

**Statement by the Permanent Representative of the Republic of South Africa to the United Nations, Ambassador Baso Sangqu at the United Nations Security Council Open Debate on Protection of Civilians
09 November 2011**

We are pleased to see Your Excellency, President Cavaco Silva, preside over this debate and my delegation wishes to express appreciation to Portugal for facilitating a discussion on this crucial topic of Protection of Civilians.

We wish to thank Ms. Navi Pillay High Commissioner for Human Rights, Ms. Catherine Bragg Assistant Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator and Mr Philip Spoerri, ICRC Director for International Law and Cooperation for their statements.

South Africa remains unwavering in its commitment to the protection of civilians in armed conflict. In this regard we welcome this debate with a particular focus on strengthening accountability mechanisms for violations of international humanitarian law. The protection of the lives of ordinary civilians, who are all too often the innocent victims of instability and strife in conflict zones, is paramount. International law clearly provides that the primary responsibility to protect civilians rests with the state.

In this regard we fully support the recommendations contained in the 2010 report of the Secretary General regarding strengthening accountability measures such as strengthening of national judicial institutions and the signing and ratifying the Rome Statutes and these should be encouraged. Additionally, the adoption of resolution 1894(2009) provides practical recommendations and actions which the Council could employ for ensuring accountability. These include the possibility of using the International Humanitarian Fact-Finding Commission to investigate the allegations of grave breaches and serious violations of international humanitarian law and for the Secretary-General to include in his report comprehensive and detail information relating to the protection of civilians in armed conflict.

We fully support international efforts to ensure that the normative and legal framework developed to defend the weak and vulnerable trapped in armed conflict is strengthened and further enhanced. The protection of civilians, by its nature, is a very political sensitive, yet a critical and vital task. We must at the same time ensure that such efforts are not abused for furthering objectives that falls outside of the scope of this noble and moral endeavor and sensitive responsibility.

Mr. President,

The prevention of conflict, and by extension the protection of civilians in armed conflict, embodies the very objective for which the United Nations was established. Preventing conflict and protecting civilians constitute important commitments that we should all realise and collectively endeavor to achieve.

Recent positive developments in the Security Council have in some ways advanced this goal. In particular we wish to highlight recent advances in fostering the principle of accountability in two important areas of the Council's work, notably in protecting women and children. Here we wish to reference the adoption on 28 October 2011, of a Presidential Statement in which the Council noted that the fight against impunity for the most serious crimes of international concern committed against women and girls has been strengthened through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals" and reiterated "its intention to enhance its efforts to fight impunity and uphold accountability for serious crimes against women and girls ..."

With regard to Children in Armed Conflict, we welcome the adoption of resolution 1998 in which Council expanded the listing criteria in the Secretary General's report to include parties to the conflict that attacks or threatens schools and hospitals.

Mr. President,

As we celebrate these important achievements, South Africa has registered its concerns publicly with the manner in which efforts employed by the Security Council to protect civilians have been exploited in the recent past. In particular, my delegation has expressed its condemnation of recent NATO activities in Libya which went far beyond the letter and spirit of resolution 1973 adopted by this Council. Abusing the authorization granted by this Council to advance political and regime change agenda's does not bode well for future action by this Council in advancing the protecting of civilians agenda. This could lead to a permanent state of paralysis within this Council in addressing similar situations in future. Such action could undermine the Council's credibility in protecting civilians. Regime change, arming civilians and harming of civilians cannot be justified in the name of protecting civilians and those entrusted with such responsibility must uphold their responsibility while protecting as aptly stated by Brazil. Those who deliberately go beyond Council decisions and international legality must bear full responsibility for this impasse.

In this regard we have taken note of the progress report of the Prosecutor of the International Criminal Court on 3 November in which he expressed the willingness of his office to conduct comprehensive investigations into further alleged possible crimes committed by whomsoever in Libya. Ensuring justice would go a long way in ensuring accountability.

Mr. President

UN peacekeeping operations are increasingly tasked with mandates for protecting of civilians under imminent threat. Protections of civilians-mandated peacekeeping tasks are to be implemented in accordance with the purposes and principles of the Charter as well as the guiding principles of peacekeeping operations. Peacekeeping missions with this mandate must carry out its task without prejudice to the sovereignty of host government and its primary responsibility in this regard. Implementation of such mandates should be supported by a comprehensive peace process involving all stakeholders, underpinned by national ownership and support of the international community.

My delegation expresses its concern about the impartiality of UN forces being compromised when the UN is seen as taking sides in the conflict. UN peacekeeping operations are increasingly tasked with mandates for protecting of civilians under imminent threat. This role however could be compromised if the UN is being perceived as being biased and is found to be unable to perform on its protection mandate due to lack of requisite resources and capabilities.

Protection of civilians as an important objective will only be sustainable by capacitating States emerging from conflict in the long-term. The objective of peacekeeping should always be to assist countries to end conflicts by empowering them through Security Sector Reform(SSR), Disarmament Demobilization Reintegration(DDR), training of effective and professional national security forces for them to assume eventual responsibility over their territories, including protecting of civilians. Such a process would enable peacekeepers to have a clear exit strategy while national institutional mechanisms are put in place for protecting civilians.

Mr. President,

Progress in advancing protection of civilians will also depend on the consistency with which the council pursues this goal. Selectivity gravely limits the credibility of the Council in advancing protection of civilian mandates and to seek accountability. This council cannot be seen to place the value of some civilians above those of others. Proactive action that we have witnessed in Libya and Cote d'Ivoire have to be also applied in other places on the council's agenda, such as

Afghanistan, Iraq, Palestine and Western Sahara where the plight of civilians are being ignored without any accountability.

We wish to underline that it remains the primary responsibility of States to protect civilians within their borders. Armed opposition groups also bears responsibility for ensuring that unarmed civilians are protected and failure by both state and non-state actors to uphold this responsibility should not go unpunished. Accountability must first and foremost be sought at the national level. It remains the sovereign responsibility of states to determine what their judicial mechanisms are in ensuring accountability. Failing which, the international community has a collective responsibility to act, with utmost adherence to international law, in accordance with the purpose and principles of the Charter, as prescribed in the 2005 Outcome Document and the Constitutive Act of the African Union.

I thank you.