, and some 100,000 people have been displaced. With limited humanitarian access, mostly due to Government restrictions, it has been difficult to gain a clear picture of the situation and of the numbers and locations of the displaced and other vulnerable groups. Where we are unable to promote and encourage compliance with the law, the Council must do more to enforce. This includes following through on the willingness expressed in resolution 1894 (2009) to respond to situations of conflict where civilians are targeted or humanitarian assistance is deliberately obstructed.

I would like to draw particular attention to the concern raised in the report over the humanitarian impact of explosive weapons, particularly when used in densely populated areas. As the inhabitants of Baghdad, Gaza, Mogadishu, the Vanni region of Sri Lanka and elsewhere can attest, explosive weapons such as artillery shells, missile and rocket warheads and bombs can cause substantial and ongoing civilian suffering when used in populated areas. Civilians within the vicinity of an explosion are likely to be killed or injured by the blast and

fragmentation from such weapons. They may be harmed by the collapse of buildings or suffer as a result of damage to essential infrastructure, such as hospitals and sanitation systems. And they live with the threat posed by unexploded ordnance.

I would join the Secretary-General in urging Member States, United Nations actors, and international and non-governmental organizations to consider the issue of explosive weapons closely, including by supporting more systematic data collection and analysis of the human costs of explosive weapons use. I would urge also increased cooperation by Member States in collecting and making available information to United Nations and other relevant actors on civilian harm resulting from the use of explosive weapons. Policy statements outlining the conditions under which explosive weapons might be used in populated areas would also be invaluable.

Improved compliance with international humanitarian law and human rights law will remain elusive in the absence of and full acceptance of the need for systematic and consistent engagement with non-State armed groups. Experience in Colombia, Liberia, Nepal, the Philippines, Sierra Leone, Sri Lanka, the Sudan and the former Yugoslavia shows that lives can be saved by engaging armed groups in order to seek compliance with international humanitarian law in their combat operations and general conduct, to gain safe access for humanitarian operations, or to dissuade them from using certain types of weapons. An increasing number of Member States appreciate the importance of engagement for humanitarian purposes, but this must translate into greater consideration of the possible humanitarian consequences of national legal and policy initiatives that effectively inhibit humanitarian actors in engaging armed groups for humanitarian purposes. I am increasingly concerned by the growing body of national legislation and policies relating to humanitarian funding that limit humanitarian engagement with non-State armed groups that have been designated terrorist organizations. In the United States, for example, domestic legislation defines “material support” in such a way that it includes advocacy, technical expertise and advice, even when such activities are aimed at bringing the conduct of these non-State actors in line with international law. Across donor States, the threshold of what constitutes direct or indirect, or intentional or nonintentional material support to designated terrorist organizations varies; so too does the manner in which these are formulated in humanitarian funding policies. The result is a complex web of bureaucratic restrictions demanding extensive vetting of partner organizations and, in some instances, explicit prohibitions on contact with designated terrorist organizations as a condition of funding.

Humanitarian actors face potential criminal liability and prosecution for engaging with designated terrorist organizations in the course of, for example, securing the release of child soldiers or for simply delivering aid to civilian populations in an area controlled by such an organization. Measures of this sort can take us further from, rather than nearer to our goal of protecting civilians.

From Chad to Côte d’Ivoire, the Democratic Republic of Congo to Liberia, to Sierra Leone and the Sudan, United Nations peacekeeping missions have had a significant impact on enhancing the protection of civilian populations. Important measures are being introduced to further improve the implementation of protection mandates by such missions, based on the recommendations of the November 2009 independent study jointly commissioned by the Office for the Coordination of Humanitarian Affairs and the Department of Peacekeeping Operations (DPKO). Mr. Le Roy will speak to these shortly. I would like to touch on three issues in the Secretary-General’s report.

The first is mission drawdown. In recent months, United Nations peacekeepers have begun to withdraw from the Democratic Republic of the Congo, while the United Nations Mission in the Central African Republic and Chad is expected to withdraw completely by the end of this year. The protection and humanitarian implications of drawdown are context-specific. It is therefore essential that drawdown be based on the achievement of clear, context-specific benchmarks, including on the protection of civilians. Anything less risks instability, violence and further protection problems.

In advance of mission drawdown, the Security Council should insist upon the articulation of benchmarks relating to the protection of civilians and on the establishment of a mechanism to measure and report progress against those benchmarks. Resolution 1923 (2010) on the situation in Chad provides useful examples in both these respects. Early consideration must also be given to the likely resource implications for the humanitarian and development actors that remain once a mission has withdrawn. These can be considerable. Member States

must be fully aware of the need for increased voluntary contributions to support crucial ongoing humanitarian and development activities, especially those related to the protection of civilians.

Secondly, the protection of civilians is a shared responsibility. Humanitarian workers and peacekeepers have distinct roles and responsibilities, but these need to be brought together in a coherent and strategic way. I look forward to the completion of the strategic framework that is being prepared by DPKO, in conjunction with other United Nations actors, to guide the development of comprehensive protection strategies by peacekeeping missions. This will, I hope, go a long way towards ensuring the necessary coordination and consultation between different actors and improve our collective efforts on the ground. Thirdly, approaches to protection must involve the participation of affected communities and build on their capacities. This should be incorporated into mission protection strategies.

Access is a fundamental prerequisite to humanitarian action and yet, as the annex to the report demonstrates, it is frequently compromised. Bureaucratic constraints, active hostilities, deliberate attacks against humanitarian workers and the economically motivated theft of humanitarian supplies and equipment continue to undermine efforts to protect and assist those in need. In resolution 1894 (2009), the Council noted with grave concern the severity and prevalence of constraints on humanitarian access and the frequency and gravity of attacks against humanitarian personnel and their implications for humanitarian operations. It further stressed the importance of parties to conflict cooperating with humanitarian personnel in order to allow and facilitate access to conflict-affected populations. Importantly, the resolution reaffirmed the Council's role in promoting an environment that is conducive to facilitating humanitarian access.

The Council's continued attention to access constraints is welcome. However, greater precision is needed in specifying the nature of the constraints and the actions to be taken to counter them. The Council must ensure enhanced accountability for grave instances of deliberate delays or denials of access for humanitarian operations, as well as situations involving attacks against humanitarian workers. That can be achieved by encouraging domestic prosecutions or through referrals to the International Criminal Court. In line with resolution 1894 (2009), I stand ready to bring to the Council's attention situations where humanitarian operations are deliberately obstructed, and to suggest possible response actions for consideration by the Council.

As emphasized in resolution 1894 (2009), the primary responsibility for ensuring accountability for violations of humanitarian and human rights law rests first and foremost with States. In practical terms that means disseminating information about international humanitarian and human rights law. It means training combatants and ensuring that their orders and instructions comply with international law and are observed. When violations occur, it means investigating and prosecuting those responsible. Regrettably, instances of disciplinary action and national prosecutions are in short supply, despite mounting allegations of serious humanitarian law and human rights violations in today's conflicts. In some cases, a lack of capacity is to blame. I would urge Member States to provide the necessary technical and financial support to national efforts, or for consideration to be given to the establishment of so-called mixed courts and tribunals, as we see in Cambodia and Sierra Leone, to support much-needed investigations and prosecutions at the national level. In other cases, the fault lies in an absence of political will. However, unnecessarily slow or ineffective national efforts must not hinder the pursuit of accountability, including at the international level. The mandating of international commissions of inquiry sends an important signal that violations will be pursued and victims heard. Yet, while their utility is clear, their establishment is often politically fraught. We need to find ways of using such mechanisms on a more consistent and less politically influenced basis. As the Secretary-General notes, scrutiny must be the norm. I therefore welcome the Secretary-General's intention to request Secretariat departments directly involved in launching and supporting inquiries to undertake a review of the United Nations experience in these processes.

In addition to the various recommendations aimed at the Council and Member States, the Secretary-General's report identifies three actions that are implicit yet fundamental to enhancing our collective efforts to bring about more effective protection for civilians. First, we must ensure a comprehensive approach to protection. Resolution 1894 (2009) expresses the Council's willingness to respond to situations of conflict where civilians are being targeted or humanitarian assistance is being deliberately obstructed, including through the

consideration of appropriate measures at its disposal. I would urge the Council to extend that willingness to act to conflicts of which it is not already seized. These often raise many of the same, and sometimes more acute, protection concerns than we see in those situations already on the Council's agenda, and may equally warrant or demand Council attention. Secondly, we must ensure a consistent approach. We need greater consistency in the manner and extent to which the Council addresses protection in those contexts of which it is seized. The systematic application of the aide-memoire — an updated version of which has been adopted today — is crucial in that regard. So too is the continued use of the informal Expert Group and the consideration of other ways in which it could further inform the Council's deliberations. Those would be important steps in this direction.

Finally, we must ensure an accountable approach. Systematic monitoring and reporting on the impact of our efforts to improve the protection of civilians is essential. We need to assess and report on the extent to which our actions are making civilians safer. That also applies to all relevant actors, not only peacekeeping missions, as well as all relevant situations, not only those in which peacekeepers are present. As requested by the Secretary-General, we plan to develop indicators for systematic monitoring and reporting on the protection of civilians in armed conflict. The work of the Council on the protection of civilians in armed conflict is of prime importance. We face a sobering reality, and yet progress has been made. I hope that the Council will continue to be seized of this matter and keep the protection of civilians at the centre of its agenda.

In the interests of time, I will not respond to all of the detailed points that have been made, but I can reassure Council members that I have taken note of them. I would, however, like to respond to some of the recurring themes raised during the debate.

First, I welcome the support expressed for the informal Expert Group and the interesting proposals from a number of States to expand its use and increase its utility to the Council. I also welcome today's adoption of the updated aide-memoire (S/PRST/2010/25, annex).

I am encouraged that the majority of speakers have referred to the core challenges that we face in enhancing the protection of civilians and the need to redouble our efforts in that regard. Many speakers have underlined the need for compliance by parties to conflict with their obligations to protect civilians and the significance, in that respect, of ensuring the accountability of those who violate the law. Attention has been drawn too to the importance of safe, timely and unimpeded humanitarian access to those in need.

I welcome the focus on compliance and access. However, if we are to succeed in improving both, humanitarian actors must be able to engage with non-State armed groups. A small number of States have expressed the concern that humanitarian engagement may afford such groups legitimacy. That is not supported by our experience. Only through engagement can we promote and seek improved protection for civilians and have consistent and safer access to those in need.

I also took note of the support for improving monitoring against established benchmarks and indicators. I consider that a key gap in more successful implementation of protection measures on the ground and in reporting progress made in protecting civilians. I will report back to the Council on that in my next report.

Some speakers have raised concerns over the inclusion of certain situations in the report of the Secretary-General and their characterization as situations of armed conflict. Whether a situation constitutes armed conflict is determined by the facts on the ground. It is determined on the basis of criteria developed in the jurisprudence of international tribunals. Such a determination does not affect the legal status of the parties involved; it does not equate the parties in any way. And it should not be seen as judging or condemning the conduct of the parties. It is also completely separate from the determination of whether the use of force is legal and whether the actions of the parties comply with international humanitarian law and human rights law.

Finally, reference has been made to the nature of contemporary conflict marked by the struggle against non-State armed groups in so-called asymmetric warfare. I acknowledge the complexity of those challenges and would emphasize that international humanitarian law is no less relevant in those contexts. The law is very clear:

all parties to conflict must at all times take the necessary steps to spare the civilian population and distinguish at all times between civilians and combatants. Moreover, violations by one party, including non-State parties, do not permit or justify violations by any other party to that same conflict. Indeed, the nature of contemporary conflicts and the increasing prevalence of conflict in densely populated settings require ever more vigilance from the parties and determined efforts to respect and to ensure respect for their obligations under the law.

I look forward to working with the Council in the coming years in addressing protection-of-civilians concerns and issues relating to humanitarian action more broadly, as well as working with individual Member States. I also look forward to continuing the practice of bringing particular situation-specific concerns to the attention of the Council following my country missions.