



SECURITY COUNCIL REPORT

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Protection of Civilians in Armed Conflict

Security Council Report published its first *Cross-Cutting Report on Protection of Civilians in Armed Conflict* in October 2008. It provided background on relevant provisions of international humanitarian law and on Security Council involvement in the issue of protection of civilians starting in the 1990s. It also analysed the way that the Council had implemented its thematic decisions on protection of civilians in specific cases following the adoption of its first thematic decisions in 1999 through to the end of 2007 and examined protection issues in the context of implementation of UN peacekeeping mandates.

This 2009 *Cross-Cutting Report* builds on this historical background and analysis and looks specifically at developments since the end of 2007, both at the thematic level and in country-specific situations. As this year marks the 10th anniversary of the Council's first thematic decision on protection of civilians as well as the 60th anniversary of the 1949 Geneva Conventions, there has clearly been greater focus on the Council's role in relation to protection issues. Several ongoing and recent crises have also highlighted the wider implications of attacks against civilians for international peace and security.

In addition to analysing recent Council action related to the protection of civilians agenda, including through case studies of the situations in the Democratic Republic of the Congo (DRC), Gaza and Sri Lanka, and identifying key challenges, the present report suggests some possible future options for the Council. This and future annual cross-cutting reports on protection of civilians should enable stakeholders to begin to systematically track progress in the Council's handling of this issue.

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1. Summary and Conclusions

While it seems generally agreed that ten years of Council involvement in protection of civilians as a thematic issue have yielded substantial results in establishing a normative framework, there is also recognition that this progress has not been matched by a corresponding improvement in actual situations where civilians are affected by conflict. There is a growing awareness that more focus is needed on the operational aspects of protection of civilians. How to ensure that words uttered in New York are translated into effective action in real cases is a key issue.

This is confirmed by our analysis of recent Council action. Findings include:

- Protection of civilians continued to be an element in most situations on the Council's agenda and 2008 statistics show that the Council was fairly consistent in including protection language in its decisions, with only a few exceptions.
- But our case studies of the Council's action on the DRC, Gaza and Sri Lanka (which were among the situations on the Council's agenda with the most serious impact on civilians in 2008 and 2009) demonstrated some of the key challenges that continue to hamper more effective Council action at the country-specific level. In the DRC problems relating to implementation of protection mandates in UN peacekeeping, both in terms of guidance and adequate resources, were clearly present. In the case of Gaza political concerns among Council members seemed to override protection commitments. Sri Lanka provided an example of some of the practical difficulties in addressing protection concerns late in a conflict and some of

the political difficulties when a country resists international involvement in part because of anxiety about the impact of "being on the Council's agenda." In all of these cases failure to comply with Council decisions and abide by legal obligations were also major problems.

- On the issue of sanctions, which is an important tool at the Council's disposal to influence compliance with international humanitarian law, Council members were able to agree on some new steps. The Council expanded sanctions targeting violations of international humanitarian law by including violations against women and obstruction of humanitarian assistance as one of the designation criteria for the DRC targeted sanctions regime and by establishing a new targeted sanctions regime for Somalia which also includes obstruction of humanitarian assistance as a sanctions criterion. However, these were very much the exceptions in terms of overall practice. Actually, there were very few designations by sanctions committees. And the sanctions regimes for Darfur and Côte d'Ivoire which also target violations of international humanitarian law saw no willingness to use this tool.
- The Secretary-General's country-specific reports tend to provide mixed quality information to the Council on the impact of conflicts on civilians. There does not seem to be a consistent approach to protection issues in the Secretary-General's reporting. Only a few reports contain a separate section on protection of civilians and the reporting is not always comprehensive.
- The Council's new informal expert group on protection of civilians has provided a new avenue for the Secretariat to provide more comprehensive information on protection challenges,

but the group is yet to demonstrate capacity to address real protection situations and some Council members seem reluctant to engage fully in its work.

Despite these problems there are some potentially positive developments that need to be acknowledged. First, in the Sri Lanka case the Council found both the political will and practical evolution of its working methods to address a protection of civilian issue per se, as opposed to taking up the wider political and military dimensions of the conflict and, equally important, did so in respect of a case not otherwise on its agenda. While some would argue that in the Sri Lanka case this was “too little, too late” serious acknowledgement must be made of the precedent value of what was achieved by meeting in the new informal interactive dialogue mode. It suggests a way ahead for the future in terms of “depoliticising” Council action to protect civilians, or at least limiting the political factors which otherwise tend to block effective focus on protection issues.

A second positive development can be seen in the cases of Mauritania and Guinea. The importance of these cases is that the Council action on them responds to the criticism by China and others regarding protection of civilians that prevention should be given greater priority. This, of course, implies early action before a situation degenerates. The fact that the Council has shown political will to address the Guinea and Mauritania cases at an early stage is significant. Equally significant is the “working methods” approach which allowed the issues to be taken up without the stigma of putting Guinea or Mauritania, as such, on the Council agenda.

There have also been some encouraging new developments on issues related to UN peacekeeping. New initiatives which specifically address implementation of protection mandates have been launched within the current UN-wide discussion on improving peacekeeping. Much work remains, but there seems to be a heightened awareness of the importance of establishing protection guidelines for peacekeeping missions and matching mandates with resources.

The November 2009 open debate will offer an opportunity for the Council to address some key challenges and consolidate its recent efforts at the thematic level. This could include:

- strengthening its resolve to take action in the areas of compliance and accountability to ensure effective implementation of its decisions and other relevant international protection norms;
- addressing current challenges related to implementation of protection mandates in UN peacekeeping operations (including by supporting current efforts towards establishing protection guidance and ensuring that mandates are matched with resources);
- developing better tools at its disposal to properly monitor situations of conflict where civilians are affected in order to act when international peace and security is at stake; and
- retaining strong recollection of its own practice and applying that consistently as situations evolve in the real world and new problems emerge.

More detailed options are suggested in section 10 below.

Recent practice seems to suggest that strengthening protection of civilians will only be possible if Council members can mobilise the necessary political will to act quickly and without political agendas. Further progress on protection of

civilians in actual cases will require a less politicised approach, willingness to give equal treatment to protection of all civilians on both sides of conflict, and developing recent initiatives to allow the Council to address a situation not formally on the Council’s agenda with a focus just on the civilian issue.

2. Background

An important methodological question which was addressed in detail in the 2008 cross-cutting report is what is meant by the term protection of civilians. For reasons of continuity and comparability of data this report maintains the same definitions. However, it might be useful to recall that the concept, as used in these reports, is derived from the protection norms set out in the 1949 Geneva Conventions and subsequent protocols. These core treaties of international humanitarian law identify the rights of civilians and the obligations of combatants during time of conflict. As discussed in our 2008 report, the concept has subsequently evolved to include the responsibilities of other actors with capacity to impact the civilian population affected by conflict, including peacekeeping and similar missions.

The main thematic decisions by the Security Council on the protection of civilians include five resolutions, notably resolutions 1265 (1999), 1296 (2000), 1502 (2003), 1674 (2006) and 1738 (2006) and eight presidential statements. They address:

- compliance with international humanitarian law and relevant human rights law, accountability for violations and humanitarian access;
- the role of UN peacekeeping operations or other UN mandated missions;
- protection of specific groups;
- the impact of small arms; and

- regional cooperation.

The Security Council is now involved in protection of civilians in five main areas of action.

- It reinforces general norms—in particular the rules of international humanitarian law.
- It uses its Chapter VII powers to mandate either UN peacekeeping missions or regional organisations or groups of member states to take measures including the use of force to protect civilians.
- It can develop middle ground using its Chapter V, VI and VIII powers to influence parties to conflict in country-specific situations to observe protection norms.
- It uses its Chapter VI powers to try to prevent or limit the outbreak of armed conflict through mediation and other initiatives.
- Finally, the Council can hold parties accountable for violations of international humanitarian law by imposing targeted measures, establishing commissions of inquiry, authorising ad hoc tribunals or referring situations to the International Criminal Court (ICC).

This report contains statistical analysis of Council decisions and reports of the Secretary-General for the year 2008. In terms of country-specific situations data is only included if it can reasonably be assumed that the decision in question might include a protection dimension either because of the existence of a relevant mandate for a UN peacekeeping mission, or because of the nature or history of the conflict. Council decisions of a purely technical nature such as decisions renewing mandates for sanctions expert groups were excluded. Furthermore, thematic decisions on other issues were also excluded from the statistical analysis, but where

relevant are referred to in other parts of the report.

In this regard it should also be noted that the present report does not analyse in-depth Council action on children and armed conflict or sexual violence. While these are important protection issues, they are discussed in separate SCR reports. (Our most recent *Cross-Cutting report on Children and Armed Conflict* was published on 15 April 2009. For an update on issues related to women, peace and security please refer to our October 2009 *Forecast*.) Decisions on these issues, however, are reflected in the overall statistics.

Information was obtained through research interviews with members of the Council, UN experts and NGO representatives, as well as from publicly available documents. It should be noted that SCR does not have any field presence, and that no field missions were conducted as part of the research for this report.

3. Key Developments at the Thematic Level

Since our October 2008 report the Council has held two open debates on protection of civilians, one on 14 January and the other on 26 June. It adopted a presidential statement following the January debate which was an important new decision because it updated one of the Council's tools: the aide-mémoire on protection of civilians. In addition, the Council also decided to create a new tool—an informal Council expert group on protection.

The January open debate took place with the conflicts in the DRC and Gaza as an important backdrop. The briefing by the Under-Secretary-General for

Humanitarian Affairs and Emergency Relief Coordinator John Holmes focused on the conduct of hostilities and the need for strict compliance with international humanitarian law. He made particular reference to the Gaza situation, along with the eastern DRC, Afghanistan, Somalia and Sri Lanka.

Holmes pointed to the need to engage with all parties to a conflict (including non-state actors like the Taliban, Hamas and Al-Shabaab) to ensure access and promote respect for international humanitarian law. He noted the need to respond to protection challenges in a more consistent and comprehensive way, including in peacekeeping operations and for better efforts to combat sexual violence.

The presidential statement issued at the end of the debate not only reaffirmed the Council's previous commitments but also, as noted above, updated the aide-mémoire that the Council first adopted in March 2002 (and revised in 2003) "as a means to facilitate its consideration of issues pertaining to protection of civilians." The aide-mémoire lists key objectives for Council action and specific questions for consideration in meeting those objectives. The new expanded 2009 version contains substantial additional provisions and covers the issues in more detail, reflects new priorities and offers a more user-friendly format by providing a list of protection language from previous Council decisions.

Also in January 2009 the Council held a private meeting on respect for international humanitarian law, addressing this key element of protection of civilians as a separate issue for the first time. It was a French initiative with the stated purpose of starting a process focusing on possible measures that the Council could consider in order to



more effectively prevent or end violations of international humanitarian law. The Office for the Coordination of Humanitarian Affairs (OCHA) as well as the UN's Office of Legal Affairs, Office of the High Commissioner for Human Rights and Office of the High Commissioner for Refugees were invited to brief the Council, as was the International Committee of the Red Cross. France initially floated the idea of a presidential statement. However, there was no outcome. (For more details, see our *Update Report* of 27 January 2009.) To some extent this was because the issues became subsumed in the work which was underway on the broader issues of protection of civilians and in particular one significant new development—the launch of an informal Council expert group on protection of civilians.

As the lead country in the Council on the issue of protection, the UK convened the first meeting of the expert group in January to discuss the mandate renewal for the UN Operation in Côte d'Ivoire (UNOCI). The expert group has continued to meet in connection with mandate renewals for UN missions with an existing protection dimension. OCHA is invited to brief on behalf of the entire UN system, focusing on what are considered to be the most pressing protection issues for the mandate under discussion. Based on the revised aide-mémoire, OCHA is also invited to make suggestions on agreed language that the Council might want to include in the mandate resolution. In addition to discussing UNOCI, the group has met in connection with the mandate renewals for the UN Assistance Mission in Afghanistan (UNAMA), the UN Mission in Sudan (UNMIS) the AU/UN Hybrid Operation in Darfur (UNAMID), and the UN Assistance Mission for Iraq (UNAMI). China has so far not participated in any of the meetings.

The Secretary-General's seventh report on protection of civilians, which the Council requested in a May 2008 presidential statement, was issued in May 2009. The report provided an assessment of the ten years of Council action since it first addressed the issue of protection of civilians thematically in a presidential statement in February 1999 which led in September that same year to the adoption of resolution 1265.

The 2009 report of the Secretary-General points to some important Council achievements, both through the establishment of a normative framework based on resolutions and statements and in the mandates of peacekeeping operations. But it also stressed that progress in the normative framework had not been matched by results on the ground. Five key challenges were outlined:

- better compliance by states with international humanitarian law is still required, in particular in the conduct of hostilities;
- non-compliance by non-state armed groups is a major problem;
- effective use of UN peacekeeping and other relevant missions for protection of civilians is still not being achieved;
- humanitarian access to civilians in need of protection remains an issue; and
- accountability for violators of international humanitarian law still needs to be enhanced.

The report also detailed a list of recommendations and contained an annex on humanitarian access which provided the Council with information on key trends in access constraints and possible measures to improve the situation. Three types of constraints were identified as the most challenging: bureaucratic constraints; the scale of hostilities; and violence against

humanitarian personnel and theft. (Please refer to Annex III for a list of recommendations to the Council from the Secretary-General's reports.)

At the June 2009 open debate Holmes's briefing focused on some of the key conclusions of the report. He noted the lack of progress on the ground in spite of significant achievements in the normative protection framework resulting from ten years of Council involvement in the issue, making specific references to the situations in Afghanistan, the DRC and Somalia. He urged much greater efforts to ensure compliance with international humanitarian law and accountability for violations of the law. Holmes also noted that the choice of weapons was critical in reducing the impact of hostilities on civilians and called for further discussions on the widespread use of improvised explosive devices in densely populated areas.

Holmes called on the Council to:

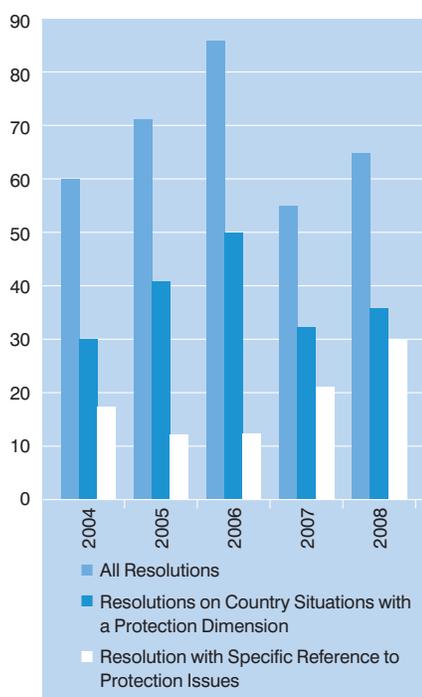
- consistently condemn violations of international humanitarian law;
- demand compliance;
- in cases of non-compliance, use or threaten to use targeted measures;
- request reports on violations;
- mandate commissions of inquiry;
- take up situations not yet on its agenda; and
- convene an Arria formula meeting on the issue of compliance by non state armed groups.

Holmes also raised issues related to implementation of protection mandates in peacekeeping operations, noting that a joint Department of Peacekeeping Operations (DPKO) and OCHA study on implementation of protection mandates in peacekeeping operations was close to completion. (At press time the findings of the study were expected to be released in early November.)

Finally, Holmes promised that OCHA would consult with member states on how to take the report's recommendations forward, as well as any additional proposals that members wanted to make, and present the results of these consultations at the open debate in November.

4. Statistics

In our 2008 report we looked at Council implementation of protection commitments (as established by its thematic resolutions) in country-specific situations covering the period from 2004 to 2007 and concluded that civilian protection issues had become a key feature in a growing number of items on the Council's agenda. In the following 12 months this trend has continued. In Council decisions on situations with a protection dimension there were only a few cases with no reference to protection issues. In most conflicts discussed



by the Council protection concerns were among the key issues.

4.1 Resolutions

The Council adopted 65 resolutions in 2008 of which 36 could reasonably be expected to contain language on protection of civilians. Of these, thirty dealt with protection issues to some extent. Six of the resolutions did not make reference to any protection issues.

About half of the relevant decisions pertained to the seven situations on the Council's agenda where there is currently a UN peacekeeping operation with an explicit protection mandate. They include the DRC, Sudan (where there are two operations: UNMIS and UNAMID), Chad, Liberia, Côte d'Ivoire, Haiti and Lebanon. (Please refer to Annex II for a list of current protection mandates in UN peacekeeping operations.) However, there is a marked difference in the intensity of the conflict in these situations. This is also reflected in the Council's involvement and focus on protection issues. In the cases of Liberia, Côte d'Ivoire and Haiti the Council mostly reiterated previous decisions. It condemned violations of international humanitarian law and called on the parties to fulfill their obligations. In the case of Lebanon there was no specific protection reference in the resolution renewing UNIFIL's mandate.

There was much more focus on protection in the Council's decisions on Sudan, the DRC and Chad. When renewing the mandate of UNMIS the Council stressed the need for action on disarmament, demobilisation and reintegration and the importance in that regard to pay particular attention to the protection of children. It also called upon the parties to ensure humanitarian access and encouraged efforts to facilitate the return of internally

displaced persons and refugees. In the case of UNAMID, the Council both underlined the need for UNAMID to make full use of its current protection mandate and capabilities and demanded an end to all attacks against civilians, peacekeepers and humanitarian personnel and other violations of international humanitarian law, as well as safe and unhindered humanitarian access. It also emphasised the need to bring to justice those responsible for violations.

The most noteworthy Council decisions, however, related to the UN Organization Mission in the DRC (MONUC). In November 2008 the Council authorised a temporary increase in personnel of more than 3,000 troops with the aim of "enabling MONUC to reinforce its capacity to protect civilians." When renewing its mandate in December the Council listed protection of civilians as MONUC's first priority and extended the troop increase. It also stressed the need to fight impunity.

Of the other situations on the Council's agenda, Somalia, in particular, and the resurgence in violence there, involved grave violations of international humanitarian law. It occupied much more time on the Council's programme of work in 2008 than in recent years. The Council adopted ten resolutions on Somalia and all except two (mandate extensions for the Sanctions Monitoring Group which, because of its technical nature, are not included in the statistical analysis) had a reference to protection of civilians issues. They focused in particular on the need for all parties to the conflict to respect international humanitarian law, condemning all violations, and the need to ensure safety and security for the AU Mission in Somalia (AMISOM) and humanitarian personnel and unhindered humanitarian access, including in the

context of the increase in piracy. It is important to note, however, that some Council members had pushed for the deployment of a UN peacekeeping operation in Somalia, arguing that the need to protect civilians justified such a decision. Nevertheless that proposal failed to gain support.

Afghanistan was another situation where protection of civilians became a key issue. The Council adopted three resolutions on Afghanistan. A resolution calling for action to curb opium production did not contain any protection related language. When the Council renewed the mandate for UNAMA in March 2008, however, it decided on a significant clarification and enhancement of the mission's tasks, including in the areas of monitoring the situation of civilians and coordination of humanitarian assistance and efforts to protect civilians. It also condemned attacks against civilians and called for compliance with international humanitarian law. In addition the Council adopted a resolution extending the authorisation of the International Security Assistance Force (ISAF) in Afghanistan with stronger language on protection of civilians. It called on ISAF and other international forces to take additional robust measures to minimise the risk of civilian casualties.

4.2 Presidential Statements

The Council adopted 48 presidential statements in 2008. Of the thirty country-specific statements 23 could be expected to contain language on protection of civilians. Of these, 17 referred to protection issues whereas six did not. These six included:

- a statement on Afghanistan welcoming the outcome of an international conference to support the country;
- one on Lebanon supporting the Doha agreement;

- a statement referring to the Ivorian elections process; and
- three statements condemning specific attacks or confrontations (Burundi, Somalia and Timor-Leste).

Overall, therefore, the Council appeared fairly consistently to include civilian protection concerns in its statements.

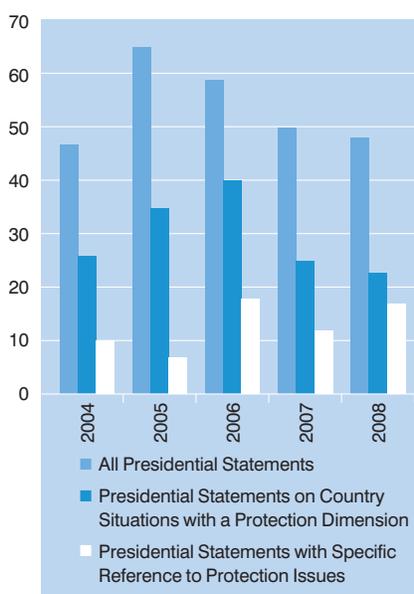
Looking at the details of the statement, however, it becomes clear that most of the Council's protection language was focused on a few situations in Sudan, the DRC, Chad and the Great Lakes Region (which includes the issue of the Lord's Resistance Army, or LRA). In most cases the Council called for respect for international humanitarian law (Sudan, Chad, Sudan and the Great Lakes Region). It also expressed concern over the security of UN and humanitarian personnel and addressed issues of humanitarian access. In a few specific cases (the DRC and the Great Lakes Region) it condemned recruitment of child soldiers and gender-based violence. In some situations it expressed willingness to impose targeted measures against violators of humanitarian

law (Sudan and Chad) and emphasised the need to end impunity (Sudan and the Great Lakes Region).

In 2008 the Council also adopted statements on Kenya and Zimbabwe containing strong protection language. Neither situation was previously on the Council's agenda, but they were discussed under the item "peace and security in Africa".

In the case of Kenya the Council adopted a presidential statement in February responding to the political, security and humanitarian crisis that followed the December 2007 elections. The statement expressed concern about the situation for civilians and urged Kenya's political leaders to find a negotiated solution to the crisis and immediately end all violence. It also expressed concern at the humanitarian situation and the safety of humanitarian workers and UN personnel and called for their protection. In addition, the statement included language on impunity, calling for those responsible for violence to be brought to justice.

On Zimbabwe the Council addressed the instability and violence that followed the March 2008 presidential and parliamentary elections. In a presidential statement adopted in June it condemned violence against the political opposition and expressed concern at the humanitarian situation and called on the government to allow access for humanitarian organisations. (However, a draft resolution imposing an arms embargo as well as targeted sanctions against key government officials which was introduced in July failed to be adopted because of the vetoes of China and Russia; there were also additional negative votes from Libya, South Africa and Viet Nam; and Indonesia abstained.)



5. Developments in Council Sanctions Regimes

Imposition of targeted sanctions is an important tool at the Council's disposal to influence compliance with international humanitarian law. When the Council singles out perpetrators by placing them on a sanctions list, subject to either an international travel ban or assets freeze, it has an important symbolic effect and also sends a strong message about accountability. It can force a change in behaviour or have an incapacitating effect (because the individual or group is unable to conduct usual activities such as foreign travel or business deals). In the case of commodity embargoes, it cuts off the source of income fueling the conflict and in the case of traditional weapons embargoes, it makes conducting the war much more difficult. Sanctions can also serve as a deterrent to prevent future violations.

It should be remembered, however, that once a resolution is adopted imposing targeted sanctions and defining the designation criteria it does not become effective in practice until the Council is able to agree on the list of individuals and entities subject to the new measures. This designation process is often lengthy, both because of documentation and evidence requirements and also because of divisions within the Council. Council committees are usually charged with this role and are often the cause of delay because they normally operate by consensus—which in effect gives all 15 members a veto. In the case of Darfur the sanctions committee in charge was unable to reach agreement and the list of names subject to sanctions was adopted by majority vote through adoption of a resolution (Russia, China and Qatar abstained).

At the beginning of 2008 three of the 13 sanctions regimes established by the Council included targeted measures related to violations of international humanitarian law. In light of the serious violations committed in at least two of these situations in 2008, one might have expected new initiatives to enhance the effectiveness of the sanctions regimes, but the picture was mixed.

In **Côte d'Ivoire** the Council imposed individually targeted sanctions for the first time in November 2004. The list of criteria for designating individuals to be subject to the targeted financial and travel-related sanctions includes "any person determined as responsible for serious violations of human rights and international humanitarian law in Côte d'Ivoire on the basis of relevant information". These measures became effective in February 2006 when the sanctions list was established by the Côte d'Ivoire Sanctions Committee.

In 2008, despite the past history of serious violations in Côte d'Ivoire, when the Council renewed the Côte d'Ivoire sanctions, it did not seriously address the issue of adding new names to the list. The list currently contains three individuals, one of whom was designated on the basis of having committed acts "contrary to human rights conventions and to international humanitarian law". The 2008 reports to the Council from the Group of Experts tasked with monitoring the implementation of the regime did not address any violations as specified above.

In the case of **Darfur, Sudan** the Council established a targeted sanctions regime in March 2005. (These sanctions have no expiration date.) The criteria specified in the resolution for designation of individuals to be targeted includes those

"who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the [arms embargo]...or are responsible for offensive military overflights". The sanctions regime became effective in April 2006 when the Council adopted a resolution, as already referred to, designating four individuals as subject to the targeted measures, including one for violations of international humanitarian law.

In 2008 the only action taken by the Council on the Sudan sanctions regime was to renew the mandate of the Panel of Experts. In its report transmitted to the Council in November 2008, the Panel pointed to the incessant violations of international human rights and international law in Darfur and recommended that the Council "significantly enhance the capacity of the Panel of Experts in order to conduct a greater number of in-depth investigations into allegations of international humanitarian and human rights law". Despite this recommendation and ongoing serious attacks on civilians, no additions were made to the sanctions list, which has not changed since it was first established.

The targeted sanctions regime in **the DRC** was first established in 2005 and was expanded in 2006 to include in the designation criteria "political and military leaders recruiting or using children in armed conflict in violation of applicable international law" and also "individuals committing serious violations of international law involving the targeting of children". Still, at the beginning of 2008 none of the individuals on the sanctions list had been designated based on these criteria.

In 2008 the Council strengthened the protection aspect of the regime twice,



first to include “individuals operating in the DRC and committing serious violations of international law involving the targeting of children or women”, and then to also include “individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC”. The Group of Experts on the DRC sanctions made specific protection recommendations on children in its last report to the Council in 2008. However, there were no additions to the DRC sanctions list in 2008, but one deletion. In March 2009, however, four individuals were added to the sanctions list, three of them for violations targeting children. But no designation has yet been made for violations targeting women although the scale of sexual violence in the east of the DRC is unprecedented and the Council in resolution 1820 of June 2008 adopted strong language calling for an end to impunity for such atrocities and indicated its readiness to consider applying sanctions against those responsible for such acts.

In addition to taking action on existing sanctions in 2008, the Council established a new targeted sanctions regime for **Somalia**. While there has been an arms embargo on Somalia since 1992, it has largely been seen as ineffective. The new regime adopted in November 2008 imposes targeted measures on individuals or entities designated by the Somalia Sanctions Committee “as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia.” However, the regime has yet to become effective, as the Committee has been slow in establishing the list of individuals/entities to be subject to sanctions.

6. Country-Specific Reporting on Protection of Civilians by the Secretary-General

In resolution 1674 on protection of civilians the Council invited the Secretary-General to provide relevant information and analysis and also requested him “to continue to include in his written reports to the Council...as appropriate, observations relating to protection of civilians in armed conflict”. This flowed from the belief that better targeted reports from the Secretary-General could constitute a key element in the Council’s decision making process.

In total 95 reports were issued by the Secretary-General to the Council in 2008. Of these we found that 48 reports addressed country-specific conflict situations with a protection dimension. Almost all of the reports in which one might expect protection issues to be addressed did contain some kind of reference.

Our analysis attempts to find out if there was consistency in the way protection issues were addressed, whether the protection related elements were aggregated under a separate heading for protection issues and how frequently protection of civilians was referred to in the Secretary-General’s observations and whether any recommendations were made.

Only a few reports had a separate protection of civilians section. Moreover, there did not seem to be any consistent approach to protection reporting, including in reports from the same mission. A minimum of consistency might have been expected. Of the three 2008 reports on the DRC one had a separate heading on protection of civilians whereas two did not (but did have a human rights, sexual violence or child protection section). Of the four reports on UNMIS three had a

separate protection section, and one did not. In the case of Somalia, all the reports had a joint section on human rights and protection of civilians.

None of the nine reports on UNAMID treated protection of civilians as a separate issue even though it is a key part of its mandate. Of the Secretary-General’s other reports only the two regular reports on Afghanistan contained a separate protection of civilians section.

This lack of reporting consistency did not mean, however, that concerns about the situation for civilians were not reflected. Reports on MONUC and UNAMID had a particularly strong focus on protection issues and also drew attention to challenges in implementing protection mandates in peacekeeping missions. In his reports on MONUC the Secretary-General repeatedly emphasised that the mission’s resources were stretched to the limit, making it difficult to fulfill its mandated tasks. The Secretary-General’s UNAMID reports consistently pointed to the deteriorating situation for civilians and also emphasised the mission’s difficulties in carrying out its protection mandate because of resource constraints. The Secretary-General called on the Sudanese government to comply with its obligations under international human rights and humanitarian law, especially with regard to the protection of civilians and to cooperate with the ICC.

The reports on Chad discussed, in particular, the situation for refugees and internally displaced persons. They called on the government to stop impunity and expressed concern over reports of recruitment of child soldiers and the continued threat to humanitarian workers. On Somalia the Secretary-General repeatedly pointed out that the deteriorating security situation had

grave consequences for the civilian population, in particular with regard to humanitarian access. He also drew attention to the issue of impunity and called for the establishment of a mechanism to investigate human rights violations and bring perpetrators to justice. In a report on Iraq the Secretary-General addressed the issue of conduct of hostilities, calling on all involved to respect their legal obligations and minimise the impact on civilians.

Overall, however, it seemed that the impact of the information on protection was probably low because it was often dispersed in different sections of the reports. Specific recommendations to the Council for action were extremely rare. One exception could be found in the Secretary-General's October report on UNMIS, in which he suggested that the Council "consider holding a thorough debate on provisions related to the protection of civilians in imminent danger under Chapter VII of the Charter of the UN."

7. Assessment of Council Action: Three Case Studies

Analysing relevant decisions adopted by the Council provides only part of the picture of its commitment to protection issues. In order to get a better sense of Council involvement and some key challenges we looked at Council response to some recent civilian protection crises: the DRC, Gaza and Sri Lanka.

7.1 DRC

The crisis in the eastern part of the DRC that erupted in the fall of 2008 was an important test for UN peacekeeping and for the Council. Protection of civilians became a key issue. MONUC

is one of the largest UN operation currently deployed with 17,000 troops and has protection of civilians at the core of its mandate.

Several events with huge impact on civilians took place in the second half of 2008. Large scale fighting erupted in August between the Armed Forces of the DRC (FARDC) and the forces of renegade general Laurent Nkunda, *Congrès National pour la Défense du Peuple* (CNDP). In just a few days over 100 people were killed and 100,000 displaced. There was also renewed tension between the DRC and Rwanda. Nkunda, who claimed initially to have taken up arms solely to protect his Tutsi community from attacks by Rwandan Hutu rebels (i.e., the *Forces démocratiques de libération du Rwanda* or FDLR/ex-Far Interahamwe, some of whom are accused of carrying out the 1994 Rwandan genocide) now called for a rebellion against the Congolese government.

On 12 September the Council was briefed on the situation by Edmond Mulet, Assistant Secretary-General for Peacekeeping Operations, and issued a press statement expressing serious concern over the renewal in fighting and its humanitarian consequences and called on CNDP to cease offensive operations. It heard another briefing on 3 October by Alan Doss, the Special Representative of the Secretary-General and head of MONUC. Doss called for temporary additional troops (two battalions) to mitigate the immediate security challenges. He also proposed an adjustment of the current troop configuration of MONUC within the current mandate and troop ceiling in order to enhance the mission's efficiency and urged the Council to support his proposals.

Meanwhile, the clashes in eastern DRC continued to escalate. The Council did not immediately respond. It was not until 21 October that the Council adopted a presidential statement. But it only repeated concerns about the resurgence of violence in the DRC and its humanitarian consequences. It welcomed the intention of MONUC to reconfigure its forces to optimise their deployment within the current troop ceiling and mandate. It noted, but did not act on the request for reinforcements. Instead it asked for a comprehensive analysis of the situation from the Secretary-General and recommendations for the renewal of MONUC's mandate in the next report for the Council's consideration.

On 28 October the Council heard another briefing, this time by Alain Le Roy, Under-Secretary-General for Peacekeeping Operations. The CNDP had by then advanced to within a few kilometers of the regional capital Goma with government forces fleeing the offensive. Le Roy informed the Council that the situation on the ground was very critical and reiterated the request for MONUC reinforcements that had been made in early October. Le Roy also raised the option of a multinational force being deployed to assist in securing Goma.

On 29 October, the Council adopted yet another presidential statement. It condemned the CNDP offensive in the eastern DRC and demanded that it bring its operation to an end. It also expressed grave concern about the dramatic humanitarian consequences of the fighting and urged all parties to respect fully their obligations under international humanitarian law to protect civilians. The Council expressed its full support for MONUC and called on the mission to continue to implement fully its mandate,



especially “by robust actions to protect civilians at risk and to deter any attempt to threaten the political process by any armed group”. But the Council stopped short of authorising any additional troops. Once again it noted the request for reinforcement of MONUC and said it would “study expeditiously that request in view of developments on the ground”.

Meanwhile, calls for action to enhance MONUC’s capacity to protect civilians continued to mount from humanitarian aid organisations, human rights groups and others amid reports of a worsening humanitarian situation in the eastern DRC. Human Rights Watch, Amnesty International and a coalition of Congolese NGOs appealed directly to the Council to authorise an increase in MONUC’s troop strength. On 27 and 28 October Congolese protesters attacked the UN headquarters in Goma over what they saw as insufficient protection of the population and insufficient support to Congolese government forces against Nkunda’s offensive. In the town of Kiwanja, some sixty miles from Goma, on 4 November, according to Human Rights Watch, an estimated 150 civilians were killed, most of them summarily executed by CNDP forces, with MONUC present within a few miles without taking any action.

In an initial response to the criticism Alain Le Roy rejected accusations that MONUC had failed to carry out its protection mandate. He said the mission was doing its utmost within available resources and that the situation would have been much worse had it not been present. He admitted, however, in a 7 November statement that MONUC should have done more to protect civilians in Kiwanja.

In a briefing to the Council on 11 November Le Roy, who had just visited the

DRC, reiterated yet again the Secretary-General’s request for additional peacekeepers to MONUC. On 20 November the Council finally responded to the request by authorising in a resolution a temporary increase of the mission’s troop strength of up to 3,085 personnel to enable MONUC to “reinforce its capacity to protect civilians”. It also expressed concern at the deteriorating humanitarian situation and urged all parties to ensure timely, safe and unhindered humanitarian access and to comply fully with their obligations under international law.

By the time the Council authorised the temporary increase, the situation in the eastern DRC was already changing following a series of regional diplomatic initiatives that resulted in a unilateral ceasefire declaration by Nkunda on 16 November. Some claimed that MONUC’s reputation had been damaged; both from its handling of the CNDP offensive on Goma and its inability to effectively protect civilians. In his November 2008 report to the Council providing recommendations on MONUC’s future mandate and configuration, the Secretary-General defended the UN’s actions to protect civilians and pointed out that the mission’s capacity was stretched beyond its limits. At the same time, in the course of discussions among Council members in preparation for MONUC’s mandate renewal, there were recriminations between Council members. Some argued that the mandate was not sufficiently clear, others questioned the willingness of some MONUC units to robustly address the complex situation on the ground and still others were concerned about the Council indecisiveness and lack of systems to adequately monitor protection issues in real time.

On 22 December the Council adopted a resolution renewing MONUC’s mandate and extending the temporary increase in troop levels authorised in October. In the revised mandate protection of civilians was given priority over all other mission tasks, including in decisions about the use of available resources and capacity. (The previous mandate had not indicated a clear order of priorities for the mission.) It also asked the Secretary-General to ensure that MONUC’s concept of operations and rules of engagement were updated to bring them in line with the revised mandate.

The Council’s reluctance to respond to Doss’s request for MONUC reinforcements in early October seems to have been related to doubts among Council members about the feasibility of obtaining requisite funding and generating troops, especially in a situation with UN peacekeeping resources already overstretched and facing competing demands for similar capabilities from other missions (e.g. Darfur). The force of the outcry of international public opinion along with the unsettling prospect of a deteriorating regional military situation seemed to play a key role in eventually convincing Council members, especially the UK and the US, to authorise the additional troops. The persistent efforts by the Secretariat to get the Council to strengthen MONUC also appear to have been an important factor.

The decision to reinforce MONUC did not, however, have any immediate effect on the ground. Skeptics among Council members were proven right in their doubts about troop-contributing countries’ willingness to provide the needed capacities. It became clear early on that there would be a considerable lead time before the arrival of any new troops. The Secretary-General repeatedly appealed

to the EU to provide an interim bridging force to temporarily support MONUC. The major European powers including Council members France and the UK were opposed, however, and no EU agreement could be reached. It was not until August 2009 that the first elements of the additional troops authorised by the Council were deployed, but even then key aerial capacities necessary to ensure their effectiveness had yet to be pledged.

The civilian population in the eastern DRC continued to suffer even after the CNDP ceased military operations. The FDLR and the LRA were still taking predatory action against civilians in the area. (The LRA had moved into previously peaceful parts of the DRC after being forced out of Uganda by the Ugandan military.) Several new military offensives were launched by the Congolese army with support from neighbouring countries and in some cases also with assistance from MONUC. But these joint campaigns did little to improve the situation for the civilian population. On the contrary, they led to reprisal attacks both from the LRA and FDLR. There were also widespread reports of Congolese army soldiers committing abuses against civilians. Human Rights Watch estimated in May that at least 200 civilians had been killed since the start of the joint campaigns against FDLR, and in June that more than 1,000 had been killed, 600 abducted and 140,000 displaced by LRA reprisal attacks.

Once again MONUC was called upon to do more to protect civilians and also faced criticism from some humanitarian organisations for participating in a campaign that only led to an increase in attacks against the population. In addition, human rights groups raised

concerns about the role played by known human rights abusers in the military operations supported by UN peacekeepers, in particular Bosco Ntaganda, a former CNDP leader who has a leadership role in the Congolese army despite being under an arrest warrant by the ICC.

In a press statement on 9 April 2009 on the situation in the DRC the Council expressed support for joint operations by Congolese government forces and MONUC against armed groups, including FDLR and the LRA. MONUC was by then conducting a joint operation with the Congolese army (Kimia II) against FDLR. In a nod to protection concerns the statement also stressed that such operations should be planned jointly with MONUC and in accordance with international humanitarian, human rights and refugee law, and should include appropriate measures to protect civilians. Also, during a Council mission to Africa in May 2009, a Council delegation met with top DRC leaders, including the prime minister and the president, in Kinshasa and raised the issue of five specific former rebel commanders having been absorbed into the Congolese army despite their documented abuses against civilians. The delegation received assurances that the matter would be addressed. (MONUC had first brought the names to the DRC judicial authorities' attention in early 2008, in letters sent by the Deputy Special Representative of the Secretary-General. In October 2009 the Congolese authorities informed the UN that two of the commanders in question were in prison in Kinshasa and the other three had been relieved of their duties, of which one had fled and the other two were awaiting further proceedings.)

While key players both in the UN and in the Council have acknowledged that

the increase in reprisal attacks against civilians is an issue, they emphasise the long-term gains for the population in the eastern DRC if the FDLR and LRA are defeated. The perspective from the Secretariat's side has been that MONUC has been doing all it can to protect civilians against reprisal attacks and has also been aiming to ensure that all Congolese army units involved in joint operations abide by international humanitarian law and protect civilians.

Several measures were taken to enhance MONUC's implementation of its protection mandate. Multidisciplinary joint protection teams have been deployed to the main conflict-affected areas in North Kivu. The teams, which include political affairs, civil affairs, disarmament, demobilisation, repatriation, resettlement or reintegration, human rights and child protection staff are tasked with helping MONUC improve communications with local communities to promote information-sharing and analyse situations to improve protection interventions. The mission has also put in place a more effective early warning system to detect potential threats against civilians through a network of contacts with the local population and has established a rapid response cell and military quick reaction units in deployment locations.

Challenges related to MONUC's resource limitations, as well as the threat from armed groups in eastern DRC, are not new issues for the Council. In fact, they have dominated Council discussions on the DRC for years as we saw in our first cross-cutting report on this issue when analysing Council action on the DRC over a longer time period. While the Council's approach has always had a strong protection aspect, in particular on child protection



and sexual violence as increasingly important issues, concerns about the cost of the operation and doubts about the feasibility of robust peacekeeping in the DRC and capacities of troop-contributing countries have also influenced discussions. There are also different views on whether more troops on the ground will help, or whether only a robust force with the required capabilities can make a difference, in particular for civilians. Discussions are likely to continue on MONUC's mandate and resource requirements as the Council prepares for the mission's mandate renewal in December.

7.2 Gaza

The Israeli military operation against Gaza was launched on 27 December 2008 after the expiry of the ceasefire between Israel and Hamas that had previously established a relative calm. Israel's announced purpose was to exercise its right of self defense in response to Hamas's firing rockets against civilian targets on Israeli territory.

The Council held an emergency meeting that same day and adopted a press statement on 28 December, proposed by the US and negotiated with the Arab Group, expressing serious concern at the escalation of the situation in Gaza and calling for an immediate halt to all violence. It also called on all parties to ensure continuous provision of humanitarian supplies. However, it did not address the obvious risks to civilians.

Arab foreign ministers met in Cairo on 31 December in an emergency session of the Arab League to discuss the crisis. They agreed to push for a Council resolution strongly condemning all military attacks and calling for an immediate ceasefire. With the civilian impact in

mind, the proposed draft also condemned excessive, disproportionate and indiscriminate use of force by Israel.

Libya introduced the draft resolution to the Council which held a debate on New Year's Eve with the participation of the Secretary-General and the representatives of Israel and Palestine. The Secretary-General condemned both indiscriminate rocket attacks by Hamas and the disproportionate response of the Israeli military. However, the US and some other members called the draft resolution unbalanced because it made no mention of halting Hamas rocket fire.

Another Council meeting on the situation was held on 3 January, once again at the request of Libya, who also introduced for urgent adoption a draft presidential statement with similar language to the 28 December press statement. Despite apparent wide support for Council action and an initial agreement between the P5 and Libya on the format and content of the text, adoption was blocked due to American objections to the timing. The Council president instead made an oral statement to the press emphasising Council members' concern at the escalation of violence and the humanitarian situation, their expressions of support for diplomatic efforts to resolve the crisis and to resume peace talks, and the need for an immediate ceasefire and for the parties to protect civilians.

Meanwhile, pressure on the Council to act continued. On 5 January the foreign ministers of Saudi Arabia, Jordan, Syria, Qatar, Lebanon, Libya, Egypt and Morocco and Arab League Secretary-General Amr Moussa arrived in New York to push for the adoption of a resolution. In parallel, France, after consulting with the US and the UK, proposed elements of a presidential

statement to be adopted immediately. Those elements included a call for an immediate and durable ceasefire and for the opening of crossing points; the provision of humanitarian assistance; the establishment of a monitoring mechanism to ensure that there would be no further weapons smuggling; and the return to the peace process. While it seemed that the Arab ministers were in principle not opposed to elements along those lines, they insisted that the format be a resolution.

Following another open Council debate on 6 and 7 January (it stretched over two days because of the number of speakers which was 38), and difficult discussions among Arab foreign ministers and France, the UK and the US, agreement was finally reached on a draft resolution. The resolution was adopted by the Council on 8 January with 14 votes in favour and the US abstaining. It called for an immediate, durable and fully respected ceasefire leading to the full withdrawal of Israeli forces from Gaza and condemned violence against civilians and acts of terrorism. It also called for the unimpeded provision and distribution throughout Gaza of humanitarian assistance.

In spite of the grave situation for civilians in Gaza, the Council had tremendous difficulties reaching agreement on a resolution. It was only on day 13 of the military offensive that a resolution was adopted. Most Council members were ready to act quickly in view of the increasing civilian casualties and grew increasingly frustrated with the delay in reaching an agreement. It seems that the initial problem was the US reluctance to agree to any resolution at all. By contrast, the Arab Group, with Libya as its spokesperson in the Council, was adamant that the Council should adopt nothing less than a binding resolution.

This struggle over the form of a Council decision was given priority by both sides over an immediate focus on the protection of civilians—which could have been addressed substantively in any format.

When the Council finally adopted resolution 1860 on 8 January many welcomed the shift in the US position. US moved to an abstention—instead of a traditional veto. It was the first time in many years that the US did not block Council action which might constrain Israel's options. There was disappointment, however, over the resolution's language on protection. While it condemned violence against civilians, there was no reference to international humanitarian law or the importance of accountability.

Both Hamas and Israel rejected the resolution. Israel continued its operation in Gaza. Israeli shelling of several UN facilities led to further strong international reactions. At least forty people were killed in the Jabaliya refugee camp by Israeli shelling near a UN school on 6 January. The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) headquarters in Gaza was partly destroyed on 15 January after being hit by Israeli shells. Secretary-General Ban Ki-moon expressed outrage and demanded an investigation. France, Germany and the UK condemned the attack and the EU also expressed concern. The Council received a briefing on the incident from Assistant Secretary-General Haile Menkerios. However, no formal Council statement was issued although the Council president, French Ambassador Jean-Maurice Ripert, said to the media after the meeting that all Council members expressed grave concern at the situation and called on all parties to respect international humanitarian law and to ensure the protection of civilians.

On 17 January Israel declared a unilateral ceasefire and on 21 January completed a full troop pullout from Gaza. Also on 21 January, following a briefing by the Secretary-General, the Council adopted a press statement welcoming the ceasefire and reiterating concern for the humanitarian situation in Gaza, stressing the need for unimpeded provision and distribution of humanitarian aid and recalling the obligations of all parties to ensure respect for international humanitarian law—somewhat late in the process given that by then the fighting had subsided.

Following the establishment of a ceasefire, focus shifted to the importance of accountability and the need to investigate violations of international humanitarian law and also to open up Gaza's border crossings (a blockade was imposed in 2007 when Hamas took control of Gaza). Approximately 1,300 Palestinians were killed as a result of the Israeli operation, including 700 civilians (about 400 of them children), and more than 5,300 were injured, according to Gaza medical officials. (Amnesty International reported similar numbers.) The fighting caused huge damage to civilian infrastructure. More than 40,000 Gazans were displaced to UNRWA camps. On the Israeli side, 13 people died, including ten soldiers. There was renewed pressure on the Council to act.

In a briefing on 27 January, John Holmes said that the use of civilian installations by Hamas and the indiscriminate firing of rockets by Hamas against civilians were clear violations of international humanitarian law. He also said that the Israeli Defense Forces had failed to protect civilians and humanitarian workers in Gaza. In addition, Israel's operations also raised questions about respect for international humanitarian

law, in particular respect for the principles of distinction and proportionality. Holmes underlined that there must be accountability. This was followed by a briefing from UNRWA Commissioner-General Karen Koning AbuZayd, the first ever UNRWA briefing to the Council. AbuZayd stressed the need for further action, in particular to ensure the opening of all Gaza borders and to investigate violations of international law, especially attacks directed at the UN.

On 16 March a group of eminent persons, including Desmond Tutu and Mary Robinson, wrote to the Secretary-General and Council members calling for the establishment of a UN commission of inquiry to investigate all serious violations of international humanitarian law committed by all parties to the conflict and provide recommendations on prosecution of those responsible.

On 21 January, after recognising the jurisdiction of the ICC, the Palestinian Authority requested the court to investigate war crimes committed by all sides during the conflict. The ICC is examining whether it can accept this request in view of the fact that the Palestinian Authority is not a state party to the court.

On 3 April the Human Rights Council established a fact-finding mission headed by Richard Goldstone, a former prosecutor of UN ad hoc tribunals for Rwanda and the former Yugoslavia, to “investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009.” The appointment followed the adoption of a resolution by the Human Rights Council at a special session on



12 January. The resolution strongly condemned the ongoing Israeli military operation in Gaza, called for the immediate cessation of military attacks and the withdrawal of Israeli forces, demanded that the occupying power stop the targeting of civilians and medical facilities and decided to dispatch an independent fact-finding mission. It also requested the Secretary-General to investigate the targeting of UNRWA facilities in Gaza.

Meanwhile, the Security Council was clearly divided on whether to take any action on the question of accountability. In February the Council welcomed the Secretary-General's decision to establish a UN Board of Inquiry led by Ian Martin (of the UK, former head of the UN mission in Nepal) to investigate all incidents involving death and damage at UN premises in Gaza between 27 December and 18 January. But the Council did not take up the conclusions of the Board of Inquiry's report when these were submitted to it on 5 May.

The Board concluded that in six cases Israel was responsible for deaths, damages and injuries at UN premises. It also found Palestinian factions responsible for physical damage in one incident. The Board recommended that the UN seek formal acknowledgement by Israel, accountability and reparations, and obtain guarantees from Israel against the repetition of such incidents. It also recommended future establishment of a stand-by arrangement to deploy trained investigators rapidly to any UN presence. Finally, it recommended that all allegations of international humanitarian law violations in Gaza and southern Israel be investigated by an impartial inquiry.

The Council failed to agree on holding consultations on the report. It did agree,

however, on 13 May under "other matters", to discuss a draft resolution which had been introduced by Libya welcoming the report, condemning Israel for its actions in Gaza, calling for accountability and reparations and calling for further investigation into humanitarian law violations by Israel. But the divisions on the substance of the issue remained and there was no agreement on a draft. In remarks to the press, the Council's president said that Council members had expressed their appreciation for the information provided by the Secretary-General. They had also expressed concern about the report's findings and general interest in being kept abreast of progress as the Secretary-General deemed appropriate.

On 15 September the report of the fact-finding mission established by the Human Rights Council, or the Goldstone report, was released. It recommended that the Security Council should require Israel to conduct its own investigation and report back to the Council within three months and that the Council should establish an independent committee to monitor proceedings undertaken by Israel or by relevant Gaza authorities and report back within six months. If the Council deemed these proceedings inadequate, the situation should then be referred to the ICC.

The Goldstone report was formally presented to the Human Rights Council on 29 September but a decision on a Palestinian draft resolution endorsing the report's recommendations in full was deferred until March 2010. Following the deferral, Libya requested a meeting of the Security Council to discuss the report, but failed to gain enough support. Instead, the Council agreed to move its monthly meeting on the Middle-East forward on the Council's

programme of work from 20 October to 14 October. At the 14 October open debate an overwhelming majority of Council members said that it would be premature to consider the Goldstone report until it had been acted upon by the Human Rights Council.

The Human Rights Council meanwhile, at the request of Palestine, reversed its previous decision and convened a special session on 15-16 October where a resolution was adopted which endorsed the Goldstone report's recommendations. It called on all parties concerned, including relevant UN bodies, to ensure their implementation and requested the Secretary-General to submit a report to the next session of the Human Rights Council on the status of implementation.

Security Council members have clearly been very cautious on the issue of accountability in relation to the Gaza crisis. Some delegations have made statements emphasising the importance of respect for humanitarian law and addressing impunity and seemed open to a Council follow-up to the UN Inquiry, but have not been willing to take any initiative. Others, including France, the UK, Japan, Turkey and Uganda seem to believe that, while accountability is important, it might not be timely to address this issue as it might hamper the peace process. The US clearly does not want the Council to get further involved.

The Israel/Palestine question has historically been a very divisive issue in the Council. It should therefore have come as no surprise that it would prove very difficult to reach agreement on any strong language to address the military conflict itself. But it is less clear why more agreement could not have been pursued by all sides on the more limited and focused question of civilian

protection. The Council clearly missed an opportunity to send a strong signal about the importance of international humanitarian law and protection of civilians at the outbreak of the fighting.

The Gaza case underlines a key question for protection of civilians in the future. Can Council practice evolve so as to allow for a less politicised track involving decisions on protection of civilians in imminent danger at a much earlier stage and separate these elements from its discussion of the other more controversial dimensions of a conflict?

7.3 Sri Lanka

The intensified conflict in Sri Lanka in late 2008 and the first part of 2009 provides an example of a case where civilians were at risk and protection of civilians norms were relevant but where the conflict situation itself was not on the Council's agenda. The Council first became engaged in the situation in Sri Lanka in a humanitarian context when on 27 February 2009 it heard a briefing by John Holmes following a visit to the country. It took place in closed consultations under "other matters". By then the risks for civilians trapped in the fighting between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), had already reached a critical stage.

Following the breakdown in 2006 of the 2002 ceasefire agreement between the government and LTTE there had been a steady escalation of the conflict between the two sides. In July 2007 the Sri Lankan government announced a new military campaign to take control of LTTE's stronghold in the north of the country, the Vanni. By the end of 2008 government forces had succeeded in capturing most of the territory formerly

occupied by LTTE, confining the rebel group's control to a small area. But this area also contained a very large number of civilians. In September 2008, Sri Lankan Defense Secretary Gotabhaya Rajapaksa ordered the UN and international humanitarian aid organisations to leave the Vanni area claiming this was necessary for security reasons. Restrictions were also put on the media and human rights groups.

The fighting in Vanni demonstrated the significant risks that these civilians were facing, as they were trapped in the conflict zone in an ever shrinking space. In September 2008 the Secretary-General had issued a statement expressing deep concern over the increased hostilities in northern Sri Lanka and the grave humanitarian consequences for civilians. He also recalled the importance of humanitarian access and the obligation to respect international humanitarian law. There were also several statements from NGOs such as Amnesty International and Human Rights Watch warning of the risk of large-scale civilian casualties if the conflict continued to escalate. There were reports that LTTE fighters were hiding among civilians, using them as human shields and preventing them from leaving the conflict zone while the government was criticised for indiscriminate shelling with heavy artillery of areas with a high concentration of civilians. However, because of restrictions on access, few independent sources of information were available.

In spite of these developments, the Council did not respond either to the protection crisis facing these civilians or the need for a resolution of the conflict. By the time Holmes briefed the Council in February humanitarian organisations estimated that 250,000 people trapped

in the conflict zone were in need of protection and that the combination of its small area and the intensity of the fighting was creating disproportionate risks for civilians. The Secretary-General had spoken to the Sri Lankan president, reiterating his concerns. The Sri Lankan government had rejected calls by the US, the UK, Japan and the EU for a negotiated truce, stating as its objective the unconditional surrender of LTTE.

There were strong objections from the Sri Lankan government against any formal Council involvement whether focused on the conflict or on the risks to civilians. Despite Holmes's briefing Council members remained divided. The situation therefore continued to be discussed outside the Council for a further month. Eventually, agreement was reached that the Council members should take up the issue of the civilian protection crisis. But this would take place in a new informal format called an "interactive dialogue" in which the Sri Lankan ambassador was invited to participate. The first of these took place on 26 March 2009. The members met in a closed informal meeting in a regular UN conference room rather than one of the Security Council meeting rooms.

A further such meeting was held on 22 April. This time the Council was also briefed by the Secretary-General's Chief of Staff, Vijay Nambiar, on his recent trip to Sri Lanka and by Catherine Bragg, Assistant Secretary-General for Humanitarian Affairs. After the meeting the president of the Council, Mexican Ambassador Claude Heller, in speaking to the press said that Council members had expressed deep concern about the humanitarian situation in the Vanni region and the plight of civilians. They also condemned LTTE for its use of civilians as human shields and urged



all parties, including the government, to abide by their obligations under international humanitarian law. However, it was not a formal press statement, which Council members had been unable to agree on, but was termed “informal remarks to the press.”

A third session of the interactive dialogue on Sri Lanka took place on 30 April. Finally, on 13 May, the Council issued a formal press statement on Sri Lanka after having met in closed consultations to discuss the humanitarian situation under “other matters.” (It was preceded by a meeting in New York on 11 May, hosted by the foreign ministers of the UK, France and Austria, of humanitarian organisations and concerned UN members, including eight Council members.) The statement expressed grave concern over the humanitarian crisis in northeast Sri Lanka and called for urgent action by all parties to ensure the safety of civilians. It condemned the LTTE for terrorism and the use of civilians as human shields, and demanded that it lay down its arms and allow civilians to leave the conflict zone. It also expressed deep concern at reports of continued use of heavy caliber weapons (because of the risks of such weapons to civilians in the circumstances) and called on the Sri Lankan government not to use such weapons.

Throughout this process several factors contributed to the Council’s failure to become effectively involved in the protection of civilians situation in Sri Lanka at an earlier stage. There were clear divisions among Council members. Some, such as China, viewed the conflict strictly as an internal matter. Others, such as Russia, defended the government’s right to fight domestic terrorism as it saw fit. But many argued that even in such cases the Council had

a responsibility to address the risks to civilians and should take action to address the humanitarian situation and press the parties to comply with their legal obligations towards civilians. European and Latin-American members in particular were pushing for a Council discussion on the Sri Lankan crisis several weeks before Holmes’s first briefing in February. But the inability to separate the protection of civilians from wider issues regarding the status and management of the conflict was an obstacle for many months.

NGOs were particularly active in lobbying Council members to have the situation in Sri Lanka formally put on the Council’s agenda and adopt a presidential statement or other formal action. In a joint letter to the Japanese prime minister on 11 May Human Rights Watch, Amnesty International, International Crisis Group and the Global Centre for the Responsibility to Protect called on Japan to support efforts to consider Sri Lanka formally in the Council, in particular to ensure humanitarian access and create a UN commission of inquiry to examine violations of international humanitarian law by all sides. (Japan is the largest international donor to Sri Lanka and, although supportive of informal Council discussions, was seen as reluctant to have it on the formal agenda.)

Many Council members also supported inclusion of Sri Lanka on the Council’s formal agenda. Members like the UK, France and Austria said very clearly in press briefings that they believed Sri Lanka should be formally considered. Latin-American members also appeared to support this view. The 13 May Council press statement came about as a result of increasing pressure for action from UK and France in particular, as well as from public opinion in many countries

and recognition by all fifteen members that there was a real protection of civilians issue. However, no Council member seemed to be willing to trigger a request under the provisional rules of procedure of the Council for a formal meeting. A decision to hold such a meeting would almost certainly have required a procedural vote. There were probably the necessary nine votes for such a decision but perhaps members held off in the knowledge that this might have caused bitterness which would work against securing sufficient votes for any substantive action.

It seems that members were persuaded that the option of the informal interactive dialogue with the Sri Lankan ambassador held greater prospects for impacting events on the ground. Certainly it was an important innovation that allowed for discussions of a divisive issue that otherwise might not have taken place. More specifically, it created a mechanism for Council members to directly impact the Sri Lankan government and call for specific action, albeit informally.

The military conflict ended on 18 May when the Sri Lankan government declared that the LTTE had been defeated. But concerns about the protection of civilians remained. Civilians who escaped the fighting and entered government-controlled territory were put in strictly controlled camps with limited humanitarian access. There were serious concerns about access to the camps, about the need to initiate a process of national reconciliation and for the establishment of a commission of inquiry to investigate violations of international humanitarian law by both the government and LTTE forces during the conduct of hostilities. On 5 June the Council heard another briefing on Sri Lanka, this time by the Secretary-General following his visit to the country

on 23 May. However, there was a general sense that these issues should be addressed, at least initially, in other UN fora than the Security Council. At press time, concerns continued to be raised about the extent of humanitarian law violations during the military offensive and about the continuing inability of many civilians held in camps to return home.

8. Protection of Civilians Issues Involving UN Peacekeeping Operations

UN peacekeeping operations constitute one of the major tools for Council action on protection of civilians. In addition to providing physical protection, these operations carry out a number of other important protection tasks including promotion and protection of human rights, especially for women and children, rule of law capacity building, disarmament of ex-combatants and security sector reform assistance, as well as coordination of humanitarian agencies.

However, there are real challenges for peacekeeping missions in implementing protection mandates. The issues in this regard that we identified in our 2008 report have not yet been resolved. There is still an absence of overall protection guidelines and of a common understanding of what protection of civilians actually entails in spite of the Council's intention expressed in 2006 in resolution 1674 to ensure that missions have clear guidelines. Operations continue to suffer from a mismatch between mandates and expectations on the one hand, and resources on the other, not least because of the increasing complexity of conflicts and the multidimensional nature of UN involvement.

The increasing demand for UN peacekeeping operations has only exacerbated these problems as global resources become further overstretched. It has become increasingly difficult to generate additional personnel and necessary military capabilities. Fifteen peacekeeping operations with a total of 83,000 uniformed personnel, almost 12,000 police and 23,000 civilian staff are currently deployed (as of 31 August 2009). Political, military and financial challenges resulting from the scale and complexity of these operations have led to a wider debate on peacekeeping within the UN system over the past year and several new initiatives have been launched.

In late 2008 DPKO and OCHA together commissioned an independent study to be conducted by outside researchers on implementation of protection of civilians mandates in UN peacekeeping operations. The objective was to analyse the actual impact on the ground of including protection mandates in peacekeeping operations, examine steps taken by relevant actors to implement these mandates and make recommendations on how the UN can enhance its ability to protect civilians. The study included field trips to Sudan, the DRC and Côte d'Ivoire. The final report, which was originally anticipated in July this year, is scheduled for publication in early November. There seem to be expectations that the recommendations will provide new insights on how to enhance protection.

Other initiatives have also addressed the issue of implementing protection mandates. The DPKO and the Department of Field Support launched an internal review of peacekeeping under the name "New Horizon". The conclusions and recommendations of the review were presented in July in a non-paper which

also provided an assessment of key challenges confronting UN peacekeeping. It was intended as a contribution to the wider debate on peacekeeping and was meant to stimulate discussion among all stakeholders on the future of UN peacekeeping.

The non-paper identified protection of civilians as one of three cross-cutting peacekeeping tasks that present particular challenges. (The other two were robust operations and peacebuilding.) It noted that there had been some progress in addressing the gap between expectations and capacity to protect. Some missions had started developing practical guidance and testing techniques for responding to civilian protection challenges. Other initiatives included development of mobile operating bases, integrated protection teams and integrated planning processes. The paper argued, however, that a more comprehensive approach was needed, in particular to integrate activities of police, rule of law, human rights and humanitarian actors in the field which go beyond mere physical protection. It concluded that the UN should take the lead in developing a clear and comprehensive concept and appropriate guidance for the implementation of protection of civilians mandates and identify the required capacities, equipment and training. This work is expected to draw on the findings of the independent study on implementation of protection mandates.

In the Council, France and the UK initiated a peacekeeping review process during France's presidency in January 2009 to improve the way the UN system and the Council in particular handle peacekeeping issues. It focuses on three challenges: effective strategic oversight (preparation, planning and



evaluation of operations); resource constraints; and mandate implementation. Following a 5 August open debate on UN peacekeeping the Council adopted a presidential statement which identified areas where further discussion was needed to improve the effectiveness of peacekeeping operations. It also recognised that further work on protection of civilians mandates was necessary, including in the General Assembly's Special Committee on Peacekeeping Operations (C-34). The next step in the review process is planned for early 2010.

The Security Council Working Group on Peacekeeping Operations under the chairmanship of Japan (which joined the Council in January) has been actively involved in the peacekeeping review process. The Working Group has been meeting more frequently and has agreed to revitalise its work by discussing challenges facing troop contributing countries in the context of specific missions. The key issue being discussed is the gap between mission mandates and implementation. Japan seems keen also to address implementation of protection mandates and the issue has already been part of the discussions in the Working Group.

There was also an important development relating to protection of civilians in the General Assembly. In March 2009, the Special Committee on Peacekeeping Operations, which meets annually to "conduct a comprehensive review of all issues related to peacekeeping" for the first time addressed protection of civilians in its report, acknowledging that protection of civilians is one of the mandated tasks of UN peacekeeping operations, requiring integration and a comprehensive approach. The Special

Committee also asked the Secretary-General to present proposals to improve the ability of existing peacekeeping operations to respond to situations where civilians are under threat and provide information on resources, training and concepts of operation with regard to protection mandates.

It remains to be seen whether these new developments will lead quickly to better guidelines on protection tasks for UN peacekeeping operations. While the signs are encouraging, bringing all these strands together and creating a common understanding on protection of civilians between all stakeholders involved, including the Council, troop-contributing countries, the General Assembly and host countries will be a significant challenge. A related question is whether the Council should itself seek to drive the process or develop detailed operational guidance to UN missions on the consistent interpretation and implementation of protection mandates or whether this should be done in a partnership with the Special Committee on Peacekeeping Operations, or indeed even left to the Secretary-General. An important next step in the process of establishing guidelines is likely to be the next session of the Special Committee, taking place in early 2010, when the Secretary-General will have an opportunity to present new ideas on protection of civilians in peacekeeping operations.

9. Council Dynamics

In our 2008 cross-cutting report we concluded that prospects for better progress on protection issues in the Council were not very encouraging. However, several factors seem to have contributed to a different atmosphere this year.

First, the change in Council membership at the beginning of the year created a new dynamic. The new members (Austria, Japan, Mexico, Turkey and Uganda) seem to have shifted the balance in the Council in favour of more focus on protection issues. The establishment in January of the informal Council expert group on protection of civilians, which seemed unlikely only a year ago, was seen as an important step forward.

Secondly, the innovative thinking that has emerged on peacekeeping challenges during 2009 has led to increased focus on the importance of implementing protection mandates and in particular the need for agreed guidelines on protection tasks.

Also, the kinds of crises that have challenged the Council in 2008 and 2009 have had an important impact. Events in Gaza, the DRC and Sri Lanka have galvanised public opinion and increased pressure on Council members to improve their performance.

But despite all these developments the Council has still seemed to demonstrate a persistent inability to act effectively in some of the worst situations for civilians. Council dynamics and Council working methods seem to combine to limit members' ability to find ways to translate thematic principles into effective action in specific conflict situations. Recent crises have clearly demonstrated the tension between members' political interests and their protection commitments. In other cases lack of political interest, including lack of willingness to contribute resources to peacekeeping operations or other missions with a protection mandate also proved to be part of the problem. Yet another difficulty that was demonstrated during the year was the absence of

effective mechanisms to alert the Council to crises in situations not yet on its agenda.

Divisions remain among Council members on the general approach to the issue of protection of civilians. There are still fundamental differences between those members with strong national positions on protection, such as European and Latin American countries that are generally supportive of more Council involvement both at the thematic level and in country-specific situations, and other countries, most notably China and Russia and some Non-Aligned Movement (NAM) members that take a more cautious approach. The latter emphasise that protection responsibilities first and foremost should be assumed by national governments and that international involvement, including Council action, must respect territorial integrity and the will of national governments exercising their sovereignty. China and others argue that there should be more focus on prevention and peaceful conflict resolution and emphasise that actors other than the Council must be more involved, including the General Assembly, the Economic and Social Council, the UN Development Programme, the World Bank and regional organisations. These divisions tend to translate from the thematic approach into the country-specific issues.

On the question of accountability, China, Russia and some NAM Council members argue that the main avenue for fighting impunity and ensuring justice must be national authorities. They are therefore very reluctant to refer situations to the ICC or authorise other international investigations and are also hesitant about threatening to use or impose sanctions in the case of violations of international humanitarian law.

Libya has taken a strong position on protection issues this year, but focusing almost exclusively on Gaza. In the open thematic debates on protection, both in January and June, Libya called for more international involvement to ensure accountability for violations of international humanitarian law, including through referral to the ICC. (At the same time, however, Libya has been strongly opposed to the ICC arrest warrant for Sudanese President Omar al-Bashir.)

Some Council members are very sensitive about the issue of enhancing compliance with international humanitarian law by non-state armed groups through increased engagement, which was one of the recommendations in the Secretary-General's last report on protection of civilians. The report concluded that there was an urgent need to develop a comprehensive approach towards improving compliance by such actors, including through engagement, as well as enforcement and proposed the convening of an Arria formula meeting to discuss past experience with engagement and measures to improve compliance.

A key dynamic at work within the Council relates to the tension between protection of civilians and counter-terrorism. Some members, including Russia, China and Turkey, are concerned that engagement with or even the Council discussing conflicts involving certain non-state armed groups would risk legitimising and giving comfort to terrorist organisations. Russia has argued that any contact between humanitarian organisations and non-state actors can be established only with the consent of the relevant government and must be approached with great caution. Both China and Turkey have emphasised that combating terrorism

is the right and obligation of national governments and even implied that rules relating to armed conflict have no application. Other members, however, take a different view. And on the specific issue of engagement with combatants, they seem persuaded that the Secretary-General's recommendations, including for organising an Arria formula meeting, make sense. Many, notably France, argue that respect for international humanitarian law is always relevant and cannot be subordinate to combating terrorism.

Implementation of protection mandates in peacekeeping operations is an issue which most Council members support. Some members are focusing on how to enhance implementation. But others appear more concerned about the need for first developing a common understanding among UN member states about what peacekeeping operations should be mandated to do and what they should not do. Members are also mindful that the Council should not infringe upon the role of the General Assembly's Special Committee on Peacekeeping Operations, in particular on the issue of protection guidelines.

Most Council members seem to find the informal expert group on protection a very useful beginning, both as a means to improve information to the Council on protection issues and as a way to enhance internal coordination between thematic and geographic experts, in particular by bringing thematic expertise more into the negotiation process. Russia seems to be positively but cautiously engaged, but is perhaps not yet fully convinced of the added value. China's non-participation is not yet seen as a major issue. Most members seem happy to keep the informal nature of the group for now.

The UK, which has the chair of the group, seems to favour a cautious evolutionary approach. DPKO has been invited to attend the meetings in addition to OCHA. A proposal to allow OCHA to distribute written documentation was not accepted; mainly it seems because of concerns by some that it might have given the appearance of formalising the group.

10. Future Options for the Council

To date the Council has received over 100 recommendations from the Secretary-General in his reports on protection of civilians. Some of these recommendations overlap and some have been implemented or have become part of Council practice, but many have not and are still relevant as options for the Council to consider. In fact, most of the recommendations in the Secretary-General's 2009 report on protection of civilians are not new, but are similar to those in previous reports. (Please refer to Annex III for a complete list of the Secretary-General's recommendations to the Council.)

There are also a number of other options available to the Council to improve its performance on protection of civilians, in particular in country-specific situations.

10.1 Improving the Tools at the Council's Disposal

A first possible option is to consider ways to improve the tools at the Council's disposal to address protection of civilians issues. These tools comprise the revised aide-mémoire, the informal expert group on protection of civilians, the reporting by the Secretary-General and other UN actors (for example the Human Rights Council or the General

Assembly), briefings to the Council and deployment of peacekeeping missions. Possible options for improvement of these tools include:

- Requesting the Secretary-General, when it becomes clear that a conflict anywhere is likely to present grave risks to civilians, to present to the Council immediately an assessment of the risks in terms of application of the norms that the Council has approved relating to protection of civilians.
- Deciding to update the aide-mémoire annually in order to ensure that new developments and priorities are taken into account. (Annual updating was originally envisaged in the Council's December 2002 presidential statement.)
- Using the informal protection expert group to respond to concerns expressed by some Council members that protection work needs to focus more on prevention and therefore allow the group to serve also as the Council's early warning system and response capacity. This would involve the group moving beyond the current focus on mandate renewals and to hear briefings on other situations, including those that are not currently on the Council's agenda.
- Deciding to invite representatives from parts of the UN system other than OCHA and the DPKO to give briefings to the group, e.g. the UN Department of Political Affairs and the Offices of the High Commissioners for Refugees and Human Rights.
- Developing a process whereby at the request of a member of this informal group the Secretariat might prepare written informal talking points for distribution to participants.
- Holding open debates routinely when it appears that a specific conflict will generate grave risks to civilians, but convene the meeting under the

agenda item "protection of civilians" so as to reassure all concerned that the meeting will focus on the humanitarian dimension rather than the political and military dimensions. This would allow the Council to take advantage of the input of the broader UN membership but perhaps avoid the politicisation that currently bogs down the efforts of the Council when it is suggested to open an agenda item on a specific country situation.

- Requesting the Secretary-General to address protection issues in each report on a conflict situation in a much more consistent, systematic and comprehensive way. This would enable the Council to better monitor the situation for civilians and verify compliance with Council decisions and implementation of mandates. His reports on country-specific situations are important sources of information for the Council, but, as was evident from the above analysis, there is not a consistent approach on protection reporting. Reports could provide more details on peacekeeping protection strategies and protection action plans in relevant situations. They could also provide more precise information on the situation for civilians, including on killing and maiming (reporting on killing and maiming is included in the Secretary-General's reports on children and armed conflict) and on what the key challenges are. The annex on access constraints which was included for the first time in the Secretary-General's latest report on protection of civilians could be further developed.
- Inviting the High Commissioner for Human Rights to brief the Council on protection issues. When the Council first started addressing protection of civilians as a thematic issue in 1999,

briefings on the issue were, in fact, often conducted by the Human Rights Commissioner. Then in late 2002 this responsibility was taken over by the Under-Secretary-General for Humanitarian Affairs. While OCHA's role remains useful, the issue of protection is broader than the humanitarian mandate and in some cases OCHA is not best placed to analyse or report on the issues. Having the Human Rights Commissioner directly address the Council on this could often provide added value.

- Ensuring that peacekeeping operations have clear protection guidelines and are adequately resourced to fulfill protection mandates by supporting already ongoing initiatives and processes and taking action as appropriate.
- Making more frequent use of Arria formula meetings to increase interaction with civil society and address some new issues, including the question of enhancing compliance with international humanitarian law by non-state armed groups as well as the issue of housing, land and property rights for displaced persons and refugees, as suggested by the Secretary-General. The issue of compliance by non-state armed groups was one of the key challenges identified in the Secretary-General's last report which also recalled his 2007 recommendation that the Council should convene an Arria formula meeting to further discuss how to address housing, land and property rights.

10.2 Enhancing Compliance in Country-Specific Situations

At the country-specific level, a key issue seems to be ensuring compliance with

Council decisions and other legal obligations, as well as accountability for violations. Options for the Council might include:

- making greater use of targeted sanctions on a more consistent basis against violators of international humanitarian law, both as a preventive and interim accountability measure;
- systematically requesting reports on violations;
- mandating commissions of inquiry where there are serious allegations involving major and large scale violations of international humanitarian law;
- reaffirming the possibility of using the International Fact-Finding Commission established by article 90 of the First Additional Protocol to the Geneva Conventions to investigate allegations of violations;
- referring situations to the ICC, and calling on member states to cooperate fully with the ICC and similar mechanisms and enforce cooperation, if necessary through targeted measures;
- considering the referral of grave violations of denial of humanitarian access as well as situations involving attacks against UN personnel or humanitarian workers to the ICC; and
- bearing in mind that the Council has already adopted binding resolutions requiring all states to adopt national legislation for the prosecution of terrorist acts, to apply the same policy in respect of protection of civilians. This might involve resolutions requiring all states to adopt national legislation for the prosecution of individuals responsible for genocide, crimes against humanity and war crimes. An associated Council body to assist states with capacity building modeled on the CTED might also be considered.

10.3 Strengthening Action on Mediation and Regional Cooperation

In addition the Council could consider the following options on some other issues that could have a significant impact.

- More detailed and much earlier attention to prevention of conflict, in particular through mediation could be pursued. Mediation efforts still seem to suffer from a lack of resources and political leadership, especially by the Council. Some progress has been made by the Secretariat, including through the establishment of a mediation support unit in the Department of Political Affairs. On 23 September 2008 the Council for the first time held a meeting on "mediation and settlement of disputes". It adopted a presidential statement which encouraged the Secretary-General to further strengthen the Secretariat's ability to support mediation processes, noted the important contribution of regional and subregional organisations and requested the Secretary-General to submit a report on the issue, including recommendations for enhancing the effectiveness of UN mediation. The report was discussed at an open debate on 21 April. It concluded with a presidential statement in which the Council expressed its readiness to explore further ways to reinforce the promotion of mediation, welcomed the continued efforts of the mediation support unit and asked to be kept regularly informed by the Secretary-General on relevant actions undertaken. (Please refer to our *Update Report on Mediation and Settlement of Disputes* of 13 April 2009.) One option for the Council is to consistently support mediation efforts

by adding its political weight at key points, including through Council missions and meetings in the field with the actors. Fact-finding missions and very regular Secretariat briefings on ongoing negotiation processes could also be useful.

- Further strengthening cooperation with regional organisations. There has been an increasing focus in the Council on the importance of such cooperation, in particular with the AU. It adopted a resolution in April 2008 expressing its determination to enhance its relationship with regional organisations and encouraging regional involvement in conflict prevention and mediation efforts. Kenya, Mauritania and Guinea are recent examples of situations with a protection dimension where the Council supported regional mediation efforts. One possible future option would be to develop a stronger and more structured relationship between the Council and regional organisations, especially with the AU's Peace and Security Council, which would also allow for a more effective dialogue on protection of civilians. This could include closer cooperation on the issue of regional peacekeeping as envisaged in the Secretary-General's 18 September report on ways to support AU peacekeeping missions authorised by the Council. (It was a follow-up to the report of the AU-UN Panel, also known as the Prodi report.)

Annex I: UN Documents and Useful Additional Resources

UN Documents

Selected Security Council Resolutions

Thematic Security Council Resolutions

- S/RES/1738 (23 December 2006) condemned intentional attacks against journalists, media professionals and associated personnel, and requested the Secretary-General to include as a sub-item in his next reports on protection of civilians the issue of the safety and security of journalists, media professionals and associated personnel.
- S/RES/1674 (28 April 2006) *inter alia* reaffirmed the responsibility to protect as formulated in the 2005 World Summit Outcome Document and expressed the Council's intention to ensure that protection is clearly outlined and given priority in peacekeeping mandates.
- S/RES/1502 (26 August 2003) condemned all violence against humanitarian and UN and associated personnel, recalled obligations to protect such personnel under international humanitarian, refugee and human rights law, and called for unimpeded humanitarian access.
- S/RES/1296 (19 April 2000) reaffirmed the Council's commitment to protection of civilians and requested another report on the issue from the Secretary-General.
- S/RES/1265 (17 September 1999) was the Council's first thematic resolution on protection of civilians, condemning targeting of civilians, calling for respect for international

humanitarian, refugee and human rights law, expressing willingness to take measures to ensure compliance and to consider how peacekeeping mandates might better address the negative impact of conflict on civilians.

Sanctions Regimes Targeting Violations of International Humanitarian Law

- S/RES/1857 (22 December 2008) expanded the DRC sanctions regime to include "individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC".
- S/RES/1844 (20 November 2008) established a targeted sanctions regime for Somalia imposing measures on individuals or entities designated "as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia."
- S/RES/1842 (29 October 2008) was the 2008 renewal of the sanctions regime for Côte d'Ivoire.
- S/RES/1807 (31 March 2008) expanded the DRC sanctions regime to include "individuals operating in the DRC and committing serious violations of international law involving the targeting of children or women".
- S/RES/1698 (31 July 2006) expanded the DRC sanctions regime to include in the designation criteria "political and military leaders recruiting or using children in armed conflict in violation of applicable international law" and also "individuals committing serious violations of international law involving the targeting of children....".

- S/RES/1672 (25 April 2006) designated four individuals as subject to the targeted measures imposed on Darfur.
- S/RES/1596 (18 April 2005) established a targeted sanctions regime for the DRC.
- S/RES/1591 (29 March 2005) established a targeted sanctions regime for Darfur which included in the designation criteria individuals who commit violations of international humanitarian law or other atrocities.
- S/RES/1572 (15 November 2004) established a sanctions regime for Côte d'Ivoire imposing targeted measures on persons "determined as responsible for serious violations of human rights and international humanitarian law".

Other country-specific resolutions **Afghanistan**

- S/RES/1833 (22 September 2008) extended ISAF's authorisation until 13 October 2009.
- S/RES/1806 (20 March 2008) extended UNAMA's mandate for 12 months until 23 March 2009.

DRC

- S/RES/1856 (22 December 2008) revised MONUC's mandate, establishing protection of civilians as the first priority, and extended the temporary troop increase.
- S/RES/1843 (20 November 2008) authorised a temporary increase of MONUC's strength of up to 3,085 personnel.

Gaza

- S/RES/1860 (8 January 2009) called for an immediate ceasefire and the full withdrawal of Israeli forces from Gaza and condemned violence against civilians and acts of terrorism.

Somalia

- S/RES/1851 (16 December 2008) expanded the anti-piracy authorisation to include operations on land.
- S/RES/1846 (2 December 2008) renewed the anti-piracy authorisation in resolution 1816 for a further period of 12 months and called on states to continue to protect World Food Programme convoys.
- S/RES/1838 (7 October 2008) called for intensified action against piracy in Somalia and urged states to protect World Food Programme convoys.
- S/RES/1831 (19 August 2008) renewed authorisation of AMISOM for six months.
- S/RES/1816 (2 June 2008) authorised states and regional organisations to enter Somalia's territorial waters to combat piracy and expressed concern at the impact of piracy on humanitarian assistance.
- S/RES/1814 (15 May 2008) *inter alia* supported the Secretary-General's phased approach to Somalia, condemned violations of international humanitarian law and called on all parties to comply with the law.
- S/RES/1801 (20 February 2008) renewed the authorisation of AMISOM for six months.

Sudan

- S/RES/1828 (31 July 2008) renewed UNAMID and requested the mission to make full use of its protection mandate.
- S/RES/1812 (30 April 2008) renewed UNMIS's mandate.

Other thematic resolutions

- S/RES/1889 (5 October 2009) reaffirmed previous decisions on

women, peace and security and requested the Secretary-General *inter alia* to ensure that all country reports to the Council provide information on the impact of situations of armed conflict on women and girls.

- S/RES/1888 (30 September 2009) requested the Secretary-General to appoint a Special Representative to provide leadership and strengthen UN coordination of action on sexual violence in armed conflict and to ensure more systematic reporting on sexual violence to the Council, and decided to include specific provisions on sexual violence in UN peacekeeping mandates.
- S/RES/1882 (4 August 2009) expanded the criteria for inclusion on the Secretary-General's list of violators in his reports on children and armed conflict beyond the recruitment of children to include the killing and maiming of children and/or rape and other sexual violence against children.
- S/RES/1820 (19 June 2008) addressed sexual violence in conflict and post-conflict situations and asked the Secretary-General for a report by 30 June 2009 with information on the systematic use of sexual violence in conflict areas and proposals for strategies to minimise the prevalence of such acts with benchmarks for measuring progress.
- S/RES/1809 (16 April 2008) encouraged increased engagement between the AU and the UN and called on the UN Secretariat to develop a list of needed capacities and recommendations on ways that the AU could further develop its military, technical, logistic and administrative capabilities.

Selected Security Council Presidential Statements**Thematic Statements on Protection of Civilians**

- S/PRST/2009/1 (14 January 2009) reaffirmed previous decisions on protection of civilians and contained an updated aide-mémoire.
- S/PRST/2008/18 (27 May 2008) reaffirmed previous decisions on protection of civilians and requested a report from the Secretary-General by May 2009.
- S/PRST/2005/25 (21 June 2005) expressed concern about limited progress on the ground to protect civilians, stressed in particular the need to provide physical protection for vulnerable groups, and invited the Secretary-General to address challenges related to peacekeeping.
- S/PRST/2004/46 (14 December 2004) reaffirmed the Council's commitment to protection of civilians.
- S/PRST/2003/27 (15 December 2003) contained an updated aide-mémoire.
- S/PRST/2002/41 (20 December 2002) underscored the importance of the aide-mémoire, expressing its willingness to update it annually, and also addressed in particular issues related to humanitarian access, refugees and internally displaced persons and gender-based violence.
- S/PRST/2002/6 (15 March 2002) contained an aide-mémoire to assist Council members in their consideration of protection of civilians issues.
- S/PRST/1999/6 (12 February 1999) was the first thematic decision on protection of civilians which also requested the first report from the Secretary-General on the issue.

Chad

- S/PRST/2008/22 (16 June 2008) condemned a June rebel offensive in Chad, called on all parties to comply with their obligations under international humanitarian law, expressed full support for MINURCAT to protect civilians and expressed readiness to take measures against violations of the law.
- S/PRST/2008/3 (4 February 2008) contained an expression of support to external military assistance to the Chadian government and expressed concern about the safety of civilians.

DRC

- S/PRST/2008/40 (29 October 2008) condemned the CNDP offensive, demanded an end to the operation and called on all parties to comply with international humanitarian law to protect civilians.
- S/PRST/2008/38 (21 October 2008) expressed concern about the resurgence in violence in eastern DRC and the humanitarian situation.

Great Lakes/LRA-affected areas

- S/PRST/2008/48 (22 December 2008) condemned the repeated failure of Joseph Kony to sign the Final Peace Agreement, strongly condemned the recent attacks by the LRA in the DRC and southern Sudan and recalled the ICC arrest warrants for certain LRA leaders.
- S/PRST/2008/38 (21 October 2008) strongly condemned the recent attacks by the LRA in eastern DRC and recalled the ICC indictments against members of the LRA leadership.

Kenya

- S/PRST/2008/4 (6 February 2008) expressed concern about the

situation for civilians, including humanitarian workers and UN personnel, and the humanitarian situation, called on Kenya's political leaders to immediately end all violence and also called for those responsible for the violence to be brought to justice.

Sudan

- S/PRST/2008/27 (16 July 2008) condemned an 8 July attack against UNAMID troops, underlined that attacks against UN peacekeepers could constitute war crimes and called upon all parties to respect their obligations under international humanitarian law.
- S/PRST/2008/24 (24 June 2008) expressed regret for the recent fighting in Abyei and the ensuing displacement of civilians and urged the parties to facilitate humanitarian assistance.
- S/PRST/2008/21 (16 June 2008) called on Sudan to cooperate fully with the ICC.
- S/PRST/2008/15 (13 May 2008) condemned a JEM attack and urged all parties to respect their obligations under international humanitarian law.

Zimbabwe

- S/PRST/2008/23 (23 June 2008) condemned the campaign of violence against the opposition, called on Zimbabwe's government to stop the violence, political intimidation and restrictions on the right of assembly, release detained political leaders and cooperate with all efforts aimed at finding a peaceful solution and requested the Secretary-General to report on regional and international efforts to resolve the crisis.

Other

- S/PRST/2009/24 (5 August 2009) was a statement on peacekeeping operations identifying areas where further discussion was needed to improve their effectiveness and recognising that further work was necessary on protection of civilians.
- S/PRST/2009/8 (21 April 2009) was a statement on mediation and settlement of disputes expressing the Council's readiness to explore further ways to promote mediation and asking the Secretary-General to be regularly informed of relevant actions.
- S/PRST/2008/36 (23 September 2008) was a statement on mediation and settlement of disputes which requested a report from the Secretary-General, including on ways to enhance the effectiveness of UN mediation.

Selected Press Statements

Gaza

- SC/9580 (21 January 2009) welcomed the ceasefire in Gaza and recalled the obligation of all parties to ensure respect for international humanitarian law.
- SC/9559 (28 December 2008) expressed concern at the escalation of the situation in Gaza and called for an immediate halt to all violence.

DRC

- SC/9633 (9 April 2009) expressed support for joint operations by Congolese government forces and MONUC against armed groups operating in eastern DRC.
- SC/9445 (12 September 2008) expressed concern at the renewal in fighting in the eastern DRC and called for an end to offensive operations.

Sri Lanka

- SC/9659 (13 May 2009) expressed grave concern over the humanitarian situation in northeast Sri Lanka and called on all parties to ensure the safety of civilians.

Selected Reports of the Secretary-General

Thematic Reports on Protection of Civilians

- S/2009/277 (29 May 2009)
- S/2007/643 (28 October 2007)
- S/2005/740 (28 November 2005)
- S/2004/431 (28 May 2004)
- S/2002/1300 (26 November 2002)
- S/2001/331 (30 March 2001)
- S/1999/957 (8 September 1999) was the landmark first report on the issue.

Other

- S/2009/470 (18 September 2009) was a report on support to AU peacekeeping operations authorised by the UN
- S/2009/189 (8 April 2009) was a report on mediation and settlement of disputes.
- S/2008/728 (21 November 2008) was the fourth special report on MONUC.
- S/2008/662 (21 October 2008) was a report on UNMIS with a separate section on protection of civilians.
- S/2008/617 (24 September 2008) was a report on UNAMA with a separate section on protection of civilians.
- S/2008/485 (23 July 2008) was a report on UNMIS with a separate section on protection of civilians.
- S/2008/267 (22 April 2008) was a report on UNMIS with a separate section on protection of civilians.
- S/2008/266 (22 April 2008) was a report on UNAMI which addressed issues related to the conduct of hostilities and protection of civilians.

- S/2008/218 (2 April 2008) was a report on MONUC with a separate section on protection of civilians.
- S/2008/159 (6 March 2008) was a report on UNAMA with a separate section on protection of civilians.

Selected Meeting Records

Thematic Debates on Protection of Civilians

- S/PV.6151 and Res. 1 (26 June 2009)
- S/PV.6066 and Res. 1 (14 January 2009)
- S/PV.5898 and Res. 1 (27 May 2008)
- S/PV.5781 and Res. 1 (20 November 2007)
- S/PV.5703 (22 June 2007)
- S/PV.5577 and Res. 1 (4 December 2006)
- S/PV.5476 (28 June 2006)
- S/PV.5319 and Res. 1 (9 December 2005)
- S/PV.5209 (21 June 2005)
- S/PV.5100 and Res. 1 (14 December 2004)
- S/PV.4877 (9 December 2003)
- S/PV.4777 (20 June 2003)
- S/PV.4660 and Res. 1 (10 December 2002)
- S/PV.4492 (15 March 2002)
- S/PV.4424 (21 November 2001)
- S/PV.4312 and Res. 1 (23 April 2001)
- S/PV.4130 and Res. 1 (19 April 2000)
- S/PV.4046 (16 September 1999) and Res. 1 and 2 (17 September 1999)
- S/PV.3980 and Res. 1 (22 February 1999)
- S/PV.3977 (12 February 1999)
- S/PV.3968 (21 January 1999)

Other

- S/PV.6178 and Resumption 1 (5 August 2009) was a debate on peacekeeping operations.



- S/PV.6108 (21 April 2009) was a meeting on mediation and settlement of disputes.
- S/PV.6077 (27 January 2009) was the meeting in which John Holmes and the UNRWA Commissioner-General Karen Koning AbuZayd briefed the Council on the situation in Gaza.
- S/PV.6075 (23 January 2009) was a debate on peacekeeping operations.
- S/PV.6061 (6 January 2009) and Resumption 1 (7 January 2009) was a debate on the situation in Gaza.
- S/PV.6060 (31 December 2008) was a debate on the situation in Gaza.
- S/PV.5933 (11 July 2008) was the meeting in which the Zimbabwe draft resolution was vetoed.
- S/PV. 5868 and Resumption 1 (16 April 2008) was a debate on cooperation with regional organisations.
- S/PV.5845 (25 February 2008) was a briefing on Kenya.

Other UN Documents

- A/HRC/S-12/L.1 (16 October 2009) was the Human Rights Council resolution endorsing the Goldstein report.
- A/HRC/12/48 (15 September 2009) was the report of the independent fact-finding mission established by the Human Rights Council to investigate all violations of international humanitarian law and human rights law committed during the Gaza crisis in January 2009 (Goldstein report).
- S/2009/398 (31 July 2009) was a letter from the Chairman of the Working Group on Peacekeeping Operations submitting the Group's interim report to the Council.

- A/HRC/S-11/2 (26 June 2009) was the report of the Human Rights Council from its eleventh special session on the human rights situation in Sri Lanka.
- S/2009/250 (4 May 2009) was the letter from the Secretary-General to the President of the Council transmitting his summary of the report of the Board of Inquiry established to investigate attacks against UN premises in Gaza.
- SC/9608 (3 March 2009) was a press release from the DRC Sanctions Committee adding four individuals to the sanctions list, three of them for violations against children.
- A/63/19 (23 February 2009) was the Report of the Special Committee on Peacekeeping Operations and its Working Group from the 2009 substantive session.
- A/HRC/S-9/L.1 (12 January 2009) was the Human Rights Council resolution authorising an independent fact-finding mission to "investigate all violations of international human rights law and international humanitarian law" that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 to 18 January 2009".
- S/2008/773 (21 November 2008) was a report of the Group of Experts for the DRC sanctions regime.
- S/2008/647 (1 October 2008) was a report of the Panel of Experts for the Darfur sanctions regime.
- S/2008/598 (15 September 2008) was a report of the Group of Experts for the Côte d'Ivoire sanctions regime.
- SC/8631 (7 February 2006) was

the press release from the Côte d'Ivoire sanctions committee on the list of individuals subject to targeted sanctions.

Useful Additional Resources

- *A New Partnership Agenda – Charting a New Horizon for UN Peacekeeping*, DPKO and Department of Field Support non-paper, July 2009
- *Sudan: Justice, Peace and the ICC*, International Crisis Group, 17 July 2009
- *Israel/Gaza: Operation 'Cast Lead': 22 Days of Death and Destruction*, Amnesty International, 2 July 2009
- *Congo: Five Priorities for a Peacebuilding Strategy*, International Crisis Group, 11 May 2009
- *Joint Letter on Sri Lanka to Japanese Prime Minister*, Human Rights Watch, Amnesty International, Global Centre for the Responsibility to Protect and International Crisis Group, 10 May 2009
- *Strengthening Protection of Children Through Accountability – The Role of the UN Security Council in holding to account persistent violators of children's rights and protection in situations of armed conflict*, Conflict Dynamics International, 25 March 2009
- *Rain of Fire – Israel's Unlawful Use of White Phosphorus in Gaza*, Human Rights Watch, March 2009
- *War on the Displaced – Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, 20 February 2009
- *Besieged, Displaced, and Detained – The Plight of Civilians in Sri Lanka's Vanni Region*, Human Rights Watch, 23 December 2008
- *Killings in Kiwanja – The UN's Inability to Protect Civilians*, Human Rights Watch, 12 December 2008

Annex II: Current Protection Mandates in UN Peacekeeping Operations

Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
1. Liberia	UNMIL (2003-) S/RES/1509 (19 September 2003)	<ul style="list-style-type: none"> • Without prejudice to the efforts of the government, to protect civilians under imminent threat of physical violence, within its capabilities. • Assist in security-sector reform, in particular police and armed forces. • Facilitate the provision of humanitarian assistance, including by helping to establish the necessary security conditions. • Contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children and demobilised child soldiers, within UNMIL's capabilities and under acceptable security conditions. • Ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection and monitoring activities.
2. Côte d'Ivoire	UNOCI (2004-) S/RES/1528 (27 February 2004) S/RES/1609 (24 June 2005) S/RES/1739 (10 January 2007)	<ul style="list-style-type: none"> • Without prejudice to the government's responsibility, protect civilians under imminent threat, within its capabilities and areas of deployment. • Support the government, within its current capacities, in the implementation of the national programme for the disarmament, demobilisation and reintegration of combatants, including through logistical support, in particular for the preparation of cantonment sites, paying special attention to the specific needs of women and children. • Coordinate closely with UNMIL in the implementation of a voluntary repatriation and resettlement programme for foreign ex-combatants, paying special attention to the specific needs of women and children. • Facilitate the free flow of people, goods and humanitarian assistance, <i>inter alia</i>, by helping to establish the necessary security conditions and taking into account the special needs of vulnerable groups. • Facilitate the reestablishment of state authority and of the institutions and public services essential for the social and economic recovery of the country. • Contribute, within its capabilities and its areas of deployment, to the security of the areas where voting is to take place. • Contribute to the promotion and protection of human rights, with special attention to children and women. • Monitor and help investigate human rights violations with a view to ending impunity, and to keep the sanctions committee regularly informed. • Monitor the Ivorian mass media, in particular with regard to any incidents of incitement by the media to hatred, intolerance and violence, and to keep the sanctions committee regularly informed. • Assist the government in restoring a civilian policing presence, the authority of the judiciary and the rule of law, and to advise the government on the restructuring of the internal security services.



Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
<p>3. DRC</p>	<p>MONUC (1999-) S/RES/1856 (22 December 2008)</p>	<ul style="list-style-type: none"> • Ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence, in particular violence emanating from any of the parties engaged in the conflict. • Contribute to the improvement of the security conditions in which humanitarian assistance is provided and assist in the voluntary return of refugees and internally displaced persons. • Ensure the protection of UN personnel, facilities, installations and equipment. • Ensure the security and freedom of movement of UN and associated personnel. • Carry out joint patrols with the national police and security forces to improve security in the event of civil disturbance. • Deter any attempt at the use of force to threaten the Goma and Nairobi processes from any armed group, foreign or Congolese, particularly in the eastern part of the DRC, including by using cordon and search tactics and undertaking all necessary operations to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in that area. • Coordinate operations with the FARDC integrated brigades deployed in the eastern part of the DRC and support operations led by and jointly planned with these brigades in accordance with international humanitarian, human rights and refugee law with a view to: <ul style="list-style-type: none"> – disarming the recalcitrant local armed groups in order to ensure their participation in the disarmament, demobilization and reintegration process and the release of children associated with those armed groups; – disarming the foreign armed groups in order to ensure their participation in the disarmament, demobilization, repatriation, resettlement and reintegration process (DDRRR) and the release of children associated with those armed groups; and – preventing the provision of support to illegal armed groups, including support derived from illicit economic activities. • Facilitate the voluntary demobilization and repatriation of disarmed foreign combatants and their dependants. • Contribute to the implementation of the national programme of disarmament, demobilization and reintegration (DDR) of Congolese combatants and their dependants, with particular attention to children, by monitoring the disarmament process and providing, as appropriate, security in some sensitive locations, as well as supporting reintegration efforts pursued by the Congolese authorities in cooperation with the UN Country Team and bilateral and multilateral partners. • Provide military training, including in the area of human rights, international humanitarian law, child protection and the prevention of gender-based violence, to various members and units of the FARDC integrated brigades deployed in the eastern part of the DRC, as part of international broader efforts to support the security sector reform.

Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
		<ul style="list-style-type: none"> Assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations and publish its findings, as appropriate, with a view to putting an end to impunity, assist in the development and implementation of a transitional justice strategy and cooperate in national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law.
4. Sudan: North-South	UNMIS (2005-) S/RES/1590 (24 March 2005)	<ul style="list-style-type: none"> Take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to ensure the security and freedom of movement of UN personnel, and humanitarian workers, and, without prejudice to the responsibility of the Government of the Sudan, to protect civilians under imminent threat of physical violence. Assist in the establishment of the disarmament, demobilisation and reintegration programme as called for in the Comprehensive Peace Agreement, with particular attention to the special needs of women and child combatants, and its implementation through voluntary disarmament and weapons collection and destruction. Assist in promoting the rule of law, including an independent judiciary and the protection of human rights through a comprehensive and coordinated strategy with the aim of combating impunity and contributing to long-term peace and stability and to assist the parties to the Comprehensive Peace Agreement to develop and consolidate the national legal framework. Ensure an adequate human rights presence, capacity and expertise within UNMIS to carry out human rights promotion, protection and monitoring activities. Facilitate and coordinate, within its capabilities and in its areas of deployment, the voluntary return of refugees and internally displaced persons and humanitarian assistance, inter alia, by helping to establish the necessary security conditions. Assist with humanitarian demining assistance, technical advice, and coordination. Contribute towards international efforts to protect and promote human rights in Sudan, as well as to coordinate international efforts towards the protection of civilians, with particular attention to vulnerable groups including internally displaced persons, returning refugees and women and children. Deploy, as appropriate, sufficient personnel to the Abyei region to improve conflict prevention efforts and security to the civilian population.
5. Sudan: Darfur	UNAMID (2007-) S/RES/1769 (31 July 2007) S/2007/307/Rev.1 (5 June 2007) (The resolution refers to this document, a joint report by the Secretary-General and the Chairperson of the AU Commission, for details about UNAMID's mandate.)	<ul style="list-style-type: none"> Take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities to ensure the security and freedom of movement of its own personnel and humanitarian workers, and protect civilians, without prejudice to the government's responsibility. Contribute to the restoration of necessary security conditions for the safe provision of humanitarian assistance and to facilitate full humanitarian access throughout Darfur.



Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
		<ul style="list-style-type: none"> • Contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians, within its capability and areas of deployment. • Contribute to a secure environment for economic reconstruction and development, as well as the sustainable return of internally displaced persons and refugees. • Contribute to the promotion of respect for and protection of human rights and fundamental freedoms. • Assist in the promotion of the rule of law in Darfur including through support for strengthening an independent judiciary and the prison system, and assistance in the development and consolidation of the legal framework.
<p>6. Chad</p>	<p>MINURCAT (2007-) S/RES/1778 (25 September 2007) S/RES/1861 (14 January 2009)</p>	<ul style="list-style-type: none"> • Select, train, advise and facilitate support to elements of the Chadian police to provide protection. • Liaise with the national army, the gendarmerie and police forces, the nomad national guard, the judicial authorities and prison officials in Chad and CAR to contribute to the creation of a more secure environment combating in particular the problems of banditry and criminality. • Liaise with the government and UNHCR in support of their efforts to relocate refugee camps which are in close proximity to the border, and provide logistical assistance to UNHCR. • Support the initiatives of national and local authorities in Chad to resolve local tensions and promote local reconciliation efforts, in order to enhance the environment for the return of internally displaced persons. • Facilitate the delivery of humanitarian aid and the free movement of humanitarian personnel by helping to improve security in the area of operations. • Contribute to monitoring, promotion and protection of human rights, with particular attention to sexual and gender-based violence, and to recommend action to the competent authorities, with a view to fighting impunity. • Support training in international human rights standards and efforts to put an end to recruitment and use of children by armed groups. • Assist in the promotion of the rule of law including through support for an independent judiciary and a strengthened legal system.
<p>7. Lebanon</p>	<p>UNIFIL (1978-) S/RES/ 1701 (11 August 2006)</p>	<ul style="list-style-type: none"> • Take all necessary action in areas of deployment of its forces and as it deems within its capabilities, to ensure the security and freedom of movement of UN personnel, humanitarian workers and, without prejudice to the responsibility of the Government of Lebanon, to protect civilians under imminent threat of physical violence. • Help ensure humanitarian access to civilian populations and the voluntary and safe return of displaced persons.

Annex III: Secretary-General's Recommendations to the Security Council from his Reports on Protection of Civilians in Armed Conflict

Document Reference/Theme	Recommendations to the Security Council
Peacekeeping and Physical Protection	
<p>S/1999/957 (8 September 1999)</p> <p><i>Provision of resources and support</i></p> <p><i>Compliance with international standards in UN operations</i></p> <p><i>Separation of combatants and armed elements from civilians in camps</i></p> <p><i>Humanitarian zones, security zones and safe corridors</i></p> <p><i>Intervention in cases of systematic and widespread violations of international law</i></p>	<ul style="list-style-type: none"> • Take steps to strengthen the Organisation's capacity to plan and deploy rapidly. • Ensure that these units are trained in human rights and international humanitarian law, including child and gender related provisions, civilian-military coordination and communications and negotiation skills. • Underscore the importance of compliance with international humanitarian and human rights law in the conduct of all peacekeeping operations by urging that member states disseminate instructions among their personnel serving in UN peacekeeping operations and among those participating in authorised operations conducted under national or regional command and control. • Support a public "ombudsman" with all peacekeeping operations to deal with complaints from the general public about the behaviour of UN peacekeepers and establish an ad hoc fact-finding commission, as necessary, to examine reports on alleged breaches of international humanitarian and human rights law committed by members of UN forces. • Request the deploying member states to report to the Secretariat on measures taken to prosecute members of their armed forces who have violated international humanitarian and human rights law while in UN service. • Where appropriate, establish a peacekeeping presence early in the movement of refugees and displaced persons, in order to ensure that they are able to settle in camps free from the threat of harassment or infiltration by armed elements. • Deploy international military observers to monitor the situation in camps for internally displaced persons and refugees when the presence of arms, combatants and armed elements is suspected. • Mobilise international support for national security forces, from logistical and operational assistance to technical advice, training and supervision where necessary. • Mobilise international support for the relocation of camps too close to the border with refugees' countries of origin, to a safe distance away from the border. • Establish, as a measure of last resort, temporary security zones and safe corridors for the protection of civilians and the delivery of assistance in situations characterised by the threat of genocide, crimes against humanity and war crimes against the civilian population, subject to a clear understanding that such arrangements require the availability, prior to their establishment, of sufficient and credible force to guarantee the safety of civilian populations making use of them and ensure the demilitarisation of these zones and the availability of a safe-exit option. • In the face of massive and ongoing abuses, consider the imposition of appropriate enforcement action. Before acting in such cases, either with a UN, regional or multinational arrangement, and in order to reinforce political support for such efforts, enhance confidence in their legitimacy and deter perceptions of selectivity or bias toward one region or another, the Council should consider the following factors: <ul style="list-style-type: none"> (a) the scope of the breaches of human rights and international humanitarian law including the numbers of people affected and the nature of the violations; (b) the inability of local authorities to uphold legal order, or identification of a pattern of complicity by local authorities; (c) the exhaustion of peaceful or consent-based efforts to address the situation; (d) the ability of the Security Council to monitor actions that are undertaken; (e) the limited and proportionate use of force, with attention to repercussions upon civilian populations and the environment.
S/2005/740 (28 November 2005)	<ul style="list-style-type: none"> • Consider adopting a resolution incorporating developments in areas such as a more systematic, comprehensive mandate for peacekeeping and peacebuilding missions, physical protection and, especially, protection from sexual violence and child protection.



Document Reference/Theme	Recommendations to the Security Council
	<ul style="list-style-type: none"> Clearly address issues of physical protection in Security Council deliberations and decision making processes. Sustain the protection gains achieved within a country affected by conflict through strengthened regional approaches and greater coordination of protection actions.
S/2007/643 (28 October 2007) <i>Conduct of hostilities</i>	<ul style="list-style-type: none"> Systematically include a requirement for strict compliance with international humanitarian law, as well as human rights law, in all resolutions authorising UN peacekeeping and other relevant missions. Request reports from UN peacekeeping and other relevant missions on steps taken to ensure the protection of civilians in the conduct of hostilities.
S/2009/277 (29 May 2009)	<ul style="list-style-type: none"> Deploy, in relevant situations, peacekeeping missions or additional temporary capacity with robust protection mandates, and provide appropriate guidance for their implementation and the requisite human and logistical and tactical capacity to ensure the protection of civilians on the ground.
Displacement	
S/1999/957 (8 September 1999)	<ul style="list-style-type: none"> In cases of massive internal displacement, encourage States to follow the legal guidance provided in the Guiding Principles on Internal Displacement.
S/2001/331 (30 March 2001)	<ul style="list-style-type: none"> Support the development of clear criteria and procedures for the identification and separation of armed elements in situations of massive population displacement.
S/2005/740 (28 November 2005)	<ul style="list-style-type: none"> Reinforce the inclusion of adequate reintegration measures for displaced persons in peacekeeping and peacebuilding missions, as well as in peacemaking processes.
S/2007/643 (28 October 2007) <i>Housing, land and property rights</i>	<ul style="list-style-type: none"> Systematically include language in all relevant resolutions on the right of displaced persons and refugees to return to their homes and places of origin and on non-acceptance of the results of ethnic cleansing or sectarian violence. Promote the establishment of effective and appropriate mechanisms at the national level for addressing housing, land and property issues. Mandate UN peacekeeping and other relevant missions to prevent the illegal appropriation or confiscation of land and property, to identify and register land and property abandoned by refugees and displaced persons and to issue ownership documentation where this has been lost or destroyed. Convene an Arria-formula meeting with relevant actors to further explore the content of a more consistent, systematic and comprehensive UN-wide approach to housing, land and property issues.
S/2009/277 (29 May 2009)	<ul style="list-style-type: none"> Place greater emphasis on preventing displacement in situations of conflict.
Humanitarian Access and Safety of Humanitarian Personnel	
S/1999/957 (8 September 1999) <i>Safety of humanitarian personnel</i>	<ul style="list-style-type: none"> Urge Member States which have not yet done so to ratify the 1994 Convention on the Safety of UN and Associated Personnel, and encourage States which have already ratified to implement it fully. Invite the General Assembly to urgently pursue the development of a protocol to the 1994 Convention, which would extend the scope of legal protection to all UN and associated personnel (<i>note: the protocol was adopted by the General Assembly in 2005</i>).
<i>Humanitarian access</i>	<ul style="list-style-type: none"> Underscore in its resolutions, at the onset of a conflict, the imperative for civilian populations to have unimpeded access to humanitarian assistance and for concerned parties, including non-state actors, to cooperate fully with the UN humanitarian coordinator in providing such access, as well as to guarantee the security of humanitarian organisations, in accordance with the principles of humanity, neutrality and impartiality, and insist that failure to comply will result in the imposition of targeted sanctions. Urge neighbouring Member States to ensure access for humanitarian assistance and call on them to bring any issues that might threaten the right of civilians to assistance to the attention of the Council as a matter affecting peace and security.

Humanitarian Access and Safety of Humanitarian Personnel	
S/2001/331 (30 March 2001) <i>Standards for access negotiations</i>	<ul style="list-style-type: none"> Actively engage the parties to each conflict in a dialogue aimed at sustaining safe access for humanitarian operations, and to demonstrate its willingness to act where such access is denied. Conduct more frequent fact-finding missions to conflict areas with a view to identifying the specific requirements for humanitarian assistance, in particular obtaining safe and meaningful access to vulnerable populations.
S/2004/431 (28 May 2004) <i>Humanitarian access</i> <i>Security of humanitarian personnel</i>	<ul style="list-style-type: none"> Engage regional organisations as soon as an access crisis is brought to the Council's attention. Highlight the need for humanitarian access in discussions with governments, during Council missions to conflict areas. Systematically condemn all attacks on UN personnel and other humanitarian workers and call upon member states on whose territory such attacks occur to arrest and prosecute or, as appropriate, extradite those responsible.
S/2005/740 (28 November 2005)	<ul style="list-style-type: none"> Consider early involvement to safeguard humanitarian access, and, where appropriate, support regional organisations so that they can facilitate the necessary security environment for humanitarian and protection activities. Consider the application of targeted sanctions in situations where access for humanitarian operations is denied as a result of specific attacks on those involved in the provision of humanitarian assistance.
S/2007/643 (28 October 2007)	<ul style="list-style-type: none"> Ensure that UN peacekeeping and other relevant missions are mandated to contribute, as may be requested and within capabilities, to the creation of security conditions that enable the provision of humanitarian assistance. Have the Emergency Relief Coordinator systematically bring to the Council's attention situations where serious access concerns exist, including through the biannual briefings and as an annex to the Secretary-General's reports on the protection of civilians. Hold situation-specific debates on access and, where appropriate, consider the referral of grave instances of denial of access, as well as situations involving attacks against humanitarian workers, to the ICC.
S/2009/277 (29 May 2009) <i>Humanitarian access</i>	<ul style="list-style-type: none"> Consistently condemn and call for the immediate removal of impediments to humanitarian access that violate international humanitarian law. Call for strict compliance by parties to conflict and third States with their obligations to allow and facilitate the rapid and unimpeded passage of relief consignments, equipment and personnel, and encourage States to promote respect for humanitarian principles. Call upon parties to conflict to allow safe passage for civilians seeking to flee zones of fighting. Call upon parties to conflict to agree to the temporary suspension of hostilities and implement days of tranquility in order to enable relief actions by humanitarian actors. Call upon parties to conflict to cooperate with humanitarian organisations in the establishment of de-conflicting arrangements in order to facilitate the delivery of assistance during hostilities. Call upon relevant parties to conclude and implement agreements so as to expedite the deployment of humanitarian personnel and assets. Mandate UN peacekeeping and other relevant missions, where appropriate and as requested, to assist in creating conditions conducive to safe, timely and unimpeded humanitarian action. Apply targeted measures against individuals obstructing access to, or the distribution of, humanitarian assistance. Refer grave and prolonged instances of the willful impediment of relief supplies to the ICC.



Humanitarian Access and Safety of Humanitarian Personnel	
<i>Safety of humanitarian and UN personnel</i>	<ul style="list-style-type: none"> • Consistently condemn and call for the immediate cessation of all acts of violence and other forms of harassment deliberately targeting humanitarian workers. • Call for strict compliance by parties to conflict with international humanitarian law, including the duty to respect and protect relief personnel and installations, material, units and vehicles involved in humanitarian assistance. • Call upon States affected by armed conflict to assist in creating conditions conducive to safe, timely and unimpeded humanitarian action. • Call upon Member States that have not done so to ratify and implement the Convention on the Safety of United Nations and Associated Personnel and its Optional Protocol. • Apply targeted measures against individuals responsible for attacks against humanitarian workers and assets. • Refer grave instances of attacks against humanitarian workers to the ICC.
Engagement with Non-State Armed Groups	
S/2001/331 (30 March 2001)	<ul style="list-style-type: none"> • Emphasise, in resolutions, the direct responsibility of armed groups under international humanitarian law given that due to the nature of contemporary armed conflict protecting civilians requires the engagement of armed groups in a dialogue aimed at facilitating the provision of humanitarian assistance and protection.
S/2004/431 (28 May 2004)	<ul style="list-style-type: none"> • Ensure a coherent approach to engagement with non-state armed groups by establishing a framework within which the UN could engage with regional organisations more systematically on humanitarian issues related to protection and access and better address those issues at the regional intergovernmental level.
S/2009/277 (29 May 2009)	<ul style="list-style-type: none"> • Develop a comprehensive approach towards improving compliance by non-state armed groups with the law, encompassing actions that range from engagement to enforcement. • Convene an Arria formula meeting to discuss the experience of UN and non-governmental actors in working with armed groups and identify additional measures that the Council and Member States could take to improve compliance.
Small Arms	
S/1999/957 (8 September 1999)	<ul style="list-style-type: none"> • Impose arms embargoes in situations where civilians and protected persons are targeted by the parties to the conflict, or where the parties are known to commit systematic and widespread violations of international humanitarian and human rights law, including the recruitment of child soldiers; and urge Member States to enforce these embargoes in their own national jurisdictions. • Encourage Member States to give political and financial support and assistance to other States to facilitate compliance with the Ottawa Convention.
S/2001/331 (30 March 2001)	<ul style="list-style-type: none"> • Continue investigating the linkages between illicit trade in natural resources and the conduct of war and urge Member States and regional organisations to take appropriate measures against corporate actors, individuals and entities involved in illicit trafficking in natural resources and small arms that may further fuel conflicts.
S/2004/431 (28 May 2004)	<ul style="list-style-type: none"> • Establish monitoring mechanisms for arms embargoes to oversee their enforcement and to impose coercive measures against Member States that deliberately violate them and engage with neighbouring states, regional organisations and, where appropriate, peacekeeping missions in this process.
Disarmament and Demobilisation	
S/1999/957 (8 September 1999)	<ul style="list-style-type: none"> • Ensure that peace agreements and the mandates of all UN peacekeeping missions include, where appropriate, specific measures for disarmament, demobilisation and destruction of unnecessary arms and ammunition, and that early and adequate resources are made available.
S/2004/431 (28 May 2004)	<ul style="list-style-type: none"> • Develop a coherent and integrated approach that effectively connects disarmament and demobilisation with the reintegration phase.

Compliance, Accountability and Rule of Law	
<p>S/1999/957 (8 September 1999)</p> <p><i>Ratification and implementation of international instruments</i></p> <p><i>Accountability for war crimes</i></p> <p><i>Targeted sanctions</i></p>	<ul style="list-style-type: none"> • Urge Member States to ratify the major instruments of international humanitarian law, human rights law and refugee law. • Call on Member States and non-state actors, as appropriate, to adhere to international humanitarian, human rights and refugee law. • In cases of non-compliance, consider using the enforcement measures contained in the Charter of the United Nations under Chapter VII, to induce compliance with orders and requests of the two existing ad hoc tribunals for the former Yugoslavia and Rwanda, respectively, for the arrest and surrender of accused persons. • Urge Member States to ratify the Statute of the ICC as a concrete measure aimed at enforcing respect for international humanitarian law and human rights law. • Pending the establishment of the ICC, encourage the development of judicial and investigative mechanisms with national and international components, which may be used when the prosecution of those responsible for genocide, crimes against humanity and war crimes in either national or international tribunals appears unlikely given the unwillingness or inability of the parties involved (<i>note: the ICC was inaugurated in 2003</i>). • Urge Member States to adopt national legislation for the prosecution of individuals responsible for genocide, crimes against humanity and war crimes and report to the Council when prosecution is initiated. • Make greater use of targeted sanctions to deter and contain those who commit egregious violations of international humanitarian and human rights law, as well as those parties to conflicts which continually defy the resolutions of the Council, thereby flouting its authority. • Establish a permanent technical review mechanism of UN and regional sanctions regimes which can use information provided by Council members, relevant financial institutions, the Secretariat, agencies and other humanitarian actors to ascertain the probable impact of sanctions on civilians. • Further develop standards and rules to minimize the humanitarian impact of sanctions on the basis of proposals made by the President of the Council to the sanctions committees, and ensure especially that sanctions are not imposed without provision for obligatory, immediate and enforceable humanitarian exemptions. • Request regional organizations or groups of countries to submit complete information regarding the establishment of proper humanitarian exemption mechanisms and clearance procedures prior to authorising the imposition of regional sanctions.
<p>S/2001/331 (30 March 2001)</p> <p><i>Prosecution of violations of international law</i></p>	<ul style="list-style-type: none"> • Provide, from the outset, reliable, sufficient and sustained funding for international efforts, whether existing or future international tribunals, arrangements established in the context of UN peace operations or initiatives undertaken in concert with individual Member States, to bring to justice perpetrators of grave violations of international humanitarian and human rights law. • Consider the establishment of arrangements addressing impunity and, as appropriate, for truth and reconciliation, during the crafting of peacekeeping mandates, in particular where this response has been triggered by widespread and systematic violations of international humanitarian and human rights law. • Support Member States in building capable and credible judicial institutions that are equipped to provide fair proceedings.
<p>S/2002/1300 (26 November 2002)</p> <p><i>Illegal exploitation of natural resources</i></p>	<ul style="list-style-type: none"> • Consider coercive measures directed at companies and individuals involved in plundering of resources in conflict situations, including: <ul style="list-style-type: none"> (a) Travel bans on identified individuals; (b) The freezing of personal assets of individuals involved in illegal exploitation; (c) The barring of selected companies and individuals from accessing banking facilities and other financial institutions and from receiving funding or establishing a partnership or other commercial relations with international financial institutions.

Women and Children	
S/2004/431 (28 May 2004)	<ul style="list-style-type: none"> • Urge personnel-contributing countries to cooperate fully with punitive measures against peacekeeping personnel found in contravention of the Secretary-General's bulletin on sexual exploitation and abuse. • Transfer child soldiers to civilian care as soon as possible—their demobilisation should not be delayed pending formal disarmament, demobilisation, reintegration and rehabilitation processes. • Support measures aimed at ensuring that women and children affected by armed conflict are involved in and benefit equitably from disarmament, demobilisation, reintegration and rehabilitation processes and ensure that all relevant resolutions including disarmament, demobilisation, reintegration and rehabilitation measures address the specific roles, needs and capacities of women and girls.
S/2005/740 (28 November 2005)	<ul style="list-style-type: none"> • Strengthen and implement measures for receiving and reporting complaints, ensuring timely and effective investigations, taking appropriate disciplinary action and providing assistance and support to victims of sexual exploitation or abuse on the part of UN personnel.
S/2007/643 (28 October 2007) <i>Sexual violence</i>	<ul style="list-style-type: none"> • Request the systematic provision of comprehensive information on sexual violence as a specific annex to all reports to the Council on peacekeeping operations and other relevant missions. • Refer situations of grave incidents of rape and other forms of sexual violence to the ICC and/or considering the imposition of targeted sanctions against States or non-state armed groups that perpetrate or support such crimes. • In situations where impunity prevails and local justice mechanisms are overwhelmed, such as in the DRC, support the establishment of ad hoc judicial arrangements to address sexual violence.
Conflict Prevention	
S/1999/957 (8 September 1999)	<ul style="list-style-type: none"> • Consider deployment in certain cases of a preventive peacekeeping operation, or of another preventive monitoring presence. • Increase its use of relevant provisions in the Charter, such as articles 34 to 36, by investigating disputes at an early stage, inviting Member States to bring disputes to the Security Council's attention and recommending appropriate procedures for dealing with disputes and strengthen the relevance of article 99 of the Charter by taking concrete action in response to threats against peace and security as these are identified by the Secretariat. • Establish Council working groups relating to certain specific volatile situations to improve the understanding of the causes and implications of conflict, as well as to provide a consistent forum in which to consider options to prevent the outbreak of violence in each case. • Make use of the human rights information and analysis emanating from independent treaty body experts and mechanisms of the Commission on Human Rights, as well as other reliable sources, as indicators for potential preventive action by the UN.
Regional Cooperation	
S/1999/957 (8 September 1999)	<ul style="list-style-type: none"> • Confirm that regional organisations have the capacity to carry out an operation according to international norms and standards before authorising their deployment, and put in place mechanisms whereby the Council can effectively monitor such operations.
S/2001/331 (30 March 2001)	<ul style="list-style-type: none"> • Further develop the concept of regional approaches to regional and subregional crises, in particular when formulating mandates. • Establish a more regular cooperation with regional organisations and arrangements to ensure informed decision-making, the integration of additional resources, and the use of their comparative advantages, including the establishment of a regular regional reporting mechanism, and briefings, for the Council and high-level consultations.
S/2004/431 (28 May 2004)	<ul style="list-style-type: none"> • Commission a study on how to improve modalities for monitoring and reporting on cross-border issues in crisis and post-conflict situations, including reporting on the perpetration of core international crimes and compliance with existing regional agreements.
S/2005/740 (28 November 2005)	<ul style="list-style-type: none"> • Support regional and other intergovernmental organisations in order to build their capacity to respond to the protection needs of civilians caught in armed conflict.



UN Practices	
S/2001/331 (30 March 2001)	<ul style="list-style-type: none">• Develop a regular exchange with the General Assembly and other UN organs on issues pertaining to the protection of civilians in armed conflict.
S/2004/431 (28 May 2004)	<ul style="list-style-type: none">• Consider carefully the links between the maintenance of international peace and security and the timing and lack of balance of funding in certain crises.
S/2007/643 (28 October 2007)	<ul style="list-style-type: none">• Establish consistent with resolution 1674 (2006), a dedicated, expert level working group to facilitate the systematic and sustained consideration and analysis of protection concerns, and ensuring consistent application of the aide-mémoire for the consideration of issues pertaining to the protection of civilians in Council deliberations on the mandates of UN peacekeeping and other relevant missions, draft resolutions and presidential statements, and in Council missions.
S/2009/277 (29 May 2009)	<ul style="list-style-type: none">• Consistently apply the aide-mémoire on the protection of civilians in the deliberations of the Council to assist in identifying the pertinent issues and the required responses.• Make extensive use of the informal expert group and hold regular meetings in advance of the establishment and renewal of peacekeeping mandates and with regard to situations impacting adversely on civilians, to ensure that relevant protection concerns and possible responses are discussed and incorporated into the Council's actions.

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