

Statement of Argentina: Ninth Open Debate on the Protection of Civilians in Armed Conflict: 7 July 2010

Ms. Schonmann (Israel):

I would like to thank you, Madam President, for convening this important debate. I also wish to thank Under-Secretary-General for Humanitarian Affairs Holmes for his informative briefing, as well as High Commissioner for Human Rights Pillay.

Israel considers the protection of civilians in armed conflict to be of the utmost importance. We are encouraged by the continued efforts of the Security Council, the Secretary-General and his staff in this area. Israel works closely with the United Nations here at Headquarters and on the ground to ensure humanitarian access to civilians in need in times of armed conflict, and will continue to do so.

Since last November's debate in the Council (*see S/PV.6216*) — which marked the anniversary of the adoption of resolution 1265 (1999) on the protection of civilians in armed conflict — and the adoption of resolution 1894 (2009) as well as last week's debate on the protection of children in armed conflict (*see S/PV.6341*), it has become evident that, alongside the considerable progress that has been made, including the recent appointment of a Special Representative on Sexual Violence in Conflict, key challenges and difficult operational, humanitarian and moral dilemmas still remain.

In the face of asymmetric warfare, which is a new and complex phenomenon that the international community has yet to address, regular armies increasingly find themselves fighting paramilitary terrorists or guerrilla organizations that deliberately operate in the vicinity of civilians in densely populated urban settings. While the principle of distinction between combatants and civilians under the laws of armed conflict remain of paramount importance, it has been challenged time and again by developments in modern warfare.

The dilemmas inherent in asymmetric warfare, especially in a situation where terrorists intentionally draw civilians into armed conflict, using them as human shields, warrants close, candid and serious consideration by the Council, taking into account that there are no easy answers, no simple formulas, nor any mathematical certainty in calculating the tragic toll on civilian lives in any given armed conflict. It further requires international lawyers and policymakers to grapple with the reality on the ground, intricate and complex as it may be.

Although asymmetric warfare has unfortunately become characteristic of the challenges facing Israel in its fight against terrorism in Gaza, it features in many other situations around the world, with similar *modus operandi* and warfare tactics employed by terrorists, including the deliberate placement of civilians in the vicinity of military targets, turning residential neighbourhoods into combat zones, firing

rockets and mortar shells from within civilian population centres and using mosques, hospitals and educational institutions as locations for storing weapons and terrorist infrastructure, to mention but a few.

From our own experience, the blatant disregard by terrorists of the sanctity of human life is not restricted to civilians of their adversary, but is also extended to their own populations. In the Gaza Strip, Palestinian terrorists use similar tactics to launch rockets and mortars from densely populated areas, while turning the civilians' homes from which they operate into a battlefield.

In Lebanon, Hizbullah, just as Hamas in Gaza, maintains its military activity within the fabric of civilian life. Only a few days ago, Hizbullah yet again demonstrated its disregard of civilians when its operatives organized and actively encouraged Lebanese residents and Hizbullah activists to stage seemingly spontaneous violent riots of protest against the United Nations Interim Force in Lebanon, to be followed by numerous incidents directed at these forces, which consequently took place on 3 July. Those orchestrated incidents by Hizbullah against United Nations peacekeepers violates resolution 1701 (2006).

Israel expects that these incidents will be addressed in the upcoming briefing to the Security Council on the implementation of resolution 1701 (2006), which is scheduled for next week. Israel also wishes to pay tribute to, and express its continuing support for, the work of humanitarian agencies that provide essential services on the ground. Israel's continued efforts to facilitate humanitarian assistance to Gaza, including, most recently, the expanded opening of crossing points and the lifting of restrictions on products, are indicative of its genuine efforts to alleviate the hardship of the civilian population subjected to the control and manipulation of the hostile terrorist entity.

However, we must not ignore the fact that terrorists often abuse access privileges, which greatly endangers humanitarian workers and obstructs the movement of aid. Under international humanitarian law, the right to free movement of humanitarian personnel is subject to military necessities and security considerations, among them the safety of the humanitarian personnel themselves and the need to prevent the abuse of humanitarian channels.

Ultimately, any candid assessment of the challenges and dilemmas involved in the protection of civilians in contemporary battlefields as well as the applicable rules of the laws of armed conflict must properly address and balance between several key concepts and principles, including military necessity, humanity, distinction and proportionality, as well as the recognition that civilians too have the responsibility not to abuse their protected status to take direct part in hostilities.

Israel's Supreme Court has had to address such real and practical challenges during active warfare and combat activities, at times even at the expense of suspending military operations. In seeking a balance between competing security and

humanitarian considerations, the protection of civilians resurfaces throughout the Court's extensive jurisprudence on this matter, shedding light on the dilemmas involved in finding an appropriate balance within the framework of the rule of law.

Israel, for its part, will continue to engage in this critical debate and share its experience as part of its commitment to ensuring the protection of civilians amid hostilities and warfare and as part of its commitment to the rule of law.

Source: S/PV.6354