

TM

Check against delivery



United Nations Security Council

Open Debate on Protection of Civilians in Armed Conflict

Statement by Ms. Navi Pillay

United Nations High Commissioner for Human Rights

*[Delivered by Ms. Kyung-wha Kang,
Deputy High Commissioner for Human Rights]*

11 November 2009

New York

Thank you Mr. President.

I have the honor to deliver the following statement on behalf of the High Commissioner for Human Rights, Navanethem Pillay.

Mr. President, the particular vulnerability of human rights in situations of armed conflict means that the daily work of my Office includes a significant focus on the full range of situations under the Council's review. For this reason, and for more than a decade, successive High Commissioners have been called to brief the Council, and I am pleased to continue this tradition of collaboration in our common cause of protecting civilians exposed to the horrors of armed conflict.

Mr. President,

The constitutional responsibility of the Council under the Charter for the maintenance of international peace and security is one of the greatest trusts of humankind. By keeping the protection of civilians in armed conflict on its agenda during the past ten years, the Council has significantly advanced our understanding of the crucial importance of protection of civilians and human rights to the cause of international peace and security at the normative and policy level. Translating that policy into more effective action on the ground is the challenge that we must now confront. As the report of the Secretary-General points out, this will mean enhancing compliance with international law, bolstering protection through more effective and better resourced UN missions, securing humanitarian access, and pursuing accountability for violations. It will also mean seeking creative solutions to the political obstacles that have at times kept critical situations off the Council's formal agenda, and those that have stalled action or blocked the Council's protective response all together. And it will mean moving beyond more narrow notions of "imminent threat." If the cause of protection is to advance in the next ten years, a higher level of political will must be mobilized to take timely and effective action to prevent atrocities, protect the vulnerable, hold perpetrators to account, and ensure redress for victims.

Mr. President,

It is now axiomatic that the resolution of conflict and the maintenance of peace and security will be neither achieved nor sustained without due attention to redressing grievances, ending impunity, and protecting the human rights of civilians. But this requires greater clarity in our concepts and expeditiousness in our action. To be clear, when we say "protection", we are talking about protection of the human rights of individuals as contained in international law -- including international human rights law, international humanitarian law, international refugee law and international criminal law. The authority of international law, and the obligations of duty-bearers -- among all parties to conflict -- cannot be replaced by more amorphous notions of protection, or by less obligatory notions of charitable action. To be sure, the politics of conflict cannot be ignored. But where conflict entails abuse of human rights, the international community must act to identify the facts, and then to apply the law.

But law, without enforcement, is of little moment to would-be perpetrators. To be effective in the protection of civilians, the Council must consistently work to ensure accountability for perpetrators of war crimes, crimes against humanity and other gross violations of human rights. The establishment of tribunals for the former Yugoslavia,

Rwanda and elsewhere, as well as the referral of specific cases to the International Criminal Court, have helped to send an important signal that even in the “fog of war” impunity is not assured. The dispatch of credible, independent, law-based, accountability-focused, and publicly-reporting commissions of inquiry has proven to be an important catalyst in the Council's efforts to combat impunity, and more use could be made of such mechanisms.

Mr. President,

The corrosive effect of impunity on both human rights and peace is evident in the case of the Occupied Palestinian Territory, as documented in the report of the United Nations Fact-Finding Mission headed by distinguished international jurist Richard Goldstone, which has been transmitted to this Council. The report lays out in detail the nature and scope of violations of international human rights and humanitarian law perpetrated on the civilian population of the Occupied Palestinian Territory, where in Gaza earlier this year Israeli forces killed well over one thousand civilians and attacked homes, schools, mosques, food and water installations, and UN facilities. The report documents as well the indiscriminate launching of rockets and mortars into southern Israel by armed Palestinian groups in Gaza, killing Israeli civilians and causing terror and trauma among communities in disregard of international humanitarian and human rights norms.

Collective punishment, as evidenced by the crippling Israeli blockade and the devastating military offensive, is a violation of international human rights and humanitarian law, as are the forcible evictions of Arabs, the demolition of homes, and the expropriation of occupied East Jerusalem lands for Israeli settlements. Mr. President, until meaningful steps are taken to end impunity for these violations and assert the applicability of international law, peace and security will remain illusive for all the people of the region. The Council is urged to embrace the recommendations in the report so as to secure accountability for all perpetrators, and to fully integrate human rights guarantees into peacemaking efforts.

Mr. President,

The situation in the eastern Democratic Republic of Congo is a horrifying reminder of the depths to which inhumanity can spiral if left unchecked. Military operations against residual armed groups such as the LRA and the FDLR have led to massive displacement, and several hundreds of civilians have been killed this year alone. Sexual violence, including rape, has increased drastically. MONUC support to the Congolese Army in the context of these operations needs to be reviewed whenever there is a risk of violations of international humanitarian law and human rights law. This situation is further compounded by concerns that well-known human rights violators, including an ICC indictee, continue to occupy high level command positions within the Congolese army. Recent public statements by senior Government officials demonstrate a lack of political will to investigate high ranking officials and raises doubt regarding the zero tolerance policy proclaimed by the President. Under these circumstances, the sustained and unequivocal support of the Council to the fight against impunity is urgently needed.

Mr. President,

Efforts to bring effective protection to the long-suffering people of Darfur have occupied countless hours of this Council's work over many years now, but without satisfactory progress towards a sustainable solution to the conflict, and the Council has again emphasized the protection of civilians as a priority in renewing the mandate of UNAMID. In 2005, my Office supported the International Commission of Inquiry on Darfur, which concluded that Government forces and militias were responsible for serious violations of international human rights and humanitarian law, and which led to the referral of the situation by this Council to the International Criminal Court. But justice remains elusive, and violations continue. There have been three major incidents in 2009 alone where civilians have sought refuge in and around UNAMID premises due to fighting between government forces and armed movements. Meanwhile, UNAMID has not been able to fully deploy on the ground and implement its Chapter VII mandate due to resource constraints, delayed troop deployment, and political impediments. Darfur illustrates that even with robust mandates, there are political, structural, operational and resource issues which limit the effectiveness of UN peacekeeping missions. The situation also necessitates the employment of a broader human rights approach with a focus on the entire spectrum of rights beyond physical protection.

Mr. President,

The conflict in Afghanistan has repeatedly caught civilians in the cross-fire. The recent attack on a UN guesthouse in Kabul, killing 5 UN staff members and injuring numerous others is a stark reminder that UN personnel continue to put their lives at risk while protecting war-affected civilians and working to build an environment that is conducive to respect for human rights. Civilian casualties continue to mount, with hundreds killed every year by armed anti-government elements, government forces, and international forces carrying out both air strikes and ground assaults. In the first ten months of 2009, UNAMA recorded 2,021 civilian deaths, compared with 1,838 for the same period in 2008, and 1,275 in 2007. The intensifying conflict has had a disastrous impact on the enjoyment by many Afghans of basic rights to health, food, shelter, livelihood and education.

In addition, there continues to be an urgent need to improve overall accountability procedures, including through criminal prosecution when warranted as well as redress for victims, while bringing the legal framework governing conflict-related detention -- by all who take and hold detainees -- into line with human rights law. The failure to pursue a credible transitional justice strategy including holding to account those responsible for the gravest of crimes over more than three decades of war and the climate of impunity created thereby is a significant factor in the political turmoil and growing insecurity that now envelope Afghanistan.

Mr. President,

The Council has for ten years now worked under this thematic track to build up a framework for the protection of civilians in armed conflict. That work has better equipped the Council, and all of us, to address this vital issue. Institutionally, the Council should mandate arrangements on the ground to ensure coherence rather than fragmentation, and to make full use of civilian capacities, with robust human rights components in UN peace missions tasked to provide effective protection to the full range of vulnerable persons and groups in conflict and post-conflict countries. The early deployment of human rights officers, the rapid fielding of human

rights investigations, and the organization of human rights assessments have proved to be valuable interventions in conflict and post-conflict settings, allowing us to identify trends, threats and risks, to document abuse, and to hear the concerns of victims and the vulnerable. At the same time, the disparity between mandated responsibilities on the one hand, and inadequate resources on the other, must be addressed, if the expectations of the international community -- and the demands of victims and the vulnerable -- for effective protection are to be met.

But the most important gap, as this brief review of four countries on the Council's agenda reveals, remains between policy and practice. Closing that gap will require a greater commitment by all to the explicit application of international law, and to its enforcement. It will require more political will, and less political exceptionalism -- all must be held to a single standard. It will require enhanced resources and their more rapid deployment. And it will require an unwavering focus on the three, mutually-reinforcing imperatives of accountability for perpetrators, redress for victims, and protection for the vulnerable. In this challenging endeavor, Mr. President, we stand ready to assist.

I thank you.