

NEW ZEALAND MISSION to the UNITED NATIONS



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UNITED NATIONS SECURITY COUNCIL

OPEN DEBATE ON

PROTECTION OF CIVILIANS IN ARMED CONFLICT

**STATEMENT BY
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CHECK AGAINST DELIVERY

Mr President:

New Zealand is pleased that your country is highlighting the protection of civilians during its Presidency. We know civilians in your country suffered terribly in the 1940s and 1950s. New Zealand stood with you then; we know the strength of your people; and we welcome your determination to improve the situation of civilians in future conflicts.

Mr President, we also welcome the presence with us today of the International Committee of the Red Cross. The ICRC is custodian of one of the most important developments in human history – the body of law and practice designed to limit the terrible impact of war, and in particular to protect civilians. That body of law is now almost universally accepted as binding – not only on participants in wars between states, but also in those of a non-international character.

Far too often these rules are not applied. Let's be blunt: breaches of those rules, the conduct of war by targeting civilians, by using high explosive weapons without regard to likely civilian casualties, by attacking medical personnel or facilities, are war crimes. And war crimes are, in a sense, crimes not only against the victims, but against us all. Serious war crimes are subject to universal jurisdiction. We all therefore have moral and political responsibilities when they are being systematically committed in a conflict - wherever that conflict may be.

Mr President, that's why today's debate is so important. You, the members of the Security Council, have undertaken special responsibilities with respect to international peace and security. The Charter has given you extraordinary powers to act decisively on our behalf. And we join others in calling on you to more actively exercise your responsibilities when civilians are manifestly the targets of armed attacks.

The Council's thematic work on Protection of Civilians is an important element in this; but it is not enough. A more active focus on protection in the Council's work on country specific situations is what is really needed.

Mr President, New Zealanders are practical and constructive people. We know that the Security Council, despite its wide powers, has real limitations.

We know the Council's efforts to protect civilians are also dependant on the actions of peacekeepers in the field. There is a pressing need for practical and constructive measures to ensure UN peacekeepers are ready and able to respond quickly and effectively to emerging threats. It is not good enough for Missions to hide behind the "within available resources" provisions in mandates and do nothing when atrocities are committed against civilians. There many examples of UN peacekeepers responding with extraordinary courage and commitment to defend civilians in times of crisis, such as the efforts of Ghanaian and Canadian peacekeepers during the 1994 Rwandan genocide whose resolute

action saved 1,000s of civilians. We must ensure current and future peacekeepers are best placed to emulate these brave efforts - the option of doing nothing can never be justified.

Mr President, the Council is also reliant on the Secretariat being more courageous. The 2000 Brahimi Report warned that the Secretariat must tell the Council what it needs to hear, not what it wants to hear. Sadly, the Secretariat's recent conclusions regarding its role during the conflict in Sri Lanka show that Mr Brahimi's advice was not taken as much to heart as it should have been.

We recognise also that the Council is not a legal body, and is not well suited to determining the legal character of events - especially in the midst of a conflict.

But the Council can play an important role in building accountability – as it has done in the past. Reference to the ICC is one option available to the Council in this regard. As we observed to the Council last October, such referrals are not always the best mechanism; and, where they are made, their timing must be carefully judged, particularly in situations of on-going conflict. Nevertheless, there are practical steps the Security Council can take to bolster accountability, including extending the mandate of its tribunals working group to cover ICC matters.

Mr President, we also recognise another limitation faced by the Council: the tension it often faces in executing its responsibilities for ending conflict and establishing peace on the one hand, against its duties to ensure such conflicts are conducted in a manner consistent with international norms, particularly those limiting the impact on civilians, on the other. Both dimensions are important, and neither should become excuses for ignoring the other.

It is natural that in different situations Council members will focus more on one dimension than the other. But Council members have a high responsibility to the broader membership, and to the people we represent, to not let these differences become a reason to give up. We have seen this far too often – during the war in Sri Lanka, and today in Syria. It is not good enough to say the Council is blocked and move on to other business, as we have seen it do far too often. If the Council is deadlocked over how to end a conflict, then all 15 members have all the more responsibility to find ways to address the protection needs of civilians.

Finally, Mr President, it is important to note that not every conflict is conducted in a manner involving atrocities against civilians. This is important because it gives us hope, and shows that some combatants, even in civil wars, abide by the basic norms of International Humanitarian Law. Moreover, it gives us scope for a new practical focus for the ongoing thematic work of the Council.

The Council will be taking up Protection of Civilians again later this year, and the Secretariat is producing a new report with recommendations for its consideration. It would be helpful if the Secretariat could not only address cases of grievous

breaches of humanitarian law, but also explore cases where such breaches have not occurred. Serious analysis of the factors determining why atrocities occur in some cases but not others may be helpful to the Security Council in developing its tools for prevention and management of conflict, as well as for protection of civilians in specific cases.