



SECURITY COUNCIL REPORT UPDATE REPORT



27 January 2009 No. 4

RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

Expected Council Action

On 29 January the Council will hold a private meeting on *Maintenance of International Peace and Security: Respect for International Humanitarian Law*. This item was added to the Council's programme of work by the French presidency, acting on an idea by French Foreign Minister Bernard Kouchner. The initiative was conceived as a thematic issue rather than with a country-specific focus and before the violence in Gaza. Inevitably, however, the Gaza-related humanitarian law issues will be in the back of Council members' minds as they approach the discussion.

The International Committee of the Red Cross (ICRC), the UN's Office for the Coordination of Humanitarian Affairs, Office of Legal Affairs, Office of the High Commissioner for Human Rights (OHCHR) and the Office of the High Commissioner for Refugees (UNHCR) have all been invited to brief the Council. The ICRC, OHCHR and UNHCR will brief at the level of head of New York office. France has prepared a concept paper for the meeting and has also proposed that the Council might adopt a presidential statement. It is still unclear what level of agreement might be possible.

Background/Concept Paper

The stated purpose of the meeting is to start a process focusing on possible measures that the Council can consider to more effectively prevent and stop violations of international humanitarian law. The initiative recognises that the Council has in the past repeatedly called for respect for humanitarian law in conflict situations under discussion, but that these calls are often ignored by the parties involved. Instead, violations worldwide seem to be increasing, in particular against civilians. In the latest debate in the Council on protection of civilians in armed conflict on 14 January, John Holmes, the Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, focused most of his briefing on the conduct of hostilities and the need for strict compliance with international humanitarian law, with particular reference to the situation in Gaza.

France sees this private Council meeting as part of a broader process that would also involve the General Assembly and other actors, keeping in mind the upcoming sixtieth anniversary of the Geneva Conventions.

On 26 January, France circulated a short concept paper to Council members. The paper recalls the increasingly serious violations of international humanitarian law, and calls for Council action to prevent violations and ensure accountability by resisting impunity. It identifies the following measures taken by the Council in the past to address the issue:

- calling for compliance with international humanitarian law;
- monitoring conflict situations through reports and briefings from the Secretary-General and the heads of UN agencies;
- establishing and implementing mechanisms such as the working group on children and armed conflict;
- establishing criminal courts to prosecute perpetrators of the most serious violations or referring situations to the International Criminal Court;
- mandating protection of civilians in peacekeeping operations; and
- imposing sanctions against perpetrators of the most serious violations.

Furthermore, it proposes the following possible topics for discussion:

- respective roles of parties to conflicts, of states, of the UN system and of other actors in ensuring better respect for international humanitarian law;
- assessment of the Council's action to ensure compliance with international humanitarian law;
- tools at the Council's disposal to ensure compliance;
- examples of situations where Council action has led to improvement in respect for international humanitarian law;
- mechanisms for prevention of violations of international humanitarian law;
- impact of violations of international humanitarian law on peacebuilding and post-conflict reconstruction;
- role and impact of the fight against impunity; and
- ways to improve cooperation with the ICRC.

The concept paper also suggests that the Council adopt a presidential statement, outlining some possible elements, including an acknowledgement of the negative impact of violations of international humanitarian law on international peace and security, a reaffirmation of obligations of states, and an assertion of the Council's intent to reinforce its action and consider further steps.

Council Dynamics

The initiative seems to have been influenced by the fact that in 2008 there were several conflict situations, most notably in the Democratic Republic of the Congo and Georgia, which brought the issue to the forefront.

Council members seem generally supportive of the initiative, although some have questioned the need for another meeting so close to the recent open debate on protection of civilians and the open debate on 6 January, where many speakers focused on international humanitarian law issues.

France has chosen the timing of the meeting carefully and it is holding it after the monthly Middle East consultations in the Council on 27 January. It emphasises that its hope is to avoid a country-specific discussion.

The private meeting format is apparently preferred because the issue is being approached cautiously. It seems that the idea is to let Council members explore the dimensions of the problem away from the spotlight before they move to a public discussion.

UN Documents

Selected Resolution
<ul style="list-style-type: none">• S/RES/1674 (28 April 2006) reaffirmed the need to comply with international humanitarian law and that ending impunity was essential.
Selected Presidential Statements
<ul style="list-style-type: none">• S/PRST/2009/1 (14 January 2009) condemned all violations of international humanitarian law and emphasised obligations to end impunity.• S/PRST/2006/28 (22 June 2006) discussed international law in general and international humanitarian law in particular and reaffirmed the need to end impunity.
Selected Meeting Record
<ul style="list-style-type: none">• S.PV/6066 and res. 1 (14 January 2009) was the most recent debate on protection of civilians which focused in particular on international humanitarian law issues.