

*(Check against delivery)*

**STATEMENT OF AMBASSADOR GERT ROSENTHAL  
OPEN DEBATE ON THE PROTECCION OF CIVILIANS IN ARMED CONFLICT  
UNITED NATION SECURITY COUNCIL  
(February 12, 2013)**

Mr. President,

We are grateful for the presence of the Minister of Foreign Affairs and Trade of the Republic of Korea, H.E. Kim Sung-Hwa, for the timely convening of this Open Debate on the Protection of Civilians in Armed Conflict and for him for presiding over the Council. We lament the absence of our own Foreign Minister, H.E. Fernando Carrera Castro, who wished to join us, but due to last-minute conflicts in his agenda was unable to do so.

We wish to thank Secretary-General Ban Ki-moon for his enlightening presentation, as well as for the Ninth Report on the matter. Taking into account that the report was circulated in May of 2012, updating is essential. We also appreciate the presentation of the High Commissioner for Human Rights, Navi Pillay, and at the same time express our thanks to the Director for International Law and Cooperation of the International Committee of the Red Cross, Mr. Philip Spoerri, for his contribution to this debate.

Mr. President,

The protection of human life and the protection of civilian populations are at the core of the United Nations' mandate, as well as of the agenda of the Security Council. However, civilians continue suffering and are the victims in all conflicts, in spite of the resolutions of the Council that include this component, the asset of counting with a solid base of international jurisprudence and the unflinching and increasing efforts of the international community to respond to these noble pursuits.

It is regrettable that over and over again – recent examples include Syria, the DRC, Sudan and Mali – we are compelled to energetically condemn premeditated attacks against civilians and the consequent loss of human life as a consequence of the use of indiscriminate or disproportionate force. All parties in an armed conflict, domestic or transnational, must promote the pacific solution of conflicts and assimilate their obligations in accordance with international humanitarian law.

Many decisions have been adopted<sup>1</sup> after Resolution 1265 (1999),<sup>2</sup> which marked the beginning of a new approach regarding the Protection of Civilians in armed conflict in the discussions held in the Security Council. However, in the majority of Reports that have been considered, as well as others related to the protection of specific groups, such as women and children, we are informed of the deaths

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<sup>1</sup> See, among others, UNSCR 1296 (2000), 1325 (2000), 1674 (2006), 1738 (2006), 1894 (2009), 1960 (2010), 1998 (2011), 2068 (2012) and 2086 (2013).

<sup>2</sup> Adopted on September 17, 1999.

and immense suffering endured by civilian populations, in numbers that invariably surpass military casualties.

The Secretary-General in his Report S/2009/277 presented five basic challenges which the United Nations in general and the Security Council more specifically, together with the international community, must address.<sup>3</sup> These challenges continue to be totally pertinent, because we have not yet been capable of overcoming the situation in the majority of instances.

Moreover, as is known, we now face the situation where conflicts are increasingly of an intra-state nature, rather than between two states, which makes intervention of this Council more difficult in what, strictly speaking, are the internal affairs of sovereign States, even if these do not meet their primary obligation of protection their own citizens. Precisely when these situations arise, especially in a flagrant manner, the entrenched principle of non-intervention must be nuanced with our common commitment, and even our responsibility, to protect civilian populations from mass violations and atrocities perpetrated on them by their own Governments.

Mr. President,

Guatemala participates actively through our troops in peacekeeping operations under the flag of the United Nations in missions with strong mandates of protection of civilians, as is the case in the Democratic Republic of Congo. However, a simple analysis of the ratio of peacekeepers to the civilian populations reveals that the Blue Helmets cannot guarantee the protection of everyone. The protection of civilians also requires important equipment and logistical support which often is insufficient or not available to the Missions. This situation gives rise to the broader question of the balance between mandates and resources. We will continue working in close cooperation with the Special Committee on Peacekeeping Operations (C-34) regarding the strategies for protection of civilians in peacekeeping operations. We will do so in compliance with their mandates, international law and full respect for the primordial responsibility of subject States to protect their own civilian populations.

However, we continue to be concerned with many specific issues. Among these, I would mention the following: the difficult situations faced by refugees and internally displaced persons; the limited access to humanitarian assistance of the most vulnerable groups of populations needing food and medical attention; the attacks against humanitarian assistance personnel, clinics and ambulances; the increasing use of explosives of ample coverage in dense populations centers or areas where populations converge, such as markets, schools and religious places of worship; civilian casualties caused by modern technologies such as unmanned airplanes; and the use of sexual violence as an instrument of war.

We trust that in the United Nations Final Conference on the Arms Trade Treaty, to be held in New York next March, a legally binding Treaty will be adopted which would establish common international norms, as strict as possible, regarding imports, exports and transfers of arms. The lack of such a universal instrument is associated with a high cost in human lives.

We recognize that some important steps have been taken in the realm of international justice to make those responsible for human rights violations accountable. The Security Council itself has given important examples by creating International Tribunals for the ex-Yugoslavia and Rwanda in 1993 and 1994, respectively, and in referring the situations in Darfur and Libya to the International Criminal Court. In this regard, it should be stressed that the International Criminal Court is an ally of the Security Council

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<sup>3</sup> Enhancing compliance with international law by parties to the conflict, enhancing compliance by non-State armed groups, enhancing protection of civilians by United Nations peacekeeping and other missions, enhancing humanitarian access, and enhancing accountability for violations of international law.

in the fight against impunity of mass atrocities. We should take advantage of its preventive, dissuasive and punitive capacity. We call on all Member States of the Organization to ratify the Rome Statute, and to cooperate fully with the International Criminal Court.

Mr. President,

I would like to conclude with a brief mention of the ample arsenal of preventive diplomacy at our disposal. Let us recall that last year the Secretary-General presented his five-year plan of action which included moving forward the agenda of the responsibility to protect. As suggested earlier, my delegation fully supports this priority, which in turn contributes to further shape today's debate. This, in spite of the differing concepts on the topic which the Secretary-General himself, correctly has brought to our attention.<sup>4</sup> The important message of the Responsibility to Protect is that it is expected of all members of the international community to observe a certain pattern of behavior with reference to their respective populations. Of course, committing genocide, war crimes, ethnic cleansing or crimes against humanity, or acts which instigate actions which lead to those crimes, should be considered totally banned. States that do not meet this basic commitment must understand that they will face consequences. Our own Heads of State jointly accepted this concept in 2005; the least we can do now, seven years later, is to offer assurances that this important achievement continues evolving in its practical and operational application.

Mr. President,

In defending the protection of civilians, we transmit a message of hope and a signal of our firm collective commitment. We are prepared to protect those that are vulnerable from the scourges caused by conflicts and other violations of peace and security. If we continue to act collectively, with time we will be capable to fully fulfill our responsibility to protect civilian populations.

Thank you.

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<sup>4</sup> Report of the Secretary-General S/2012/376, paragraph 21.