

Security Council Open Debate on the Protection of Civilians in Conflict
November 9th 2011, Security Council Chamber

Statement by H.E. Mr. Sangqu, Representative of South Africa

We are pleased to see His Excellency President Cavaco Silva preside over this debate. My delegation wishes to express its appreciation to Portugal for facilitating the discussion on the crucial topic of the protection of civilians. We thank the Secretary-General, United Nations High Commissioner for Human Rights Navanethem Pillay, Assistant Secretary-General for Humanitarian Affairs and Deputy Emergency Relief Coordinator Catherine Bragg, and Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross, for their statements.

South Africa remains unwavering in its commitment to the protection of civilians in armed conflict. In this regard, we welcome this debate, with a particular focus on strengthening accountability mechanisms for violations of international humanitarian law. The protection of the lives of ordinary civilians, who are all too often the innocent victims of instability and strife in conflict zones, is paramount. International law clearly provides that the primary responsibility to protect civilians rests with the State. In this regard, we fully support the recommendations contained in the 2010 report of the Secretary-General (S/2010/579) regarding the strengthening of accountability measures such as national judicial institutions, and the signing and ratification of the Rome Statute. These actions should be encouraged.

Additionally, resolution 1894 (2009) offers practical recommendations and actions that the Council could employ to ensure accountability. These include the possibility of using the International Humanitarian Fact-Finding Commission to investigate allegations of grave breaches and serious violations of international humanitarian law, and of the Secretary-General including in his reports comprehensive and detailed information relating to the protection of civilians in armed conflict.

We fully support international efforts to ensure that the normative and legal framework developed to defend the weak and vulnerable trapped in armed conflict is strengthened and further enhanced. The protection of civilians is, by its very nature, politically sensitive yet a critical and vital task. We must ensure at the same time that such efforts are not abused to further objectives that fall outside the scope of this noble and moral endeavour and sensitive responsibility.

The prevention of conflict and, by extension, the protection of civilians in armed conflict embody the very objective for which the United Nations was established. Preventing conflict and protecting civilians constitute important commitments that we should all make and collectively endeavour to achieve. Recent positive developments in the Security Council have, in some ways, advanced that goal.

We wish to highlight in particular the recent advances in fostering the principle of accountability in two important areas of the Council's work, notably in protecting women and children. Here, we wish to reference the adoption on 28 October of a presidential statement in which the Council noted "that the fight against impunity for the most serious crimes of international concern committed against women and girls has been strengthened

through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals” and reiterated “its intention to enhance its efforts to fight impunity and uphold accountability for serious crimes against women and girls” (S/PRST/2011/20, p. 2).

With regard to children and armed conflict, we welcome the adoption of resolution 1998 (2011), in which the Council expanded the listing criteria for the Secretary-General’s reports to include parties to conflict that attack or threaten schools and hospitals.

As we celebrate these important achievements, South Africa wishes to express publicly its concerns with the manner in which efforts employed by the Security Council to protect civilians have been exploited in the recent past. In particular, my delegation has expressed its condemnation of recent NATO activities in Libya, which went far beyond the letter and spirit of resolution 1973 (2011). Abusing the authorization granted by the Council to advance a political regime-change agenda does not bode well for the future action of the Council in advancing the protection of civilians agenda. That could lead to a permanent state of paralysis within the Council in addressing similar situations in the future. Such actions could undermine the Council’s credibility in protecting civilians.

Regime change and the arming and harming of civilians cannot be justified in the name of protecting civilians, and those entrusted with such responsibilities must uphold them while protecting civilians, as clearly stated by the representative of Brazil. Those who deliberately go beyond Council decisions and international legality must bear the full responsibility for this impasse. In that regard, we have taken note of the progress report delivered by the Prosecutor of the International Criminal Court on 2 November (see S/PV.6647), in which he expressed the willingness of his Office to conduct comprehensive investigations into further alleged possible crimes, committed by whomsoever, in Libya. Ensuring justice will go a long way towards ensuring accountability.

United Nations peacekeeping operations are increasingly tasked with mandates for protecting civilians under imminent threat. Mandated protection of civilians peacekeeping tasks are to be implemented in accordance with the purposes and principles of the Charter and the guiding principles of peacekeeping operations. Peacekeeping missions with such a mandate must carry out their tasks without prejudice to the sovereignty of host Governments and their primary responsibility in that regard. The implementation of such mandates should be supported by a comprehensive peace process involving all stakeholders, underpinned by national ownership and the support of the international community.

My delegation expresses its concern over the impartiality of United Nations forces being compromised when the Organization is seen as taking sides in a conflict. United Nations peacekeeping operations are increasingly tasked with mandates for protecting civilians under imminent threat. However, that role could be compromised if the United Nations were perceived to be biased and were found to be unable to carry out its protection mandate due to a lack of the requisite resources and capabilities.

The protection of civilians as an important objective will only be sustainable if States emerging from conflict have the capacity to do so in the long run. The objective of peacekeeping should always be to assist countries to end conflicts by empowering them

through security sector reform, disarmament, demobilization and reintegration and the training of effective and professional national security forces so that they can assume eventual responsibility over their territory, including for the protection of civilians. Such a process would enable peacekeepers to have a clear exit strategy while national institutional mechanisms for protecting civilians are put in place.

Progress in advancing the protection of civilians will also depend upon the consistency with which the Council pursues that goal. Selectivity gravely limits the credibility of the Council in advancing protection of civilians mandates and seeking accountability. The Council cannot be seen as placing the value of some civilians above that of others. The proactive action we witnessed in the Democratic Republic of the Congo and Côte d'Ivoire also has to be applied in other places on the Council's agenda, such as in Afghanistan, Iraq, Palestine and Western Sahara, where the plight of civilians is being ignored without accountability.

We wish to underline that it remains the responsibility of States to protect civilians within their borders. Armed opposition groups also bear responsibility for ensuring that unarmed civilians are protected. Failure by both State and non-State actors to uphold that responsibility should not go unpunished. Accountability must, first and foremost, be sought at the national level. It remains the sovereign responsibility of States to determine what their judicial mechanisms are in ensuring accountability. Failing that, the international community has a collective responsibility to act with the utmost adherence to international law, in accordance with the purposes and principles of the Charter and as prescribed in the 2005 outcome document and the Constitutive Act of the African Union.