



**Protection of Civilians in Armed Conflict  
United Nations Security Council Open Debate  
27 May 2008**

On 27 May 2008, the UK Presidency of the Security Council held an open debate on the Protection of Civilians in Armed Conflict. The Council, in a Presidential statement issued in December 2002, recognized the value of focusing on this issue every six months due to recommendations from the Secretary-General's report from 26 November 2002.

Prior to the debate, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mr. John Holmes, briefed the Council on the current efforts to assist and protect civilians in armed conflicts. In his concluding remarks, Holmes emphasized the recent progress in extending the reach of accountability and international justice mechanisms through the work of the International Criminal Court.

Of the 36 states who contributed to the discussion, 16 states made explicit reference to the International Criminal Court including: Costa Rica, Panama, Burkina Faso, France, Croatia, Canada, Switzerland, Slovenia (on behalf of the European Union), Argentina, Liechtenstein, Nigeria, Palestine, Norway, Peru, Mexico, and Austria (in the order of their statements). In addition, the U.S., Russia and the United Arab Emirates encouraged states to end impunity by prosecuting perpetrators of crimes committed during conflict. At the conclusion of the debate, the Council's Presidential Statement urged states "to end impunity and to prosecute those responsible for war crimes, genocide, crimes against humanity."

The following excerpts were taken directly from the UN meeting record and are listed in the order they were presented (S/PV.5898 and resumption 1). A full transcript of the debate is available at <http://www.un.org/Depts/dhl/resguide/scact2008.htm>.

Speaker / Country	Statement
Mr. John Holmes, Under-Secretary- General for Humanitarian Affairs and Emergency Relief Coordinator	<p>“[W]e need to intensify our efforts to make this zero-tolerance a reality. This includes reversing, in places like the Democratic Republic of the Congo, the continued failure of the police and judiciary to take sexual violence seriously. Ineffective investigations, minimal prosecutions, interference by military and other officials in the administration of justice: these are all practices which have to stop. They are an affront to the rights of victims and serve only to reinforce the culture of impunity on which sexual violence has thrived for so long.</p> <p>They also reaffirm the importance of the Secretary-General's recommendation in the protection of civilians report that consideration be given to establishing ad hoc judicial arrangements to support the national authorities in addressing sexual violence in the Democratic Republic of the Congo. For example, consideration could be given to creating a special, possibly internationalized, chamber within the Congolese criminal courts to prosecute sexual violence cases. [ . . ]</p> <p>The Democratic Republic of the Congo may stand apart in terms of the intensity of sexual violence. But it is no less essential that we take action to prevent the same horrific crimes against the displaced persons returning home to southern Sudan; or that we seek accountability for those who raped their way across Côte d'Ivoire and ensure support to their victims. It is precisely this need for consistency in approach that stands behind the proposed expert group of the Council, to which I shall return. [ . . ]</p>



	<p>Fourthly, there is the question — the broad question if you like of accountability, which was mentioned in particular by several speakers in the context of sexual violence, but also in the context of violations of international humanitarian law, more generally. I welcome that emphasis on accountability, because it is very important in terms of trying to prevent violations in the first place, as part of the constant struggle to prevent a culture of impunity, which does such damage where it takes root, as we can see in countries such as the Democratic Republic of the Congo in the context of the sexual violence there.</p> <p>Clearly, there has been quite a lot of progress in extending the reach of accountability mechanisms and international justice mechanisms, in particular through the International Criminal Court and other international judicial mechanisms.”</p>
H.E. Ambassador Urbina, Permanent Representative of Costa Rica to the United Nations	<p>“It is regrettable that those allegedly responsible for serious crimes, including some who have been called before the International Criminal Court, go unpunished, making a mockery of international law and justice. [ . . . ] Sexual violence and gender-based violence, used as a weapon of war, as we see in Sudan and in the Democratic Republic of the Congo, are also a particular source of concern to my delegation.”</p>
H.E. Ambassador Wolff, Deputy Permanent Representative of the United States of America to the United Nations	<p>“My Government remains gravely concerned about the ongoing and widespread use of sexual and gender-based violence in conflict situations throughout the world. It is one of the most significant protection challenges, and one that is too often ignored. Sexual and gender-based violence must be more effectively addressed. [...] We were encouraged last fall by the adoption without a vote of General Assembly resolution 62/134, calling on States to end impunity by prosecuting and punishing those who use rape and other sexual violence to advance military or political objectives, to protect and support victims, and to develop and implement comprehensive strategies on prevention and prosecution of rape. The United States urges all Member States to take concrete steps to end both the use of rape as an instrument of war and impunity for perpetrators.”</p>
H.E. Ambassador Arias, Permanent Representative of Panama to the United Nations	<p>“In the sphere of international justice, the International Criminal Court is, without question, the key instrument for avoiding the obstacles I have mentioned and deterring parties from ignoring the rules in this area. Unfortunately, initiating a case and gathering evidence can sometimes be an enormously complex and difficult task owing to the situation on the ground. Hence, we encourage all States Members of the United Nations to help the Court in its work by providing the resources and evidence needed to punish the perpetrators of crimes in conflict areas.”</p>
H.E. Ambassador Churkin, Permanent Representative of the Russian Federation to the United Nations	<p>“The prevention of violence is an objective that is strategic in nature, reaffirming the need to combat impunity for serious violations of international humanitarian law. Here, assistance to those States involved in restoring or establishing independent national judicial systems and institutions should be stressed.”</p>
H.E. Ambassador Kafando, Permanent Representative of Burkina Faso to the United Nations	<p>“Many have pointed out that to meet the ever-more-complex needs for the protection of civilians in armed conflict, the international community has established a legal and institutional framework, in particular the Charter of the United Nations and the Fourth Geneva Convention of 1949 and its two Additional Protocols of 1977. In addition, recently the International Criminal Court, the Special Tribunals and Council resolution 1674 (2006) have reiterated the responsibility of States and of the international community in this area. [ . . . ] The struggle against impunity is</p>



	<p>an integral part of the protection of civilian populations, including humanitarian workers. My delegation reaffirms its support for all initiatives designed to bring to justice the perpetrators of violations in this sphere.”</p>
<p>H.E. Ambassador Ripert, Permanent Representative of France to the United Nations</p>	<p>“Another aspect of resolution 1674 (2006) is of great importance for us: combating impunity. The International Criminal Court has a key part to play. The obligation to cooperate arising from the Rome Statute and from Security Council resolutions must be respected.</p> <p>We are also thinking of resolution 1325 (2000) on women and peace and security. As already stated here, sexual violence is systematically being used as a weapon of war. These are abominable crimes affecting millions of people. Such crimes must be prevented and punished. I welcome in this regard the arrest this weekend of Mr. Bemba, who had been sought by the International Criminal Court for many crimes, especially for sexual violence.”</p>
<p>H.E. Ambassador Jurica, Permanent Representative of Croatia to the United Nations</p>	<p>“Too many parties to an armed conflict see civilians as a method, rather than a by-product, of war. For example, they do not hesitate to use rape and other forms of sexual violence to destroy the most fragile parts of the society against which they are fighting. [...] Another matter of concern is the growing number of internally displaced persons and refugees from armed conflicts. Croatia is very concerned by the security situation in and around refugee camps, especially at those in some areas of Africa — for example, the Democratic Republic of Congo and the Sudan, where children are still being recruited as soldiers and fall victim to rape and other grave violations. [...] Moreover, Croatia strongly believes that when Governments fail to investigate, prosecute and punish violations of humanitarian law against civilians by members of their own armed forces or committed on their territory, recourse to the International Criminal Court should be considered.”</p>
<p>H.E. Ambassador McNee, Permanent Representative of Canada to the United Nations</p>	<p>“Among the many protection challenges facing us, sexual violence against women, girls, boys and men remains particularly stark. We need look no further than the eastern Democratic Republic of the Congo to understand the prevailing culture of impunity. Thousands of incidents of sexual violence are perpetrated with virtually no prosecutions. Clear resolve on the part of the Council to prevent sexual violence is essential. [...] More broadly, Canada calls on States to cooperate in the four countries in conflict or in post-conflict situations in which the International Criminal Court is active: the Sudan, the Central African Republic, the Democratic Republic of the Congo and Uganda. Perpetrators of serious international crimes must be held responsible for their acts.”</p>
<p>H.E. Ambassador Maurer, Permanent Representative of Switzerland to the United Nations</p>	<p>“Moreover, we would like to reiterate that respect for and implementation of international law is indissociable from the fight against impunity. Although this task is primarily the responsibility of national jurisdictions, the International Criminal Court plays a vital role when national jurisdictions are unable to prosecute persons suspected of committing international crimes. It is, therefore, essential that the Council ensure, whenever necessary, that States cooperate fully with the Court.”</p>
<p>H.E. Ambassador Štiglic, Permanent Representative of Slovenia to the United Nations (on behalf of the European Union)</p>	<p>“Nevertheless, combating sexual violence and the impunity on which it thrives requires efforts by the whole international community, including the Security Council. The Security Council should send a clear message of deterrence by referring situations of grave incidents of rape and other forms of sexual violence to the International Criminal Court. [. . .] One of the last points that we would like to make pertains to the fact that we continue to be appalled at the high degree of impunity that has been</p>



	<p>allowed to exist, which sends the message that the international community is not prepared to take action, even when fundamental human rights are breached. There is no doubt that perpetrators of crime must be held accountable for their actions; but, regrettably, impunity prevails in many cases of conflict owing to the lack of action. That impunity often leads to a circle of violence.</p> <p>The role of the International Criminal Court is clearly central in the fight against impunity in general. The Court is seized with a number of situations, and, more importantly, its activities and its very existence have also had a preventative effect. The European Union encourages members to provide their full support to the International Criminal Court by acceding to the Rome Statute. We also call on all Member States, especially States parties to the Rome Statute, to cooperate fully with the Court. Universality and our full support are crucial if we are to end impunity for the perpetrators of the most serious crimes against civilians. When we succeed in establishing the rule of law and proper judicial systems, we will have contributed greatly to durable peace and stability.”</p>
<p>H.E. Ambassador Argüello, Permanent Representative of Argentina to the United Nations</p>	<p>“We consider that the best incentive to dissuade potential perpetrators of war crimes, genocide and crimes against humanity from committing such atrocities is the fear that there exists a real possibility that they will have to appear before justice to answer for their crimes. On the other hand, from the perspective of peacekeeping and international security, we consider that it is increasingly obvious that the best way to consolidate peace and national reconciliation after a conflict is to avoid impunity [. . .] In that regard, during Argentina’s term on the Security Council in 2005 and 2006, our country not only propelled the adoption of resolutions 1674 (2006) and 1738 (2006), it was also among those that voted in favour of resolution 1593 (2005), by which for the first time the Council, acting under Chapter VII of the Charter of the United Nations, decided to refer the situation in Darfur to the Prosecutor of the International Criminal Court.</p> <p>In cases where we cannot prevent abuse of civilians, at least we should ensure that their perpetrators and those who bear political responsibility for violence against civilians are held accountable for their actions. We therefore believe that cooperation of States with the International Criminal Court and other international mechanisms that are fighting genocide, war crimes and crimes against humanity is essential, and it is also indispensable for the Council to take steps it considers appropriate to encourage and facilitate such cooperation when it is not otherwise forthcoming.”</p>
<p>H.E. Ambassador Wenaweser, Permanent Representative of Liechtenstein to the United Nations</p>	<p>“A central element in this respect is a clear commitment to fight impunity. The establishment of a number of ad hoc and hybrid tribunals was an expression of such a commitment. The key role in the fight against impunity, however, falls on the International Criminal Court. While the Court is seized with a number of specific cases, including situations on the Council’s agenda, its activities and mere existence also have a preventive effect in conflict situations beyond those under investigation.</p> <p>The Rome Statute attributes certain functions to the Security Council, including the possibility of referring situations to the Court. In March 2005 the Council exercised this function in connection with the situation in Darfur. More than two years later, the Council must follow up with action to ensure cooperation in the arrest of the persons indicted by the Court.</p>



	<p>The Council’s upcoming visit to Africa offers a unique opportunity for doing so.</p> <p>Beyond the execution of arrest warrants, full cooperation is needed in other areas as well. In the interest of effective protection of civilians, all organs of the United Nations as well as individual States should extend such cooperation — not just States parties to the Rome Statute, even though of course only States parties have a legal obligation to cooperate. The jurisdiction of the Court extends to a number of crimes that are still being perpetrated on a large scale and sometimes systematically and as part of a policy of intimidating civilian populations.”</p>
H.E. Ambassador Ogwu, Permanent Representative of Nigeria to the United Nations	<p>“Efforts should be intensified to strengthen the International Criminal Court and other legal frameworks and mechanisms for monitoring and reporting attacks against civilians by both State and non-State actors. Indeed, the international community should take vigorous and concerted action to combat genocide, ethnic cleansing and crimes committed against unarmed civilians.”</p>
H.E. Ambassador Mansour, Permanent Observer of Palestine to the United Nations	<p>“Protection provisions can be found in many instruments of law, including the Geneva Conventions, particularly the Fourth Geneva Convention, which comprises provisions explicitly aimed at ensuring the safety of civilians in armed conflict, including specific provisions for civilians under foreign occupation; the Additional Protocols to those Conventions; the human rights covenants; the Rome Statute of the International Criminal Court; and United Nations resolutions. Additionally, in 2005, in the World Summit Outcome Document (General Assembly resolution 60/1), world leaders affirmed the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”</p>
H.E. Ambassador Juul, Deputy Permanent Representative of Norway to the United Nations	<p>“A major challenge in the protection of civilians is combating sexual and gender-based violence. Norway is deeply concerned about the continued use of sexual violence as a weapon of warfare. In the Democratic Republic of the Congo, and especially in the eastern part of the country, sexual and gender-based violence seems to have taken on epidemic proportions. It is unacceptable that impunity for such extremely severe crimes seems to be the rule and not the exception. Further, Norway supports the referral of such crimes to the International Criminal Court and the consideration of sanctions against Member States as well as non-State actors that perpetrate such crimes.</p> <p>Norway urges the United Nations, Member States and non-governmental organizations to join forces in the Democratic Republic of the Congo, for example by expanding health services for survivors, focusing on transitional justice systems to build capacity to prosecute perpetrators, and finding means to prevent sexual violence from being perpetrated by ensuring that peacekeeping operations make life safe for women and girls. We support the recommendations of the Secretary-General that ad hoc judicial arrangements be established to address sexual violence in the Democratic Republic of the Congo and in other situations where impunity prevails.”</p>
H.E. Ambassador Voto-Bernales, Permanent Representative of Peru to the United Nations	<p>“We reiterate that serious cases of rape and other forms of sexual violence warrant being referred to the International Criminal Court. Furthermore, States must assume, as a priority, their own responsibility to bring to justice and punish those who are responsible for crimes as part of an overall approach to peace, justice, truth and national reconciliation.”</p>
H.E. Ambassador	<p>“My delegation emphasizes the importance of cooperation of States, the</p>



<p>Heller, Permanent Representative of Mexico to the United Nations</p>	<p>Organization and particularly the Security Council with the International Criminal Court so as to strengthen the latter and enable it to fully comply with one of the main purposes for which it was created: to end impunity with respect to the gravest crimes afflicting humankind.</p> <p>We are convinced that a fundamental component of the Security Council’s work in the protection of civilians in armed conflicts is that, among the measures adopted under Chapter VII of the Charter in certain situations, it would order States to act against those responsible for committing international crimes. Additionally, should the States be unwilling or unable to carry out such measures, the Council would consider submitting the matter to the International Criminal Court.”</p>
<p>H.E. Ambassador Pfanzer, Permanent Representative of Austria to the United Nations</p>	<p>“We are deeply shocked by the appalling level of sexual and gender-based violence in conflict situations throughout the world. [...] These acts are horrendous crimes for which those responsible must be brought to justice. They also have far-reaching implications for the development of affected societies in general. For this reason, Austria has increased its support to campaigns against sexual violence and assistance programmes for victims of sexual violence, especially in the eastern Democratic Republic of the Congo.</p> <p>We call on the Security Council to mainstream the fight against gender-based violence throughout its work and to make full use of the range of measures and tools available, including the imposition of targeted measures and referral of situations of serious violations against women and children to the International Criminal Court. We also call on Member States to strengthen the rule of law and fully utilize accountability mechanisms to bring to justice the perpetrators of these violations.”</p>
<p>H.E. Ambassador, Al-Jarman, Permanent Representative of the United Arab Emirates to the United Nations</p>	<p>“Thirdly, we affirm the need to enhance the system set up for monitoring, reporting and exchanging information on crimes against humanity committed during armed conflicts and for punishing the perpetrators so as to ensure that those crimes are not repeated. We call for developing the judicial arrangements made for addressing those crimes and for strengthening national and international capacities for investigation and prosecution. The rehabilitation process for the victims of those crimes and attacks must be improved, and the chances for victims to reach national and international criminal courts in order to obtain justice and the necessary compensation for crimes must be increased.”</p>