

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

**Statement by Mr. John Holmes
Under-Secretary-General for Humanitarian Affairs
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Mr. President,

Thank you for this opportunity to brief the Council.

I will cover a number of urgent issues but the main focus today must be the conduct of hostilities and the need for strict compliance with international humanitarian law.

The current situation in southern Israel and Gaza is pressing and desperate.

Civilians in southern Israel have long had to live under constant threat of rocket and mortar attacks by Palestinian militants. Considering the number of rockets and mortars fired, civilian casualties have been limited, but the frequent and indiscriminate nature of these attacks inflicts severe psychological suffering. Four Israeli civilians have been killed and dozens injured since the current hostilities began.

These attacks are contrary to international humanitarian law and must cease. Yet any Israeli response must itself comply with international humanitarian law. Here too there is considerable and grave cause for concern.

The population of Gaza was already suffering severely after more than 18 months of closures. Since the current hostilities started, the Palestinian Ministry of Health reports, as of yesterday, 13 January, that the number of Palestinian casualties stands at 971 killed, of whom 311 are children and 76 women, and 4,418 wounded of whom 1,549 are children and 652 are women. Many of the male casualties are no doubt also civilians. The number of child casualties has reportedly tripled since the beginning of ground operations on 3rd January. The Israeli Defense Forces are no doubt trying, as they say, to take steps to minimize civilian casualties but they are clearly not succeeding.

Israeli operations are also causing extensive damage to homes and public infrastructure, and seriously jeopardizing water, sanitation and medical services. United Nations schools sheltering displaced persons have been hit; humanitarian workers have been killed and ambulances hit; sick and wounded left trapped and unassisted; up to 100,000 people displaced from their homes.

The situation for the civilian population of Gaza is terrifying and its psychological impact felt particularly by children and their parents who feel helpless and unable to protect them. It is a situation from which civilians have only minimal respite, three hours a day, with no escape as borders and crossings remain closed.

Only a full and fully respected ceasefire will spare the civilian population from these horrors. And even then, their need for assistance will remain both urgent and overwhelming.

Mr. President,

In the conduct of military operations, constant care must be taken to spare the civilian population from the effects of hostilities. This requires strict compliance with the principles of distinction and proportionality and the requirement to take all feasible precautions in attack and against the effects of attack.

For those launching attacks, this includes doing everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and refraining from any indiscriminate attack, including those which may be expected to cause incidental civilian casualties which would be excessive in relation to the concrete and direct military advantage anticipated from that specific attack.

For those in defence, it means removing civilians and civilian objects from the vicinity of military objectives and avoiding locating military objectives within or near densely populated areas. It also means not ordering or using the presence or movement of civilians to render certain points or areas immune from military operations or to shield military objectives from attack.

Can we look at what has been happening in Gaza in the last three weeks and say that either Israel or Hamas has come close to respecting fully these rules? I think not.

I repeat that violations of international humanitarian law by one party to a conflict offer no justification for non-compliance by other parties. Allegations of violations must be fully investigated and those responsible held to account.

Mr. President,

As much as the world's attention is focused on Gaza, it is sadly by no means the only situation to raise profound concerns over the degree of respect for these rules and for international humanitarian law.

From the end of August, the eyes of the international community were focused on the catastrophic situation that began to unfold around Goma, in eastern DRC.

Congolese civilians found themselves in the worst of all worlds: subject to attacks, displacement, sexual violence and forced recruitment perpetrated by advancing rebel forces; and to acts of violence, rape and looting carried out by members of the official Congolese armed forces and Mai Mai and other militias.

In one particularly horrific incident in early November, an estimated 150 people were killed during two days of violence in the town of Kiwanja. Reports indicate that most of those killed were summarily executed by the forces of Laurent Nkunda. Others died when caught in combat between Nkunda's forces and Mai Mai militia.

Though the situation in the east of DRC is now somewhat more stable, sporadic violence continues and humanitarian needs are great while access remains extremely limited.

Meanwhile, we have had to face up to fresh atrocities committed by the Lord's Resistance Army (LRA) in the north-east of the country and parts of southern Sudan. According to the United Nations High Commissioner for Refugees, LRA attacks on villages in recent weeks in Orientale Province in the DRC have left more than 500 people dead. Over 400 have been abducted and some 100,000 displaced. For any who hoped the threat of LRA brutality had gone, it has been a rude awakening indeed.

In Somalia, 2008 was, for an increasingly high proportion of the population, another year trapped in a vicious cycle of attack and counter-attack between armed groups and Ethiopian and Transitional Federal Government (TFG) forces.

Throughout 2008, armed groups in Mogadishu used residential areas to launch indiscriminate mortar attacks against Ethiopian and TFG forces, provoking equally indiscriminate and disproportionate counter-attacks, often involving the use of heavy weapons. Reports suggest that all sides launched their attacks with such lack of precision that there was little, if any, expectation of striking a military objective or avoiding civilian casualties.

Armed groups also used homes and crowds of civilians as cover from which to ambush TFG and Ethiopian forces, resulting in wild fire-fights and further civilian casualties.

In Afghanistan, the United Nations Assistance Mission (UNAMA) reports that more than 2000 civilians were killed during hostilities in 2008, an increase of over 40% compared to 2007.

Over half died as a result of attacks by anti-Government elements, in particular suicide bombings and the use of improvised explosive devices. The calculated and callous nature of suicide attacks remains particularly horrifying, in Afghanistan and elsewhere. They promote a climate of extreme insecurity for civilians, disrupt any degree of normality in public life, and destroy the lives of ordinary people with neither warning nor compunction.

Some 250 civilians were also executed by anti-Government elements in Afghanistan. These were mostly individuals considered to be linked in some way to the Government or the international community. Alarming, killings of this sort appear to be spreading to areas of the country that were previously immune.

Civilian deaths were also attributed to air strikes, search and raid operations, and force protection incidents involving international and national armed forces. More than 550 civilians died as a result of air strikes in 2008.

In one incident alone, in August, UNAMA reported that 92 civilians, including 62 children, were killed in the Shindand district of Herat. This prompted the International Security Assistance Force (ISAF) to amend its standard operating procedures with a view to preventing future such incidents. However, the killing of 37 civilians in an air strike in Kandahar in November 2008 indicates that still more needs to be done.

Prompt investigations by international forces in the aftermath of such incidents, and the provision of adequate public information and payments to those affected, are also essential.

In Sri Lanka, strict compliance with international humanitarian law is all the more critical with the intensification of fighting in the Vanni region and reports of intermittent artillery fire into civilian populated areas in recent weeks. The scale of humanitarian needs is difficult to gauge, given restricted humanitarian access due to the intensified fighting and the relocation of United Nations agencies and NGOs from rebel-held territory in mid-September.

I am, however, concerned that some 350,000 civilians are trapped in an increasingly confined space and effectively prevented from leaving by Tamil Tiger rebels. This raises deep concerns over the possible use of civilians to render areas immune from military operations. For those that are able to leave the Vanni, while the Government has the right to screen for fighters among them, it must not unduly continue to restrict their freedom of movement.

Mr. President,

In environments such as Afghanistan, the DRC and Somalia, it is particularly worrying that humanitarian organisations and their staff continue to be subject to threats, intimidation and deadly attacks.

In Afghanistan, 112 humanitarian workers were kidnapped in 2008, five of whom were killed by their captors. A total of 33 humanitarian workers were killed in 2008, the majority of whom were national staff.

In the DRC, in the North Kivu province, 104 security incidents involving humanitarian workers were reported during September last year alone.

In Somalia, 32 humanitarian workers were killed in 2008 and 19 abducted, of whom 10 are still captive. In a particularly chilling turn of events, many Somali United Nations staff and their families had to be relocated from their duty stations following the circulation of an apparent death list of individuals targeted for assassination by armed groups.

Such actions inevitably result in increased security measures, further restrictions on access and a scaling down of humanitarian operations. The main losers from this are, of course, the most vulnerable.

OCHA is continuing to monitor and analyse trends of violence against humanitarian workers, and access constraints more generally, and will provide a comprehensive overview of these issues in the Secretary-General's next report on the protection of civilians.

Meanwhile, we must urgently find better ways to prevent and reduce this pattern of behaviour. It is relatively straightforward, if not always easy or productive, for the United Nations to engage with ISAF in Afghanistan or national armed forces, and to raise concerns.

But whether it is Afghanistan, the occupied Palestinian territories, Somalia or elsewhere, we cannot talk only to one side.

If we are serious about sparing civilians from the effects of hostilities; about obtaining access to those in need and seeking to ensure that humanitarian workers can operate safely, humanitarian actors must have consistent and sustained dialogue with all parties to conflict, be it the Taliban, Hamas, or Al-Shabaab.

It is simply not sufficient to oppose such engagement for fear that it will confer a degree of recognition on these groups.

We need these groups to understand what international humanitarian law says and why. We need to be able to speak out for their victims and for the communities they endanger through their mere presence and by storing weapons in homes, schools and places of worship.

We need to speak to them to gain safe and sustained access to populations in need and to point out consistently the extent of their misperceptions of humanitarian motives, the lack of political agenda of United Nations or other humanitarian actors and our firm attachment to the humanitarian principles of impartiality, neutrality and independence.

And we need to be able to call them to account when they violate international humanitarian law.

Mr. President,

I recognise that, for some militia, guerrilla and rebel groups, civilian casualties and constraints on access are in many cases intended consequences of their actions.

But the simple truth remains that unless we can consistently raise protection and access concerns with these groups, unless we can bring home to them the deep irresponsibility of some of their actions, we will continue to see such groups kill, maim and threaten the lives of more civilians.

Mr. President,

Amidst all this darkness, there are some bright spots too, not least among them the opening for signature and ratification last month of the Convention on Cluster Munitions.

The Convention has the protection of civilians at its core. For those States that sign and ratify the Convention, it bans the use, production, transfer and stockpiling of cluster munitions. For those that do not, it deepens the stigma associated with cluster munitions, making it politically and morally more difficult to continue to use the weapon.

Ultimately, the Convention will lead to the destruction of billions of lethal sub-munitions and in so doing will save a huge number of civilians, their families and communities from the terrible humanitarian consequences of this weapon.

I applaud the Oslo Core Group and the civil society organisations that contributed to making the Convention a reality, as well as the 95 States that have signed the Convention. I urge all States that have not yet done so to sign and ratify the Convention to ensure its entry into force without delay.

Mr. President,

However familiar the challenges to the protection of civilians are - and I have not on this occasion focused on the massive and increasing problem of internal displacement due to conflict - ensuring that we respond to them in a comprehensive and consistent way continues to elude us.

For example, the potential vested in peacekeeping missions with protection mandates is still not being realized. One reason is that these missions are not being provided - on a consistent basis - with the capacity required to fulfil those mandates.

In Darfur, for instance, despite the grave and well-documented situation confronting the people there, twelve months since it became operational, the joint United Nations-African Union Mission in Darfur (UNAMID) has only some 15,200 of the 26,000 uniformed personnel authorised by the Council. That is one peacekeeper for every 170 of the staggering 2.7 million internally displaced persons who live in perpetual fear of violence, hunger, disease and death.

Consider also the vastness of Darfur combined with UNAMID's lack of sufficient aviation capacity and it is all too apparent that UNAMID's efforts to protect civilians will inevitably fall short until it has the troops and tools needed to do the job properly.

In the DRC, the upsurge of violence in the east of the country at the end of August severely tested the ability of MONUC, the United Nations peacekeeping mission, to protect civilians. It raised important questions again about MONUC's capacity and whether it had the mandate necessary for the task. It also raised the need to look again at concepts of operations, standard operating procedures and rules of engagement as they relate to the protection of civilians.

The joint OCHA-DPKO study on the implementation of protection mandates by peacekeeping missions will examine these and related issues. The study is underway and due for completion later this year. Its findings will be shared with Member States and will provide recommendations for us all on how to tackle some of these weaknesses.

The lack of a comprehensive and consistent approach is apparent also in our efforts to combat sexual violence. As I said during the last open debate in May 2008, these require the same degree of concerted action wherever they occur.

Eight months on, I am pleased that United Nations actors in the DRC and their national and international partners have made significant progress in developing a draft comprehensive strategy to combat the horrific sexual violence there, in support of the efforts of the Government. It focuses on four critical areas: addressing impunity; supporting activities to prevent, and provide protection from, sexual violence; incorporating prevention efforts into security sector reform; and improving access to medical, mental-health and legal support for survivors.

The strategy is a crucial and welcome initiative and warrants full support from all concerned. We will certainly pursue it vigorously. But it also still begs the question of consistency I raised in May: where are the strategies for Cote d'Ivoire, Sudan and other contexts where rape and

other forms of sexual violence are widespread? They need to follow soon and I hope the Council will also insist on this.

Mr. President,

Helping to facilitate a comprehensive and consistent approach to the protection of civilians in all circumstances was the intention behind the Secretary-General's call for the establishment of a Security Council Expert Group in his sixth report on the protection of civilians. I am, therefore, greatly encouraged by the convening later this week of the first meeting of the Expert Group.

The Expert Group is an informal forum, bringing together Council Member States for transparent and timely consultation with OCHA on protection concerns, particularly in the context of the establishment or renewal of peacekeeping mandates.

A particularly useful tool for the Expert Group, but also for the Council itself, is the Aide Memoire on the protection of civilians. The Aide Memoire was first developed in March 2002, at the Council's request, to facilitate its consideration of protection issues. In close consultation with the Council, OCHA has produced a revised and updated version which I trust will be adopted by the Council at the end of this debate.

The Aide Memoire identifies the key protection of civilians concerns in contemporary conflicts and, based on the Council's own past practice, specific actions which the Council could take to respond to these concerns. It maintains a focus on the role of peacekeeping missions and includes a range of additional measures that could be taken by the Council, such as imposing targeted sanctions against the perpetrators of serious violations against civilians and the referral of situations to the International Criminal Court.

Mr. President,

From the perspective of the protection of civilians in armed conflict, 2009 has had a dreadful beginning.

We need urgently to redouble our efforts to ensure respect for international humanitarian law and human rights law in times of armed conflict.

The convening of the Expert Group and the revision of the Aide Memoire are important steps in this direction. Additional proposals will be outlined in the seventh Secretary-General's report, due in May of this year.

Meanwhile, let this, the tenth anniversary of the first Security Council resolution on the protection of civilians, be the year in which a sustained effort to approach the issues in a comprehensive and consistent manner begins to produce results.

Thank you for your attention.