



# Security Council

Sixty-sixth year

*Provisional*

**6650**<sup>th</sup> meeting

Wednesday, 9 November 2011, 10 a.m.

New York

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<i>President:</i>	Mr. Cavaco Silva . . . . .	(Portugal)
<i>Members:</i>	Bosnia and Herzegovina . . . . .	Mr. Barbalić
	Brazil . . . . .	Mrs. Viotti
	China . . . . .	Mr. Li Baodong
	Colombia . . . . .	Mr. Osorio
	France . . . . .	Mr. Araud
	Gabon . . . . .	Mr. Messone
	Germany . . . . .	Mr. Wittig
	India . . . . .	Mr. Hardeep Singh Puri
	Lebanon . . . . .	Mr. Assaf
	Nigeria . . . . .	Mr. Onemola
	Russian Federation . . . . .	Mr. Churkin
	South Africa . . . . .	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland . . . . .	Sir Mark Lyall Grant
	United States of America . . . . .	Ms. Rice

## Agenda

Protection of civilians in armed conflict

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*The meeting was called to order at 10.10 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **Protection of civilians in armed conflict**

**The President** (*spoke in Portuguese; English interpretation provided by the delegation*): I wish to welcome the Secretary-General, His Excellency Mr. Ban Ki-moon. His presence here today is an affirmation of the importance of the subject matter to be addressed.

In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Australia, Austria, Bangladesh, Canada, Chile, Egypt, Georgia, Guatemala, Honduras, Israel, Japan, Liechtenstein, Luxembourg, Malaysia, Mexico, Morocco, Norway, Pakistan, Peru, Slovenia, Sri Lanka, the Sudan, Switzerland, the Syrian Arab Republic, Tunisia and the Bolivarian Republic of Venezuela to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights, to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Catherine Bragg, Assistant Secretary-General for Humanitarian Affairs, to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross, to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite His Excellency Mr. Thomas Mayr-Harting, Head of the Delegation of the European Union to the United Nations, to participate in this meeting.

I wish to inform members that I have received a letter dated 8 November 2011 from the Permanent Representative of Portugal, in which he requests that a representative of the International Humanitarian Fact-Finding Commission be invited to participate in the

consideration of the item, in accordance with rule 39 of the provisional rules of procedure.

There being no objection, it is so decided.

The Security Council will now begin its consideration of the item on its agenda.

I shall now make a statement in my capacity as the President of the Republic of Portugal.

It is especially gratifying for me to be here today to preside over this open debate of the Security Council on the protection of civilians in armed conflicts. This is a topic on the Council's agenda to which Portugal attributes the utmost importance.

I am grateful to the Secretary-General, the High Commissioner for Human Rights, the Under-Secretary-General for Peacekeeping Operations, the Assistant Secretary-General for Humanitarian Affairs and the Director for International Law and Cooperation of the International Committee of the Red Cross for joining us in the Chamber. Their presence demonstrates the interest and relevance of this debate.

I have made a point of speaking in Portuguese. In this way, my words will be immediately understood by more than 250 million citizens of the eight countries, and one autonomous region of the People's Republic of China, where Portuguese is the official language, as well as by the many other millions who have studied or who are studying Portuguese, and who identify with it and see in it an important cultural or economic asset.

I am therefore speaking in one of the most rapidly expanding languages in the world, the third-most spoken European language worldwide, and the sixth most spoken in general. It is a language that has long deserved to be attributed the status of official language of the Organization. Indeed, there are two Portuguese-speaking countries represented in the current formation of the Council, which is an expressive sign of those nations' unwavering commitment to the promotion of the values of peace, security and respect for the inalienable rights of all human beings, as embodied in the United Nations Charter and reflected in the founding charter of the Community of Portuguese-speaking Countries.

Every year, many millions of men, women and children are killed, kidnapped, injured or forced to leave their homes as a result of armed conflicts in different parts of the world. Portugal vehemently

condemns all attacks targeting civilians, whether in Libya, the Great Lakes region of Africa, Afghanistan or Iraq, where arms and explosive devices continue indiscriminately to cause suffering, or even in Syria, where intense violence has already caused the deaths of more than 3,000 people.

Civilians have always represented and remain the majority of the victims of armed conflicts. Victims are not only those who are party to the conflict and who are killed, mutilated or injured because they form part of a regular army or a group of combatants; it is civilians who, on a large scale, continue to suffer the direct effects of war.

It is our obligation to learn from the lessons of the past. Inaction is never a solution and can never be the response of the United Nations to civilian populations that are the targets of indiscriminate attacks by parties to a conflict; in failing to act, we abet those who violate international humanitarian law and human rights. When civilians are targeted and national authorities or the conflicting parties fail in their obligation to protect them, the United Nations, and especially the Security Council, have the duty to speak up and the obligation to act.

The attention that this Council has dedicated to the protection of civilians is part of a long tradition. The Council has been improving its legal framework to ensure that its actions in this area are more effective and more responsible. A remarkable number of peacekeeping missions have been set up with strong protection of civilians mandates, and the Department of Peacekeeping Operations has been doing very important work in that respect. Local strategies have been created and cooperation with regional structures has been improved. These developments have had a significant impact on improving the protection of civilian populations.

We agree with the Secretary-General regarding the need for further coordination among all of the parties involved in the protection of civilians, whether on the ground or in raising international awareness of the need to develop efficient mechanisms for the prevention, monitoring and protection of civilians in armed conflicts.

In that context, the European Union has acquired vast experience both in supporting the work of the United Nations and all the relevant parties involved, and with regard to the missions and operations

conducted under the European Security and Defence Policy. We therefore believe that it would be useful to improve and deepen cooperation between the European Union and the United Nations with regard to the protection of civilians, as well as between the United Nations and other regional organizations such as the African Union.

We share the general consensus on the importance of drawing up realistic mandates for the protection of civilians and ensuring those mandates are adapted to the real situation on the ground and compatible with the capacity and human resources available to the respective peacekeeping missions. Whether in Darfur or in the east of the Democratic Republic of the Congo, the safety of thousands of civilians, many of whom are women and children, largely depends upon peacekeeping missions with a mandate to protect them. We also deem it necessary to closely involve the main troop- and police-contributing countries in the definition of those mandates.

Another fundamental aspect for the protection of civilians is, without doubt, the need to strengthen accountability for human rights violations. Fighting impunity, whether through national institutions or international ones such as the International Criminal Court, is fundamental to the prevention of future violations. As the Secretary-General emphasized in his last report on this issue,

“In many conflicts, it is to a large degree the absence of accountability and, worse still, the lack in many instances of any expectation thereof, that allows violations to thrive.”  
(S/2009/277, para. 61)

Some days ago, Portugal, together with the Office for the Coordination of Humanitarian Affairs, organized a seminar on international criminal accountability, the investigation of human rights violations and violations of international humanitarian law, as well as on the question of reparations for victims. The aim was to identify challenges and possible further steps that the Council could take on these important areas.

We believe that today more than ever the Security Council has the capacity to protect civilians. It has more and better regulatory instruments. It has acquired knowledge and skills with previous experiences and has more, and increasingly multifaceted, missions on the ground. Today it is better prepared to act

appropriately and effectively, with real time information on threats to civilians. We Member States have the political responsibility to ensure that the Security Council acts consistently and with determination in order to guarantee respect for international humanitarian law and the protection of all civilians who are directly targeted or who become accidental victims in conflicts.

Before I conclude my remarks, I would like to reiterate my country's firm commitment to continue to work to promote more effective protection for civilians from the devastating effects of armed conflicts. We will continue to do this in all the international forums in which we participate — whether at the United Nations, the European Union or the Community of Portuguese-speaking Countries — not only due to an evident moral imperative but also because we believe that, in this way, we will be helping in a very concrete and objective manner to build a better, more just and peaceful world.

I now resume my functions as President of the Security Council.

I give the floor to Secretary-General Ban Ki-moon.

**The Secretary-General:** I thank Portugal for convening today's debate on the protection of civilians. I very much welcome the presence here today of His Excellency President Mr. Aníbal António Cavaco Silva — a clear sign of the commitment of Portugal to this very important issue.

All of us share a fundamental responsibility to do more to protect civilians caught up in the horrors of war. In conflicts throughout the world, women, girls, boys and men continue to be subjected to blatant and frequent violations of international human rights and humanitarian law. The violations include killing, torture, kidnapping, rape and mutilation. We see forced recruitment, including of children, and the denial of access to medical care and life-saving assistance. And we see displacement, which is so often the precursor to lasting dependency, destitution and lost opportunities.

Let us remember that civilians suffer such horrors not because they are in the wrong place at the wrong time and become what is still euphemistically referred to as collateral damage. Civilians suffer more and more frequently because they are deliberately targeted. My past two reports (S/2007/643 and S/2009/277) to the

Security Council on the protection of civilians sought to guide the Council, Member States and parties to a conflict on the steps they could, should and must take. The five core challenges I identified remain painfully relevant today.

First, we need to see enhanced compliance with international human rights and humanitarian law. Violations must be met with appropriate action from the Council, including strong condemnation where clearly warranted. Moreover, demands for compliance should be backed by the threat of targeted sanctions and intense scrutiny, including through commissions of inquiry or referrals to the International Criminal Court.

Secondly, we need to more consistently and effectively engage non-State armed groups in order to improve their compliance with the law. Member States need to recognize and accept the fundamental necessity of this engagement.

Thirdly, we need proactive, well-trained and appropriately resourced peacekeepers who can use a full spectrum of tools — military, police, justice, corrections and human rights — in a cohesive fashion. Additionally, peacekeeping missions and other partners must continue to strengthen national institutions so that they are able to discharge their primary responsibility for enhancing security and the rule of law by the time the mission leaves.

Fourthly, we need improved humanitarian access to affected populations. That means refraining from attacks against humanitarian workers and eliminating excessive bureaucratic requirements on the entry and movement of assistance and workers. It means cooperation between humanitarian actors and parties to conflict. And it means action against those who systematically obstruct assistance.

Last but not least, we must see enhanced accountability. Those in breach of the law must be held to account. Perpetrators must be able to see that we are serious about that. I urge the Council to closely study the recommendations that emerged from last week's workshop on accountability convened by Portugal and the Office for the Coordination of Humanitarian Affairs.

Protection is essential. Yet, we must not lose sight of the need to address the causes of conflict, not just its symptoms. Humanitarian actors can contribute to the survival of affected populations. Ultimately, though,

only political solutions can end and prevent the vast majority of conflicts and ensure the safety and well-being of those who would otherwise bear the brunt.

**The President** (*spoke in Portuguese; interpretation provided by the delegation*): I thank the Secretary-General for his statement.

I now give the floor to Ms. Pillay.

**Ms. Pillay**: I am very grateful for the opportunity to address the Security Council on the protection of civilians in armed conflict and other situations of violence.

Since the Council last debated the subject in May (see S/PV.6531), a people's spring has continued to thaw the global landscape. A few days after the May debate, we saw the inauguration of a new Government in Côte d'Ivoire. Two months later, a new nation was born in South Sudan. The end of violent upheaval promises the beginning of a new era in Libya that, I hope, will embrace human rights. In all of those cases, progress has been made in responding to people's aspirations for peace, justice, human rights and democracy. It is critical to consolidate those gains by ensuring accountability and respect for the rule of law.

In Côte d'Ivoire, I have called on the Government to investigate and prosecute serious violations of human rights and international humanitarian law committed by all sides. My Office supported the Commission of Inquiry established by the Human Rights Council earlier this year. Its findings, and those of previous commissions, provide a point of departure to end impunity, including with respect to elements in the new armed forces who continue to commit summary executions, rape and torture. Accountability, reconciliation and comprehensive security sector reform, including the vetting of officers, must be priorities at this juncture.

In South Sudan, violent clashes between heavily armed communities and the related resurgence of armed activity by rebel factions are undermining the stability of our newest Member State and pose a serious threat to civilians. In order to stop the cycle of violent reprisals, the Government needs more support to better control small arms, prosecute perpetrators of serious violations and ensure reparations to victimized communities who have lost their livelihoods.

In Libya, my Office has held initial discussions on transitional justice and will continue its engagement

through the United Nations Support Mission in Libya. Given the seriousness and extent of the crimes committed in the past, the needs are colossal and pressing. With the full support of my Office, the International Commission of Inquiry on Libya will continue to investigate alleged violations by all sides until presenting its final report to the Human Rights Council in March. An advance team began work in Libya at the end of October, and the Commission itself will be in Libya in early December.

Where basic human rights are trampled and peaceful demands for change are met by brutal force, people are eventually compelled to have recourse to rebellion against tyranny and oppression. It happened in Libya; it may happen in Syria. More and more soldiers refuse to become complicit in international crimes and are changing sides. There is a serious risk of Syria descending into armed struggle.

Since I briefed the Council in August on the findings of the fact-finding mission I established pursuant to Human Rights Council resolution S-16/1, Government military and security forces have continued to commit serious violations. Well over 3,500 people have been killed since March. Tens of thousands of people, including doctors, nurses and wounded patients, have been arbitrarily arrested, and many remain detained incommunicado, placing them at serious risk of torture. However, in today's world, facts cannot be incarcerated, thanks not least to local human rights defenders reporting through social media.

While I welcome the commitments Syria most recently made to the League of Arab States, I am concerned that the killing of civilians has not stopped. We have to see actual progress on the ground. A human rights monitoring presence can help to ensure that. The international community must insist that the Government end the killing of civilians, release all those arbitrarily detained for their peaceful protest and finally provide full and unimpeded access to the International Commission of Inquiry, which was established by the Human Rights Council in August and will report before the end of the month. At the same time, a credible spectre of criminal accountability may lead individual military commanders and political decision-makers to pause, reflect and change course.

An assessment mission to Yemen carried out by my Office in June found that civilians were at risk due to the lethal intersection of two separate struggles —

the Government's suppression of peaceful protesters, on the one hand, and its conflict with armed opponents, on the other. Government security forces have continued to deploy excessive and lethal force against civilians, using live ammunition and even snipers. The situation is exacerbated by armed opponents bringing weapons to otherwise peaceful demonstrations.

The Government has not initiated the type of credible independent investigations referred to in resolution 2014 (2011). I remain convinced that we need an international investigation and a human rights presence on the ground to lay the groundwork for accountability — rather than amnesty — for international crimes. In the meantime, I intend to seek the agreement of Yemeni authorities for the deployment of a follow-up mission. I will report to the Human Rights Council next March.

I am concerned that the number of civilians killed in Afghanistan is increasing, in a climate characterized by a lack of accountability for serious violations of international law. In the first half of 2011, the United Nations Assistance Mission in Afghanistan (UNAMA) Human Rights Unit tracked a 15 per cent increase in conflict-related civilian deaths. Among the 1,462 civilian deaths recorded, 80 per cent could be attributed to anti-Government forces. Civilian deaths for which the Afghan army and other pro-Government forces are responsible have declined to 14 per cent, due to improved safeguards. I draw the Council's attention to the systematic torture of suspected insurgents in many National Security Directorate and police detention facilities, which has been documented in a comprehensive report prepared by the UNAMA Human Rights Unit.

In Iraq and Somalia, our human rights components in the United Nations Assistance Mission for Iraq and the United Nations Political Office for Somalia continue to observe patterns of indiscriminate bombings and targeted killings of civilians.

I strongly condemn indiscriminate rocket attacks from Gaza, which flagrantly violate international law. I am also concerned that Israeli raids in Gaza are placing civilians at grave risk. In recent months, my office in the occupied Palestinian territory has observed an increase in the frequency and severity of violence perpetrated by Israeli settlers against Palestinian civilians in the West Bank. I urge Israeli authorities to

do more to prevent such attacks and to hold perpetrators accountable.

A little more than a year ago, my Office released a mapping report on serious violations that were committed in the Democratic Republic of the Congo between 1993 and 2003. Actors flagged in the mapping report, including in the army and intelligence services, continue to be implicated in serious violations up to this day. The Government's initiative to send a bill to Parliament that would establish special chambers to try the most serious crimes is encouraging. My Office provided recommendations on amendments aimed at guaranteeing international standards and the participation of international judges and prosecutors. I am very pleased to note that the Government has accepted my Office's proposal to hold a national conference on transitional justice.

Today the Joint Human Rights Office published a report on police and intelligence services' arresting, assaulting and threatening opposition activists, journalists and human rights defenders in the run-up to the elections to be held at the end of this month in the Democratic Republic of the Congo. It is urgent that the Government ensure that the electoral process is not tainted by violence and that it lives up to the standards set by resolution 1991 (2011).

In June, the Council charged the Secretary-General with ensuring effective human-rights monitoring of the situation in Abyei (resolution 1990 (2011), para. 10), following massive displacement of people and the burning and looting of Abyei town in May. Effective monitoring requires monitors on the ground. Given that my Office's repeated requests for access to Abyei have been denied, the United Nations Interim Security Force for Abyei (UNISFA) should include a civilian human rights component to carry out the Council's mandate. Since my briefing to the Council last summer, I have continued to receive disturbing reports from credible sources on the ground about serious violations of human rights and international humanitarian law in Southern Kordofan and Blue Nile state. As the Council is aware, the United Nations no longer has a human-rights monitoring presence, and even temporary access is refused. In the absence of any credible national investigations, I reiterate my call for a thorough and independent international investigation into violations of human rights and international humanitarian law.

Where national authorities fail to investigate credible allegations of the most serious violations, it is incumbent on the international community to rigorously establish the facts. Over the last two decades, my Office has supported more than 30 commissions of inquiry and similar mechanisms set up by the Security Council, the Human Rights Council, the Secretary-General and by myself under my own mandate. We have strengthened our capacity to support such mechanisms. They provide a solid basis for informing international action and national processes on justice, truth and reconciliation. I would therefore encourage the Council to play a more active role in securing follow-up to the recommendations of these mechanisms.

My Office participated in last week's workshop convened by Portugal and the Office for the Coordination of Humanitarian Affairs on enhancing the role of the Security Council in ensuring accountability for violations. The Council has an important role to play in ensuring practical arrangements to secure accountability: the establishment of facts, the identification and prosecution of perpetrators, and, importantly, the right to reparation for gross violations of human rights. Without it, impunity emboldens perpetrators and breeds more violations that undermine peace and progress. My Office stands ready to assist this Council in its efforts to protect civilians.

**The President** (*spoke in Portuguese; English interpretation provided by the delegation*): I now give the floor to Ms. Catherine Bragg, Assistant-Secretary-General for Humanitarian Affairs.

**Ms. Bragg**: I am grateful for this opportunity to brief the Council. The following statement is attributable to the Emergency Relief Coordinator, Ms. Valerie Amos.

These debates are an important opportunity for focused discussion of the protection of civilians in a number of situations and serve to convey some sense of what we see in conflicts, which is marked by the consistent failure of the parties concerned to comply with their legal obligations to respect and protect civilians. That failure manifests itself in many ways: the killing and maiming of civilians; sexual violence; the forced recruitment of children; displacement across and within borders; impeded provision of assistance; and a failure to hold accountable those who perpetrate

or instigate violations and to provide support, justice and redress to victims.

Eight months of conflict in Libya has led to the death and injury of thousands of civilians, the internal displacement of more than 200,000 people and the outflow of nearly one million migrant workers and third-country nationals. Intense fighting in urban centres routinely prevented the wounded, as well as lifesaving supplies and international assistance, from reaching hospitals. In addition to posing a serious threat to civilians at the time, the use of explosive weapons in densely populated areas in such places as Misrata and Sirte has led to significant destruction of housing and essential infrastructure.

Displaced people are starting to return home, and schools have reopened throughout most of the country. But normalcy is far from assured. The widespread availability of small arms and light weapons is of grave concern, as is the National Transitional Council's apparent lack of effective command and control over various militia forces. I am alarmed by reports that some of those forces are involved in the ill-treatment, including killing and arbitrary detention, of segments of the population perceived as loyal to the former regime and of sub-Saharan African migrants. It is a reminder that the protection of civilians remains acutely relevant in the post-Al-Qadhafi period.

Throughout Libya, the risk posed to civilians, especially children, by abandoned weapons and ammunition and by explosive remnants of war, is very high. In parts of Misrata, the presence of unexploded cluster sub-munitions underlines the importance of the comprehensive ban on such weapons, as is stipulated in the Convention on Cluster Munitions. That is why the ongoing efforts of some States parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects to adopt new international legal standards that would undermine that ban and facilitate the use of cluster munitions is very troubling.

I remain extremely concerned by events in Syria. Currently, the situation falls short of armed conflict. However, military operations are exacting a heavy toll. More than 3,500 Syrians have been reported killed since March. There are reports of serious human rights violations, including excessive use of force and restrictions on freedom of movement. I am also

concerned by the interruption of water and electricity supplies during military operations, and by interference with medical services.

In Yemen, conflict, poverty, drought, soaring food prices and collapsing State services have created a daily struggle for survival for millions of people, including 100,000 displaced by recent fighting in the South, and thousands of refugees from the Horn of Africa, as well as 300,000 persons displaced by previous conflicts, in the North. The response to peaceful demands for greater freedoms, an end to corruption and respect for the rule of law has been marked by excessive and disproportionate use of force by the State. Hundreds have been killed and thousands injured.

Turning to Gaza and southern Israel, in August, a series of attacks launched from Egypt into southern Israel by unknown militants resulted in the death of six Israeli civilians. In response, Israel conducted air raids on Gaza, resulting in 30 Palestinian fatalities and 103 injured, the majority of whom were reported to be civilians. One Israeli civilian was also killed and seven injured by rockets fired from Gaza during this period. A more limited escalation of violence at the end of last month resulted in the death of an Israeli civilian and injuries to another three Israeli and two Palestinian civilians.

In Colombia in June, the Government took the historic and welcome step of enacting legislation that will provide restitution for up to 4 million victims of the conflict, including through land restitution for those who were forcibly displaced. However, ongoing hostilities involving the guerrilla groups and armed groups that emerged following the demobilization of paramilitary forces in 2006 continue to be marked by violations of international humanitarian law, displacement and the confinement of civilian populations in particular areas. In addition, during the first eight months of this year, 104 civilians were wounded and 16 killed by mines and improvised explosive devices (IEDs) planted by the various groups. Mines and IEDs have also hampered the ability of humanitarian organizations to reach vulnerable populations in a timely manner.

In Afghanistan, some half a million Afghans have been internally displaced by the conflict, 130,000 of them during the first six months of this year. The United Nations Assistance Mission in Afghanistan

documented over 1,400 civilian deaths in the first six months of this year, a 15 per cent rise over the same period last year. More civilians were killed in May than in any other month since 2007, when the Mission began to document civilian casualties. Those deaths were attributed to the increased use of improvised explosive devices, as well as suicide attacks, targeted killings, increased ground fighting and air strikes involving helicopters.

Turning to sub-Saharan Africa, the recent escalation in fighting and insecurity along the Somalia-Kenya border risks increasing the suffering of civilians already devastated by conflict, drought, famine and displacement. I am concerned by the air strikes conducted by Kenyan armed forces against Al-Shabaab earlier this month, which reportedly killed civilians in a camp for internally displaced Somalis. The Somali conflict has long been characterized by the failure of all parties to respect international humanitarian law, including the principles of distinction and proportionality. The need for scrupulous compliance with the law by all parties is of the utmost urgency.

In the Sudan's Darfur region, fighting between the national armed forces and armed movements in such areas as eastern Jebel Marra displaced an estimated 70,000 people during the first eight months of this year, while 425 civilians were killed, including as a result of intertribal fighting. In Southern Kordofan, fighting between Sudanese forces and the Sudan People's Liberation Movement-North has severely affected the civilian population, including the 20,000 people who have fled to South Sudan. In Blue Nile State, the fighting that erupted in September initially displaced 130,000 people. A further 28,700 people fled to Ethiopia and over 6,200 to South Sudan. Meanwhile, the continued presence of Sudanese and South Sudanese armed forces in Abyei, following hostilities in May, is preventing up to 110,000 people from returning home.

South Sudan faces additional security challenges stemming from militia and intertribal violence. Since January, there have been nearly 430 conflict-related incidents, resulting in 3,100 deaths and displacing over 215,000 people. There is the prospect of further violence as competition over natural resources increases with the return of South Sudanese from the Sudan to areas in which basic services are already stretched.

In the Democratic Republic of the Congo, attacks against civilians by armed groups have intensified in the North and South Kivu provinces this year. The number of internally displaced persons in North Kivu increased by 30 per cent during the first half of 2011, reaching over half a million people by the end of July. Only 20,000 returns have been registered in North Kivu this year, compared with 235,000 in 2010. Throughout the Kivus and neighbouring provinces, insecurity has made humanitarian access increasingly difficult, with 135 security incidents involving humanitarian workers having been reported this year. Five humanitarian workers were killed last month and two were abducted in September.

Along with those in the Democratic Republic of the Congo and South Sudan, civilians in the Central African Republic continue to confront the brutality of the Lord's Resistance Army (LRA). Between January and August, 254 attacks by the Lord's Resistance Army were reported across the three countries, resulting in 126 deaths and 368 abductions. We estimate that approximately 440,000 persons are now internally displaced or living as refugees owing to LRA actions. In the Democratic Republic of the Congo alone, 335,000 people have been displaced, including 49,000 during the first six months of this year.

The situations I have described have many aspects in common, not least the perpetration of violations of international humanitarian law and human rights law. Equally common to most of these situations is the failure to hold accountable those responsible for such violations and to provide any form of justice or redress for their victims. The failure of accountability has to end. We cannot continue to ignore war crimes and serious violations of human rights law in situations of conflict, nor can we ignore the need to ensure that victims see justice and reparations for the wrongs they have suffered.

As mentioned by the Secretary-General and the United Nations High Commissioner for Human Rights, Portugal, together with the Office for the Coordination of Humanitarian Affairs, convened a one-day workshop last week on enhancing the role of the Council in ensuring accountability for violations. The workshop saw constructive exchanges on three key aspects of accountability: individual criminal responsibility, fact-finding and reparations. With regard to the first aspect, suggestions were made on the possible development of a checklist of issues for the Council to consider when

making referrals to the International Criminal Court, and on how the Council could support national authorities in conducting investigations and prosecutions, including the possible role of peacekeeping missions in that regard.

Participants recognized the richness of fact-finding practices and the challenges involved, including selectivity as to the situations under review and the need to improve follow-up on their findings and recommendations. Participants also emphasized the need for the Council to have greater resort to the findings of fact-finding mechanisms established by other United Nations bodies.

Finally, participants highlighted the significant number of reparations mechanisms that exist at the international and national levels and the breadth of practice in terms of the forms of reparation awarded. It was agreed that more detailed discussion was necessary to determine how such mechanisms could be supported in the future.

The Council has come far in its efforts to address the protection of civilians and has set important precedents, in particular on accountability. However, we cannot afford to be complacent. We must do more to advance the protection of civilians and ensure that progress is made where it matters most — in the midst of conflict.

**The President** (*spoke in Portuguese; interpretation provided by the delegation*): I thank Ms. Bragg for her briefing.

I now give the floor to Mr. Spoerri.

**Mr. Spoerri:** The International Committee of the Red Cross (ICRC) is honoured to brief the Security Council once again on this very important subject and would like to thank Portugal, as President of the Council, for the invitation.

Among the many different views that may be expressed here today by the various actors concerned with the protection of civilians in armed conflict, there is surely at least one common theme, which is that the reality on the ground has not kept pace with the considerable normative progress achieved in recent years. The undeniable reality is that civilians continue to be the main victims of armed conflict, due to indiscriminate attacks or targeted violence. Hundreds of thousands of women, men and children bear the brunt of conflicts that are in many cases protracted and

increasingly complex in both their causes and consequences.

Since the ICRC briefed the Council one year ago, we have noted a number of ongoing and emerging concerns related to the protection of civilians that confront us in our daily work in armed conflicts and other situations of violence around the world. I will mention three of them here.

First, events in North Africa, the Middle East and elsewhere have confirmed that violence against health-care facilities and personnel is one of the most serious yet neglected humanitarian issues of the day. In some cases, ambulances or hospitals are directly targeted, killing or wounding medical staff and patients. In many cases, health workers are harassed or threatened by fighters sometimes seeking to obstruct treatment for their wounded enemies or demanding supplies. Ambulances are deliberately blocked from accessing wounded people or held up for hours at checkpoints. Each incident effectively denies the right of wounded and sick people to health care. Yet, beyond the direct impact of attacks on medical infrastructure or workers, there are immeasurable longer-term repercussions on entire communities with war-related or chronic health problems.

The ICRC is so concerned by the far-reaching and profound humanitarian consequences of threats to the provision of health care in armed conflicts and other situations of violence that it recently launched a multi-year project and communication campaign on the issue.

Secondly, the so-called Arab Spring has also helped to highlight the extreme vulnerability of migrants living in or crossing through countries affected by armed violence. These migrants are extremely vulnerable to abuse and exploitation by all sides to a conflict, ranging from illegal confiscation of their belongings to sexual exploitation or even torture. In some cases, they are made the scapegoat for causing or exacerbating the conflict.

Thirdly, events over the past year have underscored concerns related to the conduct of hostilities, particularly in urban settings. Military operations conducted in densely populated urban areas, often using heavy or highly explosive weapons, have had devastating humanitarian consequences for civilian populations. This situation has further highlighted the need for strict interpretation and rigorous application

of such key notions as distinction, military objectives, the principle of proportionality and precaution.

The overarching challenge presented by these issues is to achieve consistent respect for international humanitarian law by States and non-State actors in international and domestic armed conflicts, irrespective of the reasons for going to war. Coupled with this is the need to enhance accountability for violations of international humanitarian law both by parties to conflict and by individual perpetrators, be it at the national level or by referral to the International Criminal Court. Indeed, the Secretary-General included these issues in the five core challenges first set out in his 2009 report on the protection of civilians in armed conflict (S/2009/277).

Working to ensure respect for international humanitarian law is at the heart of the ICRC's mandate and mission. That is reflected in our impartial, neutral and independent approach. Of course, principled humanitarian action is nothing more than an empty mantra unless it is translated into a meaningful response on the ground, and the many different actors involved in protection work have many different approaches. For the ICRC, a meaningful response essentially requires an approach that is needs-based, has proximity to the beneficiaries, and entails engagement with all stakeholders, thereby gaining the widest possible acceptance and respect, and thus the widest possible humanitarian access. This approach also helps to ensure the safety of our staff. Protection, for us, goes together with assistance, and one may facilitate the other.

Crucially, if the ICRC's approach is to be effective and credible, it must remain consistently distinct from any kind of political process or decision, be they peace processes, political negotiations, Security Council mandates, the human rights agendas of various organizations, military or peace operations, or judicial investigations and prosecutions. At the same time, the ICRC respects the sovereignty of States and contributes to national capacity-building, for example by supporting authorities in incorporating international humanitarian law into national legislation and into army training manuals, by advising on rules of engagement in order to limit risks for civilian populations and prevent abuses, or by helping existing structures to continue functioning. In so doing, the ICRC contributes to strengthening accountability for violations.

In recent crises, such as those in Côte d'Ivoire, Libya and Yemen, the ICRC has managed to gain and maintain access to people affected by adhering strictly to this approach. Likewise, in protracted armed conflicts — Afghanistan is just one example — the perception of the ICRC's work as impartial, neutral and independent has been absolutely crucial to achieving dialogue with parties on all sides of the conflict, and thus to obtaining humanitarian access to those in need. In this regard, all measures that effectively hamper contact by humanitarian agencies with organized non-State armed groups are a cause for concern. Under international humanitarian law, the ICRC must be allowed to offer its services to any party to an armed conflict.

The success of protection, which is ultimately manifested in the prevention of abuses occurring in the first place, is notoriously hard to measure. It is generally not possible to know how much suffering has been prevented in any given armed conflict or how many more abuses might have been committed without the efforts of all the various protection actors. Yet the difficulty of measuring success should never serve as an excuse or obviate the need for accountability. When protection fails, we have all witnessed the terrible consequences — for health-care workers, migrants and the countless women, men and children suffering in the face of conflict.

Ultimate responsibility for the protection of civilians clearly lies with States, both on their own territory and in their military operations in other contexts. Little can be achieved without the requisite political will. But other actors — including non-State armed groups, which are also bound by international humanitarian law, military forces and humanitarian organizations — also have important roles to play. Indeed, all of us here today must help to ensure, in our different ways, that normative achievements are felt where they matter, not in the debating chamber, but on the ground, so that they make a real difference for people in the midst of war or other situations of violence.

**The President** (*spoke in Portuguese; interpretation provided by the delegation*): I thank Mr. Spoerri for his briefing.

I now give the floor to the members of the Security Council.

**Sir Mark Lyall Grant** (United Kingdom): I thank you, Sir, for scheduling this important debate today. Let me begin by thanking the Secretary-General for his comments and for his personal valuable contribution to the protection of civilians agenda. I would also like to thank the United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay; the Assistant Secretary-General for Humanitarian Affairs, Ms. Catherine Bragg; and the Director for International Law and Cooperation of the International Committee of the Red Cross, Mr. Philip Spoerri, for their insights into subject matter of today's debate.

As Mr. Spoerri has just reminded us, the primary responsibility to protect civilians lies with States. The concept of protection of civilians is firmly embedded in modern military doctrine in many countries and in the thoughts of policymakers around the world. It is now central to most United Nations peacekeeping operations and to military operations authorized by the Security Council. But to ensure its practical implementation in conflict situations, the principle needs to be underpinned by enforcement mechanisms at both the domestic and international levels, including, ultimately, the possibility of individual criminal liability.

The International Criminal Court (ICC) is bringing to account those responsible for atrocities against civilians. The ICC is a visible demonstration of the international community's increasing intolerance for impunity.

The protection of civilians in armed conflict is a cornerstone of international humanitarian law. The United Kingdom therefore urges all States to ratify outstanding international humanitarian law treaties and to incorporate the relevant provisions of those treaties into their domestic law. And we agree with the Secretary-General that those Member States — including some members of this Council — that have not signed and ratified the Rome Statute of the ICC should be encouraged to do so.

We believe that a link exists between international and national efforts to enhance accountability. It is the responsibility of States to investigate and prosecute crimes. But it is important that steps be taken at the international level when national efforts fail.

The United Kingdom shares many of the concerns raised during the course of today's briefings. I would like briefly to mention just three situations.

In Syria, the United Kingdom condemns the brutal repression of peaceful demonstrators and the massive violations of human rights that President Al-Assad and his authorities have been committing for the last six months. As Ms. Pillay has just reminded us, more than 3,500 people have now been killed. The Syrian Government should immediately end the violence, release all prisoners of conscience and allow free, unhindered and immediate access to United Nations monitors for an independent assessment of the situation on the ground.

In Somalia, Al-Shabaab's terrorist campaign continues to have terrible humanitarian consequences. We congratulate the African Union Mission in Somalia (AMISOM) on their recent successes in Mogadishu. Those military gains now need to be followed up by a stabilization effort to enable the provision of basic services, such as electricity, water, food, hospitals and schools, to the civilian population in those areas. We recognize that the Transitional Federal Government (TFG) has begun to address the protection of civilians, and we encourage them to continue to do so. We continue to explore ways in which we can support the TFG and AMISOM in order to minimize the risk of civilians when they come under attack and to protect the citizens of Mogadishu.

In Burma, we remain seriously concerned for the well-being of the civilian population, especially in the Shan, Kachin and Karen states. We call upon the Burmese army and ethnic militia to make every effort to protect civilians and bring to account those responsible for human rights abuses against them. Peace and stability can be achieved only through a genuine process of national reconciliation, starting with inclusive dialogue among all ethnic and political opposition groups.

In conclusion, we welcome the mainstreaming of protection of civilians activity with the work of the Special Representative of the Secretary-General on Sexual Violence in Conflict and with the working group of the Special Representative of the Secretary-General for Children and Armed Conflict. The United Kingdom continues to implement our national strategy on protection of civilians, and to lead the informal Expert Group on the Protection of Civilians. That is an

important tool for the sharing of information from the field, and we look forward to the next report of the Secretary-General on the subject in May 2012.

**Mr. Barbalić** (Bosnia and Herzegovina): Allow me to welcome the presence of His Excellency Mr. Aníbal António Cavaco Silva, President of the Portuguese Republic, at this meeting. I wish to thank Secretary-General Ban Ki-moon for his briefing. I also thank United Nations High Commissioner for Human Rights Ms. Navanethem Pillay, Assistant Secretary-General for Humanitarian Affairs Ms. Catherine Bragg, and Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross, for their remarks.

The issue of protection of civilians in armed conflict is one to which Bosnia and Herzegovina attaches great importance.

The Security Council has undertaken many activities to protect civilians and improve the protection of civilians agenda. Nonetheless, many civilians continue to suffer from the consequences of violent conflicts. Serious and ongoing violations of international humanitarian law and human rights law, including systematic violence against civilian populations, are being committed. It is the unfortunate and unacceptable reality of our times that civilians continue to be a main target for armed attacks and account for a high number of casualties in conflicts.

In light of the fact that responsibility for the protection of civilians rests primarily with the State, additional efforts are necessary to make Governments aware of their responsibility to protect civilians. It is essential to support relevant national institutions and strengthen their role and capacity to deal with those issues. Furthermore, all parties to armed conflict must fully comply with their obligations under international humanitarian law concerning the protection of civilians in armed conflict.

We particularly underline the need to combat impunity for perpetrators of violence against civilians. The Security Council should take every opportunity to send the message that crimes committed against civilians are unacceptable and that all perpetrators of grave violations of human rights and international humanitarian law will be brought to justice. In addition, Council-mandated action to protect civilians must ensure full respect for the Charter of the United Nations, as well as the sovereignty and integrity of

Member States. The international response must be proportional to the threat, while the use of force should be a last resort.

Protection of civilians is an integral part of multidimensional peacekeeping operations. In that regard, Bosnia and Herzegovina welcomes the work of the Department of Peacekeeping Operations with police- and troop-contributing countries to improve understanding, implementation of civilian-protection mandates, development of a strategic framework for the protection of civilians in peacekeeping missions and the use of recently developed scenario-based training modules.

Existing mechanisms for the protection of civilians and of children in armed conflict and the monitoring and reporting arrangements established in accordance with resolution 1960 (2010) are important elements of the peacekeeping agenda. Host Governments need to be consulted, involved and properly informed about their functioning. Moreover, data collected during the work of those mechanisms must be made available to national judicial systems.

At this point, allow me to mention a few concrete cases where challenges to civilian protection are a significant part of the overall efforts.

In Libya, strengthening security institutions and their capacity by providing necessary training for police and military forces is critical for protection of civilians and the rule of law in the country. Ensuring effective protection of the civilian population will be essential for promoting inclusive dialogue and national reconciliation and restoring peace and order in the country.

One of the key tasks of the United Nations Mission in South Sudan is to assist the Government to protect civilians in a volatile security environment where it lacks the capacity to do so.

Civilians in Somalia continue to bear the burden of the fighting between militants and the Transitional Federal Government. The famine significantly contributes to the worsening of the situation, forcing many to seek refuge in Kenya and other neighbouring countries. We urge the international community to increase its efforts and provide much-needed humanitarian assistance.

The Government of Syria needs to accelerate the implementation of measures leading to a democratic

society, ending the ongoing unrest and suffering of the civilian population, and to hold accountable those responsible for the killings.

In Afghanistan, the high number of conflict-related casualties caused by anti-Government forces, as well as cases of child recruitment for military and suicide attacks, is unacceptable. All parties to the conflict need to respect the principles of international humanitarian and human rights law, while the Government must take decisive measures to investigate such acts and bring the perpetrators to justice.

We must particularly underline that conflicts remain the major cause behind increasing numbers of refugees and internally displaced persons. We are deeply concerned about the unsafe and too often impeded humanitarian access to populations affected by conflict. We are also troubled by attacks against humanitarian workers, which must be strongly condemned. We also believe that the Security Council should take a more consistent and comprehensive approach to addressing humanitarian access constraints and ensuring accountability for grave instances of denial of access.

Accountability for human rights violations should be given the utmost priority. The International Criminal Court should have better interaction with the Security Council, while international and national mechanisms should complement that work. National judicial systems are the cornerstone for addressing accountability and impunity, but the relevant United Nations bodies need to develop comprehensive and innovative approaches to support their work.

Civilian protection issues developed over the last decade must be further enhanced. The Council can play a leadership role, but the Secretariat and United Nations agencies need to clearly delineate their roles and responsibilities and allocate sufficient resources to fulfil them. Sanctions and other targeted measures against the perpetrators of violations against civilians are important for enhancing accountability.

We believe that commissions of inquiry and fact-finding missions could be used as preventive tools and measures for possibly decreasing tensions before the escalation of a conflict. Governments should fully cooperate with the fact-finding missions sent by commissions of inquiry and allow them to investigate all alleged violations of international humanitarian law. The crucial elements for the establishment of those

mechanisms are adequate timing, the availability of experts, priorities adapted to specific situations, as well as follow-up activities.

Finally, the challenges facing the Council with regard to the protection of civilians call for greater international cooperation and better coordination between the Council and other United Nations bodies and agencies. To that end, additional efforts should be made to prevent conflicts and to promote early warning systems and effective responses to situations that specifically threaten civilian populations. Although the primary responsibility for the protection of civilians lies with States and parties to armed conflicts, the United Nations, with its systematic approach to the protection of civilians, must be and is at the helm of the global effort.

**Mr. Osorio** (Colombia) (*spoke in Spanish*): I extend the warmest welcome to His Excellency Mr. Aníbal António Cavaco Silva, President of the Republic of Portugal, and thank him for participating in the work of the Council earlier today. I also thank Ms. Navanethem Pillay, Ms. Catherine Bragg and Mr. Philip Spoerri for their important briefings and contributions to help us consider and analyse the protection of civilians in armed conflict.

We would also like to thank the Permanent Mission of Portugal for having convened this meeting and organized, together with the Office for the Coordinator of Humanitarian Affairs, last week's workshop, which furnished valuable elements for addressing the topic at hand.

Colombia reiterates its commitment to respecting and protecting civilians in armed conflict. In this regard, our Government has made every possible effort. The consolidation of the rule of law is the most solid foundation for creating conditions to protect individuals and guarantee the full enjoyment of their personal rights.

The fact that the topic of the protection of civilians in armed conflict has remained on the agenda of the Security Council for more than a decade suggests that there is a need for this executive organ of the Organization to play a bigger role in protecting civilian populations when they fall victim to violent and systematic repression by their own authorities, as was the case in Libya. Furthermore, these activities are a valuable complement to contributions and developments originating in other bodies, such as the

General Assembly, the Human Rights Council and the Economic and Social Council.

The General Assembly in particular, through its Special Committee on Peacekeeping Operations, recognizes in its report A/65/19 that the mandates of several United Nations peacekeeping missions currently include a civilian protection component. That document establishes the guidelines to be followed in order to appropriately accomplish those tasks, in accordance with the purposes and principles of the United Nations.

With respect to the adoption of mandates related to the protection of civilians in situations on the Council's agenda, we stress the importance of taking into consideration the strengthening of national capacities. The report of the Special Committee of Peacekeeping Operations itself stresses that the protection of civilians is first and foremost the responsibility of the host State. Therefore, peacekeeping missions entrusted with that mandate should carry out their work without undermining the responsibility of the host Government to protect its civilian population. The strength of the State as an institution and support for the actions of national authorities are the bases for guaranteeing the effective protection of civilians in contexts of violence.

In the search for lasting peace and stability that can make a long-term difference, the Security Council should enhance its coordination with other bodies and agencies of the system. In this context, it would be wise to undertake sustained efforts and to adopt comprehensive approaches that offer possibilities for cooperation to meet problems that at times represent highly complex challenges. The specific measures adopted by the Security Council in situations submitted for its consideration lead to precise actions that are adapted to the context and circumstances of each situation.

It goes without saying that these considerations are all the more relevant when the Council considers reports on situations other than those already on its agenda. Colombia wishes to stress that, when considering this point, the Council needs to maintain a clear distinction between situations that are included on its agenda and those that are not. In this sense, it is advisable that, when addressing the protection of civilians in specific situations, the Council act to strengthen national institutions.

**Mrs. Viotti** (Brazil): I have the honour to deliver this statement on behalf of Ambassador Antonio de Aguiar Patriota, Minister for External Relations of Brazil, who is unable to participate in today's meeting as he had hoped, due to unforeseen circumstances that required his presence in Brazil. I will now proceed to read out his statement.

*(spoke in Portuguese; English text provided by the delegation)*

"I congratulate Your Excellency and the Portuguese delegation on assuming the presidency of the Security Council for the month of November and in particular for your initiative in promoting this timely debate on the protection of civilians.

*(spoke in English)*

"I would like to thank Secretary-General Ban Ki-moon for his very informative briefing. I would also like to extend warm greetings to High Commissioner Navanethem Pillay and thank her for her presentation. Our appreciation also goes to Ms. Catherine Bragg and to Mr. Philip Spoerri for their briefings.

"On the occasion of today's debate, I would like to propose a reflection on how the relationship between the maintenance of international peace and security and the protection of civilians has recently evolved and how to build upon the existing conceptual framework to deal with the many challenges confronting us. My remarks are meant as a constructive, conceptual contribution to help develop our collective thinking on a very important issue that will continue to be of concern to this Council and to the international community as a whole.

"No issue could be more deserving of the attention of the Security Council than the need to protect civilians in situations of armed conflict. We are all well aware of the plight of refugees, displaced persons and all the innocent victims of war. I also take this opportunity to reiterate our appreciation for the work carried out by the International Committee of the Red Cross and all other relief workers on the ground, who, often at great personal sacrifice, dedicate their best efforts to the protection of civilians.

"At the outset, let us bear in mind two different sides of the question of the protection of civilians. On the one hand, there is the imperative need to prevent violence against civilians in the conduct of hostilities — I would even venture to say to prevent violence against non-combatants in general — and the need to ensure accountability. On the other, there is the need to guarantee, especially in situations of armed conflict, that persons in need have access to humanitarian assistance and emergency relief. Blocking access to humanitarian aid can be just as lethal as pulling a trigger.

"On all counts, the most important task, as stressed in the various reports prepared by the Secretary-General on this question, is that of ensuring compliance with the rules of international humanitarian law and human rights law. That, of course, is easier said than done, but we can derive some reassurance from the fact that the issue is now high on our agenda, and this meeting is eloquent proof of that.

"The Secretariat has produced a number of studies that have increased our understanding of this complex question, and presented us with a number of useful recommendations that have enriched the work of the United Nations aimed at improving the situation of civilians in armed conflicts.

"Brazil has a strong interest in the work of the Security Council on the protection of civilians. We have made significant progress since 1999, when discussions on this issue began to receive more focused attention. We support the statement to be made by the representative of Switzerland on behalf of the Group of Friends of the Protection of Civilians.

"The plight of innocent civilians and the need to prevent the impunity of perpetrators of the most serious crimes is what led the United Nations to create the International Criminal Court (ICC), of which Brazil is currently a full member. Supporting the work of the ICC is one of the most effective ways to enhance accountability and to deter future crimes.

"A few years back, in September 2005, an important step was taken when the Outcome Document (resolution 60/1) of the World Summit

was adopted. It established the responsibility of States to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Additionally, it mentions the responsibility of the international community to act collectively, through the United Nations, should national authorities manifestly fail to protect their populations. Indeed, no one can be indifferent to the fate of those who are under the threat of such heinous crimes.

“The recognition that there is a responsibility to protect was a milestone. It should be stressed that the same World Summit declaration that established a consensus formulation of the concept of the responsibility to protect also clearly stated that that responsibility must be exercised, first of all, through the use of diplomatic, humanitarian and other peaceful means, and that only in those cases in which peaceful means prove to be inadequate should coercive measures be contemplated. Along with that process, it is essential to distinguish between collective responsibility, which can be fully exercised through non-coercive measures, and collective security, which involves a case-by-case political assessment by the Security Council.

“Before embarking upon military action, the international community is expected to conduct a comprehensive and judicious analysis of all possible consequences. The use of force always brings with it the risk of causing unintended casualties and spreading violence and instability. The fact that it is employed with the aim of protecting civilians does not make the collateral casualties or unintended destabilization less tragic.

“That is why, in our view, it is necessary to take an additional conceptual step in dealing with the protection of civilians. I would like to take this opportunity to offer a new perspective on the question that, we believe, has become essential in approaching our common objective.

“The point was made by President Dilma Rousseff in her opening statement at this year’s general debate at the General Assembly (see A/66/PV.11), when she referred to an indisputable and disturbing fact. The world today suffers the painful consequences of military interventions

that have aggravated existing conflicts, allowed terrorism to penetrate into places where it previously did not exist, given rise to new cycles of violence, and increased the vulnerability of civilian populations. She added that much had been said about the responsibility to protect, but very little about the responsibility while protecting.

“Because the United Nations can authorize the use of force, it is under the obligation to fully develop an awareness of the dangers involved in such use and to set up mechanisms that can provide an objective and detailed assessment of such dangers, as well as ways and means of preventing harm to civilians.

“Our collective point of departure should resemble the Hippocratic principle of *primum non nocere* — first, do no harm — with which doctors are so well acquainted. That must be the motto of those who are mandated to protect civilians. It would also be most unfortunate, ultimately unacceptable, if a United Nations mission established with the aim of protecting civilians were to cause greater harm than that that it was enacted to prevent.

“But we must aim for a higher level of responsibility. One casualty is one too many, no matter how noble the intentions. The Brazilian delegation will shortly circulate a concept paper. It elaborates on the idea that the international community, as it exercises its responsibility to protect, must demonstrate a high level of responsibility while protecting. Both concepts should evolve together, based on an agreed set of fundamental principles, parameters and procedures, of which I will mention a few.

“Prevention is always the best policy. It is the emphasis on preventive diplomacy that reduces the risk of armed conflict and the human costs associated with it. The international community must be rigorous in its efforts to exhaust all peaceful means available in the protection of civilians under threat of violence, in line with the principles and purposes of the Charter of the United Nations, as embodied in the 2005 Outcome Document. The use of force must produce as little violence and instability as possible. Under no circumstances can it generate

more harm than it was authorized to prevent. In the event that the use of force is contemplated, action must be judicious, proportionate and limited to the objectives established by the Security Council. Enhanced Council procedures are needed to monitor and assess the manner in which resolutions are interpreted and implemented to ensure responsibility while protecting.

“We hope that United Nations members contribute to elaborating the concept of responsibility while protecting. We are convinced that, if we succeed in that endeavour, we will make the Council stronger and better equipped to carry out its responsibilities under the Charter.

“The Security Council can no longer postpone a serious discussion of such issues. We are aware that it is not an easy task and may require the adoption of new procedures, but we can do no less.”

**Mr. Hardeep Singh Puri (India):** At the outset, I would like to thank the Portuguese presidency for having organized the Council’s open debate on the protection of civilians in armed conflict today. I also want to warmly welcome President Cavaco Silva to the Security Council and to thank him for his statement. I would also like to thank the High Commissioner for Human Rights, the Assistant Secretary-General for Humanitarian Affairs and the representative of the International Committee of the Red Cross for their briefings.

The right to life is one of the fundamental rights enshrined in the constitutions of a vast number of United Nations Member States, including my own. It is, in fact, the foundation of any social order. Unfortunately, there are instances when that foundation is disturbed, leading to the killing of civilians on a large scale. Such instances leave a deep scar on our collective consciousness. Living in a globalized world today, the international community cannot but deal with such cases.

At the same time, most cases where civilians are at the greatest risk today do not involve nation States, but belligerents who are not necessarily combatants under international humanitarian law. That makes the task of the international community, the Council in particular, so much more difficult as it needs to act within the established principles of international law. I

would therefore like to thank the Portuguese presidency for having organized this meeting, and hope that today’s debate will contribute meaningfully towards the United Nations response for the protection of civilians. I would also like to thank the Secretary-General for his incisive statement.

Civilians have always suffered the most in war. Notwithstanding the development of international humanitarian law and Security Council mandates, civilians continue to suffer today. Even more unfortunate is the fact that civilians, or non-belligerents, suffer a disproportionate share of casualties compared to belligerents. It is they who bear the brunt of violence in conflict and post-conflict situations.

United Nations peacekeeping is one of the key instruments available to the international community to protect people from the scourge of war and lawlessness. India has contributed, through ideas and resources, to global efforts towards protecting civilians. Our men on the ground are the ones who translate the Council’s mandates into actions in challenging circumstances.

India is proud to have been associated with United Nations peacekeeping from its very inception. As a country that has contributed more than 100,000 peacekeepers and to virtually every United Nations peacekeeping operation in the past six decades, India is steadfast in its commitment to protect civilians at the international level. India brings to the table a quantum of experience in actually protecting civilians in peacekeeping missions that is unique in its relevance, variety and depth.

It has been India’s consistent view that protection of the population is first and foremost the responsibility of each State. We recognize the responsibility of all States to respect the fundamental rights of their people, address their legitimate aspirations and respond to their grievances through administrative, political, economic and other measures. At the same time, States also have the obligation to protect their citizens from armed groups and militants. While the right of people to protest peacefully is to be respected, States cannot but take appropriate action when heavily armed militant groups resort to violence against State authority and infrastructure.

The Security Council has placed protection issues squarely at the centre of the conflict resolution and

peacekeeping agenda by adopting a number of resolutions and statements on protection of civilians and on related issues of violence against women and children in situations of armed conflict.

Protection of civilians, when applied as a basis for Security Council action, needs to respect the fundamental aspects of the United Nations Charter, including the sovereignty and integrity of the Member States. Any decision to intervene that is associated with political motives distracts from the noble principles and must be avoided. Also, the response of the Council and the international community must be proportional to the threat involved, use the appropriate methods and make available adequate resources to any peacekeeping mission involved.

In this context, it is pertinent to mention that we find several Member States all too willing to expend considerable resources for regime change in the name of protection of civilians. However, they are unwilling to provide minimal resources, like military helicopters, to the United Nations peacekeeping missions, which are mandated to protect civilians and designed to strengthen capacity of State institutions as well.

We must also be clear that the United Nations has a mandate to intervene only in situations where there is a threat to international peace and security. Any Council decision to intervene must, therefore, be based on credible and verifiable information. This requires a much greater information flow when the Council is seized of a situation.

The Security Council must make up its mind on what it means by protection of civilians. It must have clarity about who is to be protected and what constitutes a threat. It must also clarify what kind of response it expects and who is to respond. For example, it must be able to differentiate between threats that require a military response and a rule-of-law response. It should not ask force commanders or their soldiers to assume policing responsibilities.

In this regard, I would like to draw attention to the need for accountability. We believe that there should be accountability of those who mandate. Their responsibility does not end with the generation of mandates. They should be held accountable if unachievable mandates are generated for political expediency or if adequate resources are not made available.

Further, it is important that the principle of protecting civilians must be applied in a uniform manner by all parties to a conflict. The Council's recent actions have brought to the fore a considerable sense of unease about the manner in which the humanitarian imperative of protecting civilians has been interpreted for actual action on the ground. Monitoring of the manner in which the Council's mandates are interpreted has, therefore, assumed importance. There are also instances when the Council is expected to quickly criticize national Governments for failing in their responsibility to protect civilians, while little or no accountability is enforced on armed groups indulging in violence.

As stated earlier, the protection of civilians is a national responsibility and requires institutions, and conditions in which the institutions can function. To enable States to fulfil their responsibility to protect their populations, national capacities need to be strengthened, where needed. Peacekeepers, in spite of their best efforts, cannot possibly protect everyone from everything. Peacekeepers are primarily there to assist and aid in the development of national capacities.

In concluding, I would like to stress that force is not the only way to protect civilians. It should only be the measure of last resort and be used only when all diplomatic and political efforts fail. The Security Council must also be clear that its responsibility for protecting civilians does not end with a military or police response. Civilians require humanitarian wherewithal for survival. The Council requires a more integrated view. Multiple stakeholders are involved in this process, not just the military.

The actions of the Council and international community should facilitate engagement among warring factions in a conflict situation in a nationally owned and inclusive political process and not complicate the situation by threats of sanctions, regime change, et cetera. This inclusive approach to national reconciliation, anchored in State sovereignty, is the only way to move forward and ensure the protection of civilians in an effective, pragmatic and enduring manner.

**Mr. Araud** (France) (*spoke in French*): I would like to thank the President of the Portuguese Republic and the Secretary-General for having participated in

this debate. I also thank all other speakers for their presentations.

I associate myself with the statement that will be made on behalf of the European Union.

The protection of civilians is at the heart of the mandate of United Nations peacekeeping operations. In that framework our Organization, on a daily basis, must fulfil that mission. It is up to us to give it the means and to help it deal with this challenge.

The responsibility to protect civilians belongs first, we all know, to national Governments. But when they do not fulfil that duty, and when serious violations of international humanitarian law and human rights — war crimes, crimes against humanity — are planned or committed, it is then the duty of the Security Council to intervene to protect civilian populations. There is no other choice when these atrocities are committed by Governments against their own populations.

When civilians die, to think about how to protect them is good, but to protect them is much better. That is why in the case of Libya the Council first adopted a wide range of sanctions. Later it authorized the coalition forces to protect civilians being bombed on the order of their own leaders. By permitting strikes on Qadhafi's forces at the entrance to Benghazi, the Security Council was able to prevent a massacre.

France is proud that it did not fail to meet that rendezvous with history. To abstain would have been to turn our eyes away from the suffering of the Libyan people. To abstain would have been to join the half-hearted who deplore evil but do nothing to reduce it.

Today it is in Syria that we must protect civilians. No one here can deny the recourse to force there. The tragic situation in which the Syrian people have found themselves since February — in which there have already been 3,500 deaths and which is characterized by brutality and intolerable cruelty — creates an obligation for the international community to act to make these atrocities stop and to prosecute the perpetrators of these crimes.

However, the Council has abdicated its responsibilities. Some have vetoed even limited action on the part of the Council. Others chose to abstain — in other words, to show their indifference. While the Syrian Government continues to shoot at its population, besiege it, arbitrarily arrest thousands of people and engage in forced disappearances and

torture, the Security Council has not played its role with regard to the protection of civilians. It is a serious failing by the Council, whether in humanitarian or political terms.

Today the Syrian Government must implement the plan of the Arab League, but it must also cooperate with the commission of inquiry established by the Human Rights Council. We await their report; we must draw from it all the consequences. France will continue to work with determination so that the Council — which has been able to see the cost of its inaction — finally plays its role.

We spoke here yesterday about the Democratic Republic of the Congo. We could mention many other countries where the security of the civilian population should constitute a major concern for the Security Council — the Sudan, for example, where violence continues against civilians in Darfur, Southern Kordofan and Blue Nile. The Security Council, which was able to take bold measures in 2005, should act in that respect.

I should like also to revert to the issue of the fight against impunity for those responsible for atrocities. In 2005, the Security Council referred the atrocities committed in Darfur to the International Criminal Court (ICC). This year, it unanimously referred to it the acts of violence committed in Libya. It is clear that in the absence of justice, there cannot be lasting peace, a reweaving of the social fabric or reconciliation among communities.

To choose between justice and peace is to choose the short term over the long term. Thus States must bring to justice and punish those responsible for violating international humanitarian law and human rights law, which requires impartial and independent investigations. However, in cases where the national authorities are not themselves able to carry out such investigations or refuse to do so, the international community must act to support them, or in their stead. Thus in situations where serious violations of human rights or of international humanitarian law are suspected to have occurred, an international commission of inquiry, such as the one that exists for Syria today, makes it possible, by gathering evidence and testimony, to open the way for national or international judicial proceedings. The Security Council must not hesitate to mandate such commissions and must follow up on their conclusions.

In addition, France calls for full cooperation with the ICC. The Court, by alerting us, through its preliminary inquiries, to the imminent commission of massive crimes, by ensuring that the perpetrators of serious violations of human rights and international humanitarian law are brought to justice, and even by dissuading perpetrators from committing fresh acts of violence, plays a role in the protection of civilians.

Finally, I should like to reiterate our support for Ms. Wahlström and Ms. Coomaraswamy and commend their commitment and the high quality of their work. In that respect, the Security Council must systematically consider including sexual violence as grounds for sanctions when establishing or reviewing the mandates of sanctions committees.

With regard to children, experience has shown that bringing pressure to bear yields results. I would recall that the Council, in coming months, will be working on this issue, and we must no longer hesitate to assume our responsibilities and adopt strong, targeted sanctions against those responsible for acts of violence against children.

My country has suffered too much from war to lightly involve ourselves in military action, but there are exceptional times in history where respect for international law gives us a clear choice between, on the one hand, the comfort of words and a good conscience and, on the other, the difficult decision to assume our responsibilities. That is what France did in Libya. It did so with seriousness and determination, and the joy of the Libyan people today is both its reward and justification.

**Ms. Rice** (United States of America): I should like to thank President Cavaco Silva for presiding over this meeting of the Council. I should equally like to thank the Secretary-General, High Commissioner Pillay, Assistant Secretary-General Bragg and International Committee of the Red Cross Director Spoerri for their briefings and for their dedication to the protection of civilians.

Protection of civilians is at the heart of what we should be doing in the Council. In the past year, we have made significant progress in operationalizing norms on the protection of civilians. The Council played a critical role in protecting the people of Côte d'Ivoire in the aftermath of the elections there. When Muammar Al-Qadhafi moved to make good on his promises to massacre civilians in his own country, the

Council acted. The United States is proud to have taken part in the NATO-led coalition that was authorized, without any opposition, by the Council under resolution 1973 (2011). This was necessary and appropriate, given that Al-Qadhafi's forces continued to unleash brutal attacks on civilians and civilian-populated areas and hindered the delivery of humanitarian assistance. Thus, in accordance with resolution 1973 (2011), NATO and its partners protected civilians for as long as necessary.

Of course, every situation is different, and every solution will be different. But the need to act in each instance remains. The situation most immediately confronting the Council is in Syria. The United Nations High Commissioner for Human Rights has warned that the Syrian Government's appalling actions might amount to crimes against humanity. Her Office now places the likely death toll at least 3,500. The Al-Assad regime's crimes are condemned more widely every day. The Gulf Cooperation Council has demanded an end to what it called Al-Assad's "killing machine". The Arab League has worked hard to bring a halt to the violence, but thus far to no avail.

Yet the Council has not adopted a single resolution, even to condemn the Al-Assad regime's brutal attacks on civilians. But let there be no doubt: the crisis in Syria will stay before the Security Council, and we will not rest until the Council rises to meet its responsibilities.

The Council has also failed to act, or even to speak, in defence of the thousands of innocent civilians in the Sudan's Southern Kordofan and Blue Nile States, where a brutal military campaign by the Government has again resulted in horrific loss of life and a dire humanitarian crisis. Our silence is deafening and inexcusable.

Overall, the United Nations and the Council face challenges of both will and capacity. We believe that, to build our capacity to protect civilians, the United Nations should advance on five fronts.

First, we must strengthen early-warning systems to detect and draw attention to threats against civilians, especially where the United Nations already has a significant presence on the ground. Humanitarian workers are often the first to sound the alarm bell. United Nations peacekeeping personnel have an obligation to do so as well. We have seen some recent promising examples of early-warning and prevention

strategies in peacekeeping missions. For example, the United Nations Mission in South Sudan, with the support of the United Nations country team, mobilized in response to escalating tensions in Jonglei State, including consultations with community leaders and Government authorities. This early-warning system may well have helped prevent retaliatory intercommunal violence.

We encourage such early-warning activity in other missions as part of an overall mission-wide strategy for the protection of civilians. Such strategies can succeed only if they rely on strengthening mission personnel's understanding of and communications with the host communities. A mission-wide strategy also needs to provide peacekeepers with the necessary equipment and training, as well as ensure their resolve to use all means at their disposal, including force where necessary and so mandated.

My Government welcomes the development by the United Nations of training materials focused on sexual and gender-based violence, as well as other tools to help missions improve their protection strategies. The United States helps the United Nations to survey current practices and has initiated a workshop for missions with civilian-protection mandates.

Secondly, where prevention has failed, we must bring the evidence of atrocities to light. That is easier to do when human rights investigators are already on the ground as part of a peace operation or human rights presence. But even where such missions are not present, there are several options available that we can rely upon, such as fact-finding missions, special rapporteurs and commissions of inquiry. The membership must be ready to take action on such information in this Chamber, in the Human Rights Council and in the General Assembly.

Thirdly, the Security Council can impose targeted sanctions, such as asset freezes and travel bans, on individuals responsible for ordering and committing violence against civilians. Full and effective sanctions implementation can be an extremely useful tool for limiting the ability of these individuals to prey on vulnerable populations.

Fourthly, we must support societies that have been ravaged by atrocities in strengthening their domestic accountability and, when necessary, enabling international courts to bring those leaders responsible

for atrocities to justice so that all people can live under the protection of law. We have seen first-hand the consequences when those who direct violence against civilians are not held to account, as in the case of Walikale in the Democratic Republic of the Congo, where over 350 civilians were raped but the prosecution by Congolese authorities of alleged perpetrators is still pending 15 months later. Since then, soldiers have continued to commit mass rapes in North and South Kivu, and the number of rapes committed by civilians has increased as well.

Finally, in order to see justice through from beginning to end at the international and national levels, we must ensure protection for victims, witnesses and judicial officers. For example, in the Democratic Republic of the Congo, the United States is supporting the witness protection project of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, aimed at high-profile and sensitive cases against perpetrators of rape, as well as providing support for the Mission's prosecution support cells.

The United Nations has learned valuable lessons in all of these areas in recent years, and the United States is studying them carefully right now within the context of the presidential study directive on mass atrocities, which President Obama issued in August. We look forward to consulting with our fellow Council members and partners throughout the United Nations system as we continue our work on it.

In conclusion, I should like to commend again the brave work of the United Nations and the tens of thousands of local and international United Nations staff, from peacekeepers to humanitarian workers and human rights monitors, who risk their lives daily to protect civilians in harm's way. We must never take them for granted or underestimate the challenges they face in defence of our shared values and international peace and security.

**Mr. Sangqu** (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.

**Mr. Churkin** (Russian Federation) (*spoke in Russian*): An analysis of the situation with regard to the protection of civilians in various hotspots and of our experience in implementing Security Council resolutions that include this component lead us to the discomfiting conclusion that, even with a serious international legal basis and increasing efforts by the international community, civilians continue to suffer and to become casualties of conflict.

We are particularly concerned about the fact that women, children and older persons account for the majority of civilian casualties — in other words, those who are normally deemed to be the most vulnerable groups in a population. It therefore follows that the most effective way to address the protection of civilians is by not allowing armed conflict itself to occur or very promptly ceasing confrontation where it exists. Otherwise, an approach that exacerbates conflict inevitably leads to new suffering for civilian populations.

We vigorously condemn both premeditated attacks on civilians and their demise as the result of the indiscriminate or disproportionate use of force, which is a gross violation of international humanitarian law. All parties to an armed conflict, including international troops, must promote the peaceful resolution of conflicts and bear the corresponding obligations under international humanitarian law. Those guilty of

violations, State and non-State actors alike, must not evade responsibility for crimes committed. In our view, the Brazilian conception of the responsibility to protect is very interesting. We will participate constructively in developing that idea.

The Russian Federation believes that the international community's adoption of any reactive measures, especially those involving the use of force, are possible only if they are sanctioned by the Security Council and if they comply strictly with the provisions of the Charter of the United Nations. It is therefore important to consider the economic, social, historical, religious, cultural and other specificities of countries and regions, including the nature of each conflict, its underlying causes and ways of resolving it. Efforts to protect civilians must be based on a clearly established Security Council mandate, which must be strictly complied with by all who undertake to discharge the corresponding duties. Attempts to manipulate Council mandates are unacceptable, even when proclaiming the noblest of goals. Not only do such acts discredit the very purpose of protecting civilians. Above all, such a policy undermines the prestige of those who carry it out. It also places the Security Council in an ambiguous position and undermines the potential for joint action by the international community in similar situations.

Let us not be under any misconceptions when it comes to so-called high-precision weapons in the context of the protection of civilians. They are painless only for those who fire them. On the ground, they bring about destruction and death, including to civilians and civilian infrastructure. The events of the very recent past require an honest analysis and in-depth and honest conclusions. Only that will fully restore the capacity of the international community and the Security Council to expeditiously and effectively react to emerging conflicts, including in the context of the challenge to protect civilians.

**Mr. Li Baodong** (China) (*spoke in Chinese*): I would like once again to congratulate Portugal on its assumption of the presidency of the Security Council for this month. I also thank President Cavaco Silva for his presence at today's open debate. I also wish to thank Secretary-General Ban Ki-moon for his statement. And I listened attentively to the statements by Ms. Pillay, High Commissioner for Human Rights, by Ms. Bragg, Assistant Secretary-General for

Humanitarian Affairs, and by Mr. Spoerri, of the International Committee of the Red Cross.

Over the past few years, the Security Council has held many open debates on the protection of civilians in armed conflict. Broad consensus has been achieved, but there are still differing views on some issues. In particular, the recent practice of the Security Council has triggered a new round of debate and reflection in the international community. This meeting, which is being held at the initiative of Portugal, is no doubt very timely and important. For that, I wish to express my great appreciation. It is imperative for the Security Council to engage in a thorough consideration and comprehensive debate on the issue of the protection of civilians in armed conflict. It is also necessary to take seriously the views of non-members of the Council and to act in a manner that better reflects the will of all States Members of the United Nations.

The protection of civilians is, first and foremost, the responsibility of the relevant Government and parties to a conflict. Civilians make up the majority of the victims of war, and they are the most directly affected. Violence against civilians in armed conflict is unacceptable. Human life is the most precious thing. Innocent civilians in armed conflicts, especially women and children, must be protected effectively. Governments bear the primary responsibility in that regard. Other parties involved in a conflict, including those who intervene, whether domestic or foreign forces, are also duty-bound to protect civilians and must abide by international humanitarian law and other relevant international law. They must fulfil their obligations with regard to protecting civilians.

Secondly, action to protect civilians must comply with the purposes and principles of the Charter of the United Nations, especially the principles of non-interference in countries' internal affairs and of respect for the sovereignty, unity and territorial integrity of States. Such action must be authorized by the Security Council and be undertaken in an orderly manner under the framework of the United Nations. It should also focus on pressing for the early conclusion of a ceasefire, resolving conflicts through dialogue, negotiation and other political means, and supporting the good offices and mediation efforts of relevant parties, including those of regional organizations and the Secretary-General, rather than the other way around.

Thirdly, the protection of civilians through the use of force should be authorized with extreme caution. China has always advocated the peaceful settlement of conflicts. However advanced weapons may be and however precise strikes may be, civilian casualties are inevitable.

Experience has shown that Security Council action to protect civilians requires serious and careful discussion. There should be strict provisions on the mandate, implementing parties and implementing conditions. If many questions remain to be clarified, the Security Council should not rush to take action until those questions are answered.

Fourthly, Security Council resolutions should be fully and strictly implemented. Resolutions must be implemented in full and to the letter. No party should wilfully misinterpret resolutions, let alone take action that goes beyond the mandate given by the Security Council. In such cases, the principle of protection of civilians is distorted to mean that force can be used on a large scale, that infrastructure and residential areas may be bombarded and that casualties among women and children are acceptable. Those are all legitimate concerns of the international community, and the questions they raise demand answers.

The protection of civilians falls within the realm of humanitarianism. There should be no political motives or purposes involved, including regime change. For that reason, how to strictly and effectively monitor the implementation of Security Council resolutions has become an important and urgent issue. China welcomes and will carefully study the concept paper proposed by Brazil and actively supports discussions considering that concept paper.

Fifthly, it is imperative to abandon the practice of selectivity and double-standards. Many Member States have consistently called on the Security Council to adhere to the principle of fairness and equity and to attach equal importance to all issues on its agenda involving the protection of civilians — including the situations in the Gaza Strip, Somalia, Afghanistan and Iraq. China endorses that view. Selectivity and double-standards only undermine the role and authority of the Security Council.

**Mr. Messone** (Gabon) (*spoke in French*): First of all, we welcome the fact that His Excellency Mr. Aníbal António Cavaco Silva, President of the Portuguese Republic, was able to preside over the

earlier portion of this meeting. His presence at today's debate testifies to the importance that Portugal attaches to the issue of the protection of civilians in armed conflict, and we are grateful for that. I would also like to thank Secretary-General Ban Ki-moon for his leadership on this subject and for his important statement. I also thank High Commissioner Pillay, Assistant Secretary-General Bragg and Mr. Philip Spoerri for their statements.

As the Secretary-General has reiterated in his reports on the subject, the protection of civilians against human rights violations is one of the five fundamental pillars of the protection of civilians in armed conflict, whereby we strive to improve the situation on the ground and to enforce international law. The multidimensional task of protecting civilians encompasses all of the Security Council's areas of jurisdiction.

Gabon is party to the various treaties and conventions on human rights law and humanitarian law, and today I will reiterate my country's position on the issue. We believe that responsibility for the protection of civilians, both in peacetime and in armed conflict, falls primarily to States themselves. Every State must scrupulously train security personnel and members of its judiciary institutions with regard to that responsibility.

In times of armed conflict, all parties, including non-State armed groups, have the obligation to protect civilian populations. In our view, every indiscriminate attack against civilians in the course of a conflict constitutes a violation of human rights and international humanitarian law. When all parties to an armed conflict neglect to protect civilians, then it falls to the Security Council and the international community to fill the gap in a systematic way through relevant dialogue and consultations.

We can be proud of the important normative framework that the Council and the international community have developed over the past decade around the responsibility of States in protecting civilians, especially through resolutions 1674 (2006), 1888 (2009), 1894 (2009), 1906 (2009), 1970 (2011) and 1973 (2011). However it must be said that, despite those efforts on the part of the Security Council and the international community, civilian populations continue to suffer attacks in armed conflict. Given that reality, what is at stake for the Council is to use all means to

make our normative framework more effective at preventing violence and to bring to justice those who violate human rights.

In that context, we must also give equal focus both to essential political action on the underlying causes of conflict and to promoting and enforcing the rule of law. We must just as diligently pursue efforts to put an end to impunity for those guilty of war crimes, crimes against humanity and the crime of genocide against civilian populations. Doing everything possible to ensure that the perpetrators of such crimes are arrested and tried has more than a deterrent function. It is also a matter of enacting justice for the victims.

The international community has at its disposal various mechanisms by which to conduct independent, reliable fact-finding investigations. The Council's experience in Darfur, Guinea and Côte d'Ivoire has been a rich learning experience and suggests new means to fight impunity. In that context, States stand to gain from taking greater advantage of the expertise of the International Humanitarian Fact-Finding Commission. We must also note the important work of international criminal tribunals, mixed tribunals and traditional justice mechanisms, the admirable work of the Human Rights Council and the Office of the High Commissioner for Human Rights in facilitating fact-finding in various crises, the significant contributions of peacekeeping missions in gathering information on grave violations, especially those against women and children. I also underline the referrals on the part of States to the International Criminal Court to investigate and prosecute the perpetrators of the most serious crimes and the Security Council's referral of cases to the Court, under article 16 of the Rome Statute.

Still, for our work to achieve lasting results, it is essential for States themselves take on the responsibility of addressing human rights violations. On that subject, I commend the solutions developed locally by some States to foment both accountability and reconciliation. Supporting such efforts to strengthen national systems must therefore become a fundamental element of the international cooperation essential in this matter.

That common effort will benefit from greater cooperation among the United Nations, regional organizations such as the African Union and humanitarian organizations such as the International

Committee of the Red Cross. That will surely lead to greater effectiveness on the ground.

Lastly, we must listen to the concerns of humanitarian organizations at work in the field, and take in the information they provide. Their knowledge can serve to alert us to and mitigate the threat to civilian populations of developments such as the use of blast weapons.

In conclusion, Gabon's position is based on the importance of protecting civilians in conflict situations, and we would like to reiterate the necessity of establishing the responsibility of the perpetrators of the most serious violations of international law as an essential component of efforts to end impunity and bring justice to the victims. Needless to say, we support the Secretary-General's call to the Council to continue to vigilantly monitor the situation of civilians in armed conflict.

**Mr. Onemola (Nigeria):** Let me join others in welcoming President Silva to the Council and thanking him for his statement. The Nigerian delegation is grateful to Portugal for bringing us together to address an important and integral component of our common efforts to maintain international peace and security. Increasingly, the effectiveness of the United Nations, and of the Security Council in particular, is measured against its ability to protect civilians. We thank Secretary-General Ban Ki-moon, High Commissioner for Human Rights Navanethem Pillay, Assistant-Secretary-General Catherine Bragg and Mr. Philip Spoerri of the International Committee of the Red Cross for their insightful statements, which have broadened our understanding of the achievements and the continued challenges we face in our collective efforts to protect civilians.

In the last 10 months, the ability of the Council to adequately protect civilians in conflict situations has been severely tested over and over again. The Council's scorecard shows mixed results. Through carefully calibrated interventions in Côte d'Ivoire and Libya, full-scale civil wars have been averted, relative stability restored and many lives saved. However, for civilians in the Democratic Republic of Congo, Gaza, Syria and Western Sahara — to name but a few situations — whose lives have been overturned by conflict, our response has been small.

In such circumstances, we welcome the invaluable preventive diplomacy efforts of actors such

as the Department of Political Affairs, the Special Representative of the Secretary-General on Sexual Violence in Conflict and other interlocutors, who have unquestionably provided alternative routes to conflict resolution. Our valiant peacekeepers, who act as beacons for peace, have also played an important role in civilian protection. Those remarkable efforts in the field can be buttressed by a renewed commitment on the part of the Security Council to ensuring accountability for violations of humanitarian law.

We focus on the accountability issue because we in Nigeria have witnessed at first hand what can be lost when wrongs go undetected and unpunished. Nothing spreads fear like impunity. Where there is an accountability mechanism gap, there can be no recourse for the father whose crop has been razed to the ground, for the grandmother whose compound has been destroyed, or for the child whose school has been occupied by rebel forces. Worse still, where there is impunity the physical integrity of civilians is no longer inviolable. The lesson we draw from such situations is that systematic monitoring of and reporting on the situation of conflict-affected civilians, in accordance with resolution 1894 (2009), is still necessary in numerous conflict and post-conflict situations on the Council's agenda.

In the last open debate on this subject, in May of this year (*see S/PV.6531*), we observed that unless a coordinated, comprehensive approach, implemented system-wide, is adopted, our understanding of threats to civilians will remain unclear, and civilians will continue to suffer. Resolution 1998 (2011) on children and armed conflict presents an opportunity for us to make good on our pledge to develop and apply listing criteria that target parties to armed conflicts who violate international law. Monitoring in that way will not only help all stakeholders to understand the dangers that civilians face, such as the use of explosives and heavy weaponry in populated areas, and sexual violence as a weapon of war; it will also help us better target our investigative resources.

We can also assist national authorities in the area of accountability. Through security sector reform efforts in Guinea, the Government is progressively creating a security environment in which disciplinary measures and human rights standards are upheld. Our role in such contexts is to empower Governments to take the lead in demonstrating genuine accountability to civilians. Not only do these acts have a deterrent

effect on other potential wrongdoers, thereby protecting civilians, they can also restore a nation's faith in its leadership. Effective accountability mechanisms can create space for examining the root causes of conflict, leading to long-term solutions. The role of the Human Rights Council's Commission of Inquiry on Libya should not be understated. The Commission's work was central to decisions taken here in the Council, leading ultimately to the emergence of a new, free Libya.

Even so, our credibility depends on our commitment to applying the principles of accountability consistently and with all due vigilance. No argument in favour of standing by while civilians are attacked can be sustained. Indeed, we are facing numerous delicate situations where levels of violence risk tipping into civil war, and we are duty-bound to speak out. We must recognize that material challenges remain in Southern Kordofan and the Blue Nile, as well as in Syria. We take this opportunity to encourage the Government of Syria to abide by the peace plan proposed by the Arab League. Once swords are sheathed, genuine dialogue for peace can begin.

In championing the protection of civilians, we deliver a message of hope and a signal of the strength of our collective will. It is within our capabilities to shield the vulnerable from the ravages of conflict and other breaches of peace and security. If we continue to act in concert, over time, our responsibility to protect will surely be met.

**Mr. Wittig (Germany):** Let me begin by thanking Portugal for organizing this important debate; I welcome the presence of the President of Portugal at the opening of today's meeting. I would also like to thank the Secretary-General for his briefing and the High Commissioner for Human Rights, Ms. Pillay, as well as Assistant-Secretary-General Catherine Bragg of the Office for the Coordination of Humanitarian Affairs and Mr. Philip Spoerri, the Director for International Law and Cooperation of the International Committee of the Red Cross, for their statements and for their long and strong commitment to the protection of civilians.

Germany aligns itself with the statement to be made by the European Union later in this debate.

This year's developments in Libya, Côte d'Ivoire, the Sudan, Somalia and Syria, to name a few, have once again demonstrated the deadly effects of repression and armed conflict on civilians. The

challenge confronting the international community, and in particular the Security Council, remains: how can we better prevent or stop violence against civilians? This is a question that is of course closely linked to the concept of the responsibility to protect. The Council has only recently reaffirmed that it is the responsibility of the authorities concerned to protect their own populations. Germany firmly supports the principle of the responsibility to protect, including the responsibility of the international community, through the Council, to take appropriate action should the authorities concerned fail in their duty to protect civilians. Let me add that now is not the time for us to begin to step back from, or compromise on, the commitments that all of us have undertaken in endorsing the principle of the responsibility to protect.

Notable progress has been made since our last debate on the protection of civilians in armed conflict, held in May (S/PV.6531). On a normative level, the Security Council adopted resolution 1998 (2011) in July, which ensures that information on attacks on schools and hospitals are included in the Secretary-General's annual report on children and armed conflict. On the implementation side, we welcome the new monitoring, analysis and reporting arrangements on conflict-related sexual violence requested under resolution 1960 (2010), which are now operational.

We also very much welcome the recent progress made by the Department of Peacekeeping Operations on the completion of new training modules on protection issues for peacekeeping personnel, and we look forward to their rollout in the near future. In that context, it is also of special importance to engage local communities, including and especially women, in discussions on protection requirements by taking gender sensitivities into account when planning and carrying out peacekeeping mandates.

These are positive developments. However, enormous challenges remain. One of the major challenges is the question of accountability. How can we ensure accountability for violations of international law committed both by individual perpetrators and for parties to conflict? Ending impunity for violations of international humanitarian and human rights law has to be part of any approach to sustainable peace, justice, truth and national reconciliation. As outlined in the landmark resolution 1894 (2009), countries must first and foremost take measures at the national level to ensure accountability for such serious crimes, taking

into consideration the full range of justice and reconciliation mechanisms, such as national criminal courts and truth and reconciliation commissions. Where that cannot be done at the national level, the international community must step in.

The Security Council continues to play an important role in that regard, as illustrated by its referral of the situation in Libya to the International Criminal Court last February, which testifies to the determination of the international community not to let the commission of atrocities go unpunished. Germany fully supports the important complementary work of the International Criminal Court.

In its resolution 1894 (2009), the Council considered the possibility of using the International Humanitarian Fact-Finding Commission, established under article 90 of the First Protocol Additional to the Geneva Conventions, in order to gather information on alleged violations of applicable law relating to the protection of civilians. We would like to encourage the Council and other parties concerned to make use of the Commission, as appropriate.

To conclude, allow me to touch very briefly upon just a few situations of particular concern to us. In the Sudan, the humanitarian situation in Southern Kordofan and Blue Nile states remains alarming. The civilian population continues to suffer. Tens of thousands have been displaced. Since humanitarian access continues to be denied, the Council does not even have detailed information on the number of casualties, the displaced and those in need. We feel that the Council should urgently press for an end to the hostilities and request humanitarian access.

In the civil war that continues to devastate Somalia and that has recently seen an escalation in the fighting and an increasing number of parties to the conflict, the Council must not lose sight of the situation of civilians. The civilian population bears the brunt of the war, as it does in many modern armed conflicts. We continue to call on all actors to minimize civilian casualties.

Looking at Syria, during the open debate on the protection of civilians in armed conflict held in May (S/PV.6531), the Assistant Secretary-General for Human Rights voiced his appeal that we prevent the violent suppression of mass protests from developing into civil war. That was six months ago. Meanwhile, the situation in Syria has deteriorated. The Syrian

regime is relying on repression. Unarmed civilians are continuously being killed.

The United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, reminded us today of her deep concern about the situation, stating that the death toll in Syria now exceeds 3,500. As the German Foreign Minister reiterated yesterday, we cannot allow President Assad to play for time. Germany welcomes the more robust approach of the League of Arab States, and we urge the Security Council to send a strong message. The international community must stand firm and united in calling for an end to the bloodshed in Syria.

**Mr. Assaf** (Lebanon) (*spoke in Arabic*): I would first like to thank His Excellency the President of Portugal for presiding over this meeting. I would also like to thank the Secretary-General, Mr. Spierri, Ms. Bragg and Ms. Pillay for their respective briefings.

In modern conflicts, all parties in the opposing camp are seen as the enemy. Therefore, each and every civilian is directly propelled to the front lines and threatened with injury or death in a conflict not of his or her choosing. Protecting civilians against such dangers is a considerable challenge that individual States and the international community as a whole must strive to meet by making the necessary efforts.

The international community has made substantial progress in the protection of civilians, in particular by establishing regulatory frameworks. In practice, however, numerous challenges remain. Though it is true that effective protection requires a comprehensive strategy in cooperation with the main humanitarian actors, the concerned State itself bears the primary responsibility for protecting civilians. The State also assumes the main responsibility in ensuring accountability for serious violations of international humanitarian law. The international community and the United Nations must therefore pursue their efforts to build local capacities so as to help national authorities to fulfil their relevant obligations to the best of their ability.

The Security Council has a range of known tools at its disposal in order to do the job, but it must select them judiciously, carefully and on a case-by-case basis, using timely, objective and reliable information. Indeed, that is what enabled the Council to act quickly to protect civilians in Libya through its adoption of resolution 1973 (2011), which was truly exceptional

and a last resort in efforts to confront an imminent threat.

Lebanon believes that accountability is essential to ensuring reconciliation among all members of a society once a conflict ends. We therefore support efforts to establish the truth in Libya and to punish the perpetrators of serious violations of international humanitarian law and the human rights of the Libyan people. Justice must be done, not only for the sake of the victims and to help the country leave its culture of impunity behind, but also to deter future such violations.

We suggest that international and regional organizations be given the opportunity to play an active role in preventing conflicts whenever possible. That may be the most effective tool for protecting civilians. It can be done in a number of ways, including mediation, negotiation and preventive diplomacy.

The fact remains that lasting protection of civilians can be brought about only by dealing not just with the symptoms of a conflict, but also with the underlying reasons for or causes of a conflict. That is done by supporting national efforts for inclusive dialogue concerning reconciliation and reintegration. We also need to concentrate on the assistance to be provided to States emerging from conflict to help them reconstruct their security and judicial institutions, as that can have a positive impact on the rule of law and the promotion of a culture of protection.

In September, Lebanon hosted the Second Meeting of States Parties to the Convention on Cluster Munitions, under the banner "Together for a safer life". The holding of the Meeting in a country that has been affected by these weapons, as Lebanon has been, enables us to highlight the exorbitant humanitarian cost of cluster munitions to civilians. This cluster munitions gathering was a space for more than 140 States to meet. They all participated in the preparation of the Beirut Declaration, which will contribute to promoting responsibility and will make heard the voices of the victims of these destructive weapons used by Israel against Lebanon in its destructive war of 2006.

In that regard, we reiterate the need to compel Israel to compensate Lebanon for the losses caused by these weapons. To date they remain a kind of sword of Damocles hanging over Lebanese civilians in their fields and in the daily lives of their children.

**The President:** Before giving the floor to the next speaker, I would ask that all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously. Delegations with lengthy statements are kindly requested to circulate their texts in writing and to deliver a condensed version when speaking in the Chamber.

I now give the floor to the representative of Egypt.

**Mr. Abdelaziz (Egypt):** I have the pleasure of addressing the Security Council today on behalf of the Non-Aligned Movement (NAM). I start by expressing the Movement's appreciation to the Portuguese presidency for organizing this debate and to President Cavaco Silva for presiding. I would also like to thank the Secretary-General, the High Commissioner for Human Rights, the Assistant Secretary-General for Humanitarian Affairs, and the Director for International Law and Cooperation of the International Committee of the Red Cross for their statements to the Council today.

It is obvious from current world events that despite all efforts by the United Nations, including the Security Council, civilians are still suffering in massive numbers around the globe. The measures adopted so far fall short of addressing the wider implications of attacks against civilians and their impact on international peace and security, as well as their humanitarian impacts.

The last report of the Secretary-General (S/2010/579), submitted in November 2010 pursuant to resolution 1894 (2009), also highlights ongoing and emerging concerns regarding the state of protection of civilians. These include the proliferation and fragmentation of non-State armed groups, the displacement of civilians within and across borders, the continued violence and hardship that women and children face during armed conflict, and the continued existence of a culture of impunity.

In this regard, the Non-Aligned Movement believes that due priority should continue to be given to the promotion of knowledge of, respect for and observance by States of their obligations assumed under the Charter of the United Nations, international law, international human rights law and international humanitarian law, in particular those of the four Geneva Conventions of 1949 and their 1977 Protocols.

We call upon all parties to armed conflicts to redouble their efforts to comply with their legal obligations through, inter alia, prohibiting the targeting of civilian populations and civilian property and stressing their responsibility to ensure general protection against dangers arising from military operations to civilian installations, hospitals and relief materials and the means to transport and distribute such relief materials.

The Movement reiterates its condemnation of the increasing attacks on the safety and security of humanitarian personnel and urges the Governments of States Members of the United Nations to ensure respect for the protection of the personnel of humanitarian organizations, in conformity with the relevant provisions of international law. In the meantime, we reaffirm that humanitarian assistance personnel should respect international humanitarian law and the laws of the countries where they operate, the guiding principles of humanitarian assistance set out in the annex to General Assembly resolution 46/182, and non-interference in the cultural, religious and other values of the population in the countries where they operate.

Furthermore, the Non-Aligned Movement emphasizes that respect for the principles of the sovereign equality, political independence and territorial integrity of all States and of non-intervention must be upheld. Consent of the country is imperative for granting access to humanitarian assistance to its territory and for its continued operations at all times.

In a peacekeeping context, NAM stresses that protection of civilians under imminent threat of physical violence remains the primary responsibility of each country hosting any peacekeeping operation. It stresses further that peacekeeping missions with this mandate should conduct their tasks without prejudice to the primary responsibility of the host Government to protect civilians. Efforts of the United Nations come in support of and not in substitution for those of the national authorities. In this regard, NAM stresses that the successful conduct of tasks relating to the protection of civilians wherever a United Nations mandate exists requires the integration of efforts at all levels and a holistic approach that encompasses the provision of timely and adequate resources, logistical support and the required training, as well as clearly defined and achievable mandates. The principle of the consent of the host State as a founding principle of peacekeeping must also be fully respected.

The development of strategies for the protection of civilians in peacekeeping missions where it is mandated is significant. The Special Committee on Peacekeeping Operations should continue to discuss the best ways to overcome the challenges that remain. These challenges include the operationalization of such strategies in action on the ground, the gap in resources needed to carry out this complex mandate task, and the legal aspects of categorizing civilians in combat situations in accordance with international law.

Let me conclude by reiterating the firm belief of the Non-Aligned Movement in the importance of the protection of civilians in conflict situations, establishing accountability for violations of international humanitarian law and putting an end to impunity.

**The President:** I now give the floor to the representative of Switzerland.

**Mr. Guerber** (Switzerland): I am pleased to take the floor on behalf of the group of friends on the protection of civilians, which comprises Australia, Austria, Belgium, Brazil, Canada, France, Germany, Italy, Japan, Liechtenstein, Norway, Portugal, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Switzerland. The group of friends sees open debates as welcome opportunities to discuss key issues, while encouraging the Council to strengthen its action. Among the five pillars identified by the Secretary-General in his last two reports on the protection of civilians in armed conflict (see S/2009/277; S/2010/579), accountability for violations of international humanitarian law and human rights law, whether committed by individual perpetrators or by the parties to a conflict, deserves particular attention and would benefit from the Council's sustained focus. The group stands ready to assist in contributing to the formulation of recommendations in that regard.

The group of friends underlines that the Security Council has an important role to play in ensuring compliance with international humanitarian law and human rights law. In that regard, the Security Council has set important precedents in terms of ensuring individual criminal accountability for violations by requesting the establishment of fact-finding mechanisms to inquire into alleged violations, by supporting and encouraging States to prosecute individuals alleged to have committed serious

international crimes and by referring situations to the International Criminal Court.

We encourage the Council to continue on that course, while making use of lessons learned both from its own experiences and from those of other bodies of the United Nations system, from civil society and from national, international and hybrid accountability mechanisms, such as mixed courts. Improved interactions can contribute to strengthening capacities at the national level, which is where the primary responsibility for ensuring accountability lies.

Appropriate follow-up by the Council on the results of fact-finding mechanisms is important for ensuring that expectations among affected populations and victims are met. The Council should lead by example so as to ensure a coherent approach in ascertaining facts and take the action necessary on the basis of greater standardized criteria. We welcome the intention of the Secretary-General to undertake a review of existing in-house processes and experiences in launching and supporting inquiries, which would be a welcome step in helping the Council to ensure such coherence.

A related key element of accountability lies in the reliability of data collected on violations, which could provide a further opportunity for greater coherence, not only to help strengthen accountability, but also to respond to specific challenges relating to the effective protection of civilians.

In tackling the complexities posed by accountability mechanisms, one should not forget the important question of reparations for violations. There is a wealth of national and international practice in that field, on which we can build in order to ensure the full protection of civilians.

Reparations are not limited to financial compensation but include measures such as rehabilitation for victims, including medical and psycho-social support, as well as public apologies, commemorations and tributes. Reparations to the victims of violations of international humanitarian law and human rights law should be made by those responsible. For instance, in 2005, the General Assembly adopted a set of Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International

Humanitarian Law (General Assembly resolution 60/147).

To conclude, I would like to reaffirm, on behalf of the group, that accountability is an essential building block for sustainable peace, the rule of law and for the effective protection of civilians. It is our firm belief that the Council has a duty to uphold and promote the wealth of practices and policies developed. Our Group will continue to do its utmost to ensure that the protection agenda is backed by concrete action.

*(spoke in French)*

I now take the floor in my national capacity. A more detailed version of my statement can be found in the distributed written version. In the course of the present year, the Security Council has shown that it can take decisive action to protect civilians. However, to ensure the political viability of its actions in the long term, the Council must ensure the coherence and non-selectivity of its efforts to protect civilians.

Switzerland is extremely concerned by the threats to civilians in Syria and strongly condemns the human rights violations taking place there. We are concerned in particular about the brutal behaviour of security forces towards non-violent demonstrators and civilians who have not participated in demonstrations. The situation of civilians in Yemen is another continuing source of concern. We would like to underline the fact that ensuring that those guilty of human rights violations are held to account remains the responsibility of the Security Council.

The report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka brought to light a number of problem areas for which a suitable follow-up is indispensable. Such situations raise questions of crucial importance for the international community: what can we do to ensure that serious human rights violations meet with a suitable response? How should the international community react if no appropriate response is forthcoming? The credibility of our efforts will be measured by our ability to protect civilians in the most adverse conditions.

I would also like to recall the importance of addressing the question of the accountability of the parties to a conflict. Accountability is one of the key aspects of the protection of civilians, and transitional justice is of crucial importance for lasting peace. In

that context, we would like to thank Portugal for organizing a workshop on that key question.

The Security Council can and must play a leading role in efforts to combat impunity with the help of a suitable combination of mechanisms for fact-finding, justice, reparation and reforms aimed at preventing any recurrence of such violations. The recent creation by the Human Rights Council of a mandate for a Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence is tangible proof of the international community's support for such an approach.

To remain effective, fact-finding mechanisms must be used consistently and frequently. Existing mechanisms, such as the International Humanitarian Fact-Finding Commission and the experts deployed by Justice Rapid Response, can also be brought into play.

In a case where a State is either unable or unwilling to act and where the Council has made use of its ability to refer situations to the Prosecutor of the International Criminal Court, Switzerland wishes to stress the fact that in such cases it is the responsibility of the Security Council to ensure that the States concerned meet their obligations, particularly with regard to existing arrest warrants. It is indispensable for fact-finding mechanisms and efforts to establish individual criminal accountability to be accompanied by reparation and appropriate reforms of national institutions, if they are to achieve their objectives.

This is indeed absolutely necessary if we wish to ensure that a culture of combating impunity and the rule of law can take hold at the national, regional and international levels. It is in that spirit that we call upon the Council to systematically include in the mandates of peacekeeping operations the tasks of strengthening the rule of law and monitoring respect for international humanitarian law and human rights norms.

**The President** *(spoke in French)*: I now give the floor to the Permanent Representative of Australia.

**Mr. Quinlan** (Australia): Thank you for convening the debate today, and of course, for Portugal's own very strong commitment to the protection of civilians agenda, which is intrinsic to both the purpose and the identity of the United Nations.

In the interest of time, as you have requested, Mr. President, I will abbreviate my spoken comments.

I of course endorse the statement that has just been delivered by the representative of Switzerland on behalf of the Group of Friends.

Obviously, justice is best achieved at the national level, as I think everybody in the debate has recognized so far. Individual States must fulfil their own responsibilities to investigate and prosecute those responsible for serious international crimes.

The international community's role must be to assist States to do that, especially by working to enhance the capacity of national rule of law institutions. Strengthening security and judicial institutions — the entire system, and not just the capacity to investigate and prosecute — is not only key to accountability and deterrence; as highlighted in the World Bank's World Development Report 2011, it is also critical to breaking cycles of violence and instability. United Nations peacekeeping and special political missions themselves can play a very key role in strengthening local capacities.

Fostering accountability in a State is not just about institutions. It is also about communities and about building community engagement in the rule of law. That strengthens local ownership and supports a culture of long-term protection. Communities need to be aware of mechanisms available to them, and victims need to be aware of their rights. Equally important is ensuring that community views and concerns are fed into the process. Experience has shown that listening to communities strengthens the effectiveness of rule of law work. That has been Australia's own experience in recent peacekeeping missions we have led in Solomon Islands and Timor-Leste.

Unfortunately, as we know, there are cases in which States are unwilling or unable to act. In such cases, the International Criminal Court (ICC) and ad-hoc international courts and tribunals have a vital role to play. The challenge for ad-hoc international tribunals is to ensure that they leave a real legacy of strengthened national legal capacity behind them. Appropriate action must be informed by the facts. The Secretary-General has recommended, and we agree, that the Council should systematically request reports on violations and consider mandating commissions of inquiry to examine alleged violations.

While we tend to focus on fact-finding mechanisms deployed during or after a conflict, it is also important for the Council to consider requesting

such mechanisms in emerging situations of concern, to complement other prevention tools. It is important to maximize the speed with which they can deploy. In that regard, the following three aspects are crucial.

The first is deployable expertise. We hope that the follow up to the review of civilian capacities will play an important role in this respect.

The second aspect concerns methodology. While fact-finding mechanisms need to be situation-specific and have sufficient flexibility, more work could be done to standardize fact-finding methods, particularly in relation to empirical research and field investigation.

Finally, the inevitable issue is that of resources. Proper financing is obviously key to speed of deployment, as well as to effectiveness and independence. It is important that the results of fact-finding missions are properly considered and followed up, including, if appropriate, by referral to the ICC.

In conclusion, it is paramount that the Council act when there is clear evidence of violations of international law. Victims and affected communities must be confident that when their own State fails in its responsibilities, because it is either unwilling or unable, the Council will act as guardian of their interests, wherever they happen to live. The Council's unanimous referral of the situation in Libya to the ICC signalled a recognition of its important role in ensuring accountability for serious violations.

Finally, Australia recognizes that in our lifetime — indeed, over the past 10 years — there have been great strides in relation to individual accountability: the establishment of ad-hoc tribunals, the establishment of the ICC and the recognition by States of the duty to investigate and prosecute crimes occurring in their territory. But we still have a very long way to go. Only by establishing accountability as the norm and not the exception will we be able to fulfil the promise of the rule of law.

**The President:** I now give the floor to the representative of Guatemala.

**Mr. Briz Gutiérrez** (Guatemala) (*spoke in Spanish*): We are pleased to participate in this important debate. I would like to thank President Cavaco Silva of Portugal for being here this morning. I would also like to thank the Secretary-General, the High Commissioner for Human Rights, the Assistant Secretary-General of the Office for the Coordination of

Humanitarian Affairs and the Director from the International Committee of the Red Cross.

My delegation associates itself with the statement delivered by the representative of Egypt on behalf of the Movement of Non-Aligned Countries. In addition we would like to make the following points in our national capacity.

Guatemala, like other troop-contributing countries, struggles with the dilemma of limiting our presence in a country to keeping the peace, without exposing our troops to offensive actions that place them in harm's way, while at the same time supporting humanitarian efforts to protect the civilian population as part of a broader mandate to restore stability and normality in the daily lives of inhabitants.

From a wider standpoint, we welcome the continued willingness of the Council to address the needs of civilians with regard to their protection in armed conflict. It is crucial to redouble our efforts to overcome the five core challenges identified by the Secretary-General in 2009. The fact is that, despite the numerous reports, resolutions, wealth of experience and lessons learned accumulated in the past decade, civilians still account for the vast majority of casualties, and the risks they bear have only intensified. Moreover, it is the most vulnerable civilians — children and women — who are the most exposed to risks.

There is much more to say on this theme, but today we would like to focus on the challenges to implementation in the field and on the lessons learned.

We encourage more progress with regard to the conceptual and operational aspects of the protection of civilians in the framework of peacekeeping operations. We also acknowledge that much progress has been made in achieving greater consistency in the implementation of mandates, in the identification of problems and existing limitations and in seeking solutions.

The allocation of sufficient resources for protection activities and initiatives is crucial, and enhances the capacity of peacekeeping operations to protect civilians. Similarly, support should also be given to self-protection initiatives by civilian populations, which not only involve the main stakeholders but also solidify the foundations for their long-term recovery and development. Their

participation is crucial in helping to salvage what remains of their communities by promoting the reconstruction of the social fabric and by supporting the reintegration of displaced persons. That also includes strengthening the leadership role that women take on during reconciliation processes. Women are agents of change in cases such as that of Guatemala, where they are able to create spaces for conflict prevention, mediation and resolution, as well as for peacebuilding.

We are concerned about the asymmetric nature of existing conflicts, in which there is a steady rise in breaches of international law and non-observance of the principles of distinction and proportionality by the parties to armed conflicts. That situation is exacerbated by the proliferation and fragmentation of non-State armed groups that resort to strategies that flagrantly contravene international law, as well as by the new technology to which such groups have ready access, including long-range artillery and missiles, which leads to wider conflict zones and exposes civilians to even more attacks. It is therefore important to recognize that conventional measures are not sufficient to address core challenges and emerging dangers.

I would like to raise one additional point that has natural links to the protection of civilians and that cannot be left out of today's debate. Our delegation is among those that consider paragraphs 138 and 139 of the 2005 World Summit Outcome Document (General Assembly resolution 60/1) to be one of the singular achievements of that meeting. We believe that the evolution in the doctrine of international humanitarian law in recent years was a major advance. The primary responsibility to protect civilians falls on States but they, in turn, are obligated to seek international assistance when they are unable to provide it. In other words, sovereignty equals responsibility and responsibility equals accountability.

In the coming years, both the Security Council and the General Assembly will have a prominent role to play in making this concept operational, which provides an opportunity to continue to improve the assistance architecture of the United Nations. Together, we must ensure that populations at risk have access at all times to the best possible protection, that perpetrators of abuses face the consequences of their actions, and that the enhancement, monitoring and strengthening of capabilities have tangible results. The Council and the entire international community will be

judged according to their capacity to protect the most vulnerable.

**The President:** There are still a number of speakers remaining on my list for this meeting. I

intend, with the concurrence of the members of the Council, to suspend the meeting until 3 p.m.

*The meeting was suspended at 1.20 p.m*