

Remarks by Dr. Jennifer Welsh
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Security Council Arrria Formula Meeting
“The Responsibility to Protect and non-State actors”
4:00 pm, Conference Room 1, 14 December 2015

Excellencies,
Ladies and Gentlemen,

Let me begin by thanking Chile and Spain for their leadership in advancing the responsibility to protect. While the Security Council has referenced the responsibility to protect in numerous resolutions and Presidential Statements, this meeting marks the first time that it has devoted such focused attention to the principle. It is particularly fitting that our meeting today coincides with the tenth anniversary of the 2005 World Summit and comes at a time when discussion among Member States is turning from conceptual debate about the principle to how it can best be implemented.

The topic before us today is broad, challenging, and urgent. The responsibility to protect represents a fundamental political commitment by Member States to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity, to assist each other in upholding this responsibility, and to take collective action in accordance with the United Nations Charter and international law when national authorities manifestly fail.

While State responsibilities remain the core of the principle, experience during the past decade demonstrates that other actors can also make a significant contribution. Indeed, Paragraph 139 of the 2005 World Summit Outcome speaks of the *international community's* need to share in the responsibility to protect. Non-governmental organizations have helped to draw attention to emerging risks and build national resilience to the acts specified by the principle of responsibility to protect. Community and religious leaders have proven an important bulwark against rising intolerance. Civil society actors have provided humanitarian assistance to those suffering or fleeing from horrific violence, borne witness to serious violations of international human rights and humanitarian law, and helped to establish the conditions necessary for holding perpetrators to account. As the Secretary General has consistently maintained in his annual reports, the full realization of the responsibility to protect requires determined action by a diverse array of actors in all corners of the world.

Unfortunately, and tragically, today's headlines are dominated by a very different kind of non-State actor. Although the commission of horrific acts by non-State armed groups is not a new phenomenon, the actions of ISIL, Boko Haram, Al-Shabaab and others represent a qualitative break from the past. The public perpetration of war crimes, crimes against humanity, and acts that could constitute genocide has become a conscious part their political strategy.

A long-term, comprehensive, and coherent strategy is needed to counteract the systematic violence perpetrated by such groups and its surrounding narratives of hate and confrontation.

This approach must be *both* proportionate to the threat *and* embedded within wider efforts to resolve relevant political crises. It should complement counter-terrorism efforts, but without losing sight of what has been the responsibility to protect's distinctive value over the past ten years: first, to prioritize those most at risk; and second, to emphasize that the provision of effective protection to populations reinforces State sovereignty.

As the international community continues to develop its response, six issues demand particular consideration.

First, we must never relent in our efforts to hold non-State armed groups accountable for the existing obligations they have under international humanitarian law – including, in some cases, their positive obligation to provide protection to those under their control. Even in those cases where the prospect of accountability seems remote, important groundwork can still be laid today by assisting devastated communities to collect and protect evidence. At the same time, respect for international humanitarian and human rights law must be exercised by all actors. The egregious crimes committed by some non-State armed groups can also encourage those who point to exceptional security threats to justify abrogating their own legal obligations. The indiscriminate use of force against non-State armed groups risks fueling existing grievances or contributing to the commission of war crimes and crimes against humanity.

Second, the international community has a collective responsibility to assist States in protecting populations against non-State perpetrators of atrocity crimes, provided that such support does not inadvertently enable actions that breach international humanitarian and human rights law. One of the strengths of the 2005 World Summit is that it captured States' commitment to help one another to fulfill their protection responsibilities. In Nigeria we have seen how international assistance and regional action has helped to curb the brutal cycle of violence perpetrated by Boko Haram. United Nations peace operations in the Central African Republic and Mali, despite enormous operational challenges, provide a protective presence that constrains non-State armed groups and creates space for political progress. Third party States also have an obligation to avoid exacerbating existing situations. As the Security Council itself has repeatedly emphasized, all Member States must stop the flow of foreign fighters, eliminate the illicit transfer of arms and financial resources to non-State armed groups, and refrain from engaging in proxy conflicts.

Third, non-State armed groups thrive in ungoverned and insecure spaces. It remains the primary responsibility of the Member States concerned to protect their populations. This responsibility applies in all circumstances, and at all times - without exception. States that deliver inclusive governance, provide basic security, respect the rule of law and put in place structural protections for minorities are much less likely to confront these challenges. Preventing the development of conditions conducive to the operation of non-State armed groups must therefore be our starting point. This may entail building capacities that specifically inhibit the commission of atrocity crimes, for example, by ensuring that security forces respect human rights and by actively countering incitement and hate speech.

Fourth, a deep understanding of context is especially important when devising strategies to address non-State armed groups. These actors differ widely in their composition, objectives, strategies, and tactics. Some seek to represent a marginalized population, some are driven by

illicit profits, some arise in situations of conflict in order to protect victimized communities, and some pursue violent forms of extremism. Some groups can be encouraged to modify their goals and conduct, as witnessed by the painstaking work of organizations such as the International Committee of the Red Cross and Geneva Call. But determining which groups are susceptible to external political and economic pressure, which can be brought into a peace process, and which must be directly countered through military means depends on a situation-specific analysis.

Fifth, there is a clear and pressing need to adapt existing tools, given the landscape of systematic violence we face. Better casualty recording, for example, could provide a more accurate picture of patterns of perpetration by non-State armed groups. The international community must also update its analysis and planning tools to better anticipate the potential for ongoing violence to escalate into situations that could feature genocide, war crimes, ethnic cleansing and crimes against humanity. And collective efforts to limit non-State armed group's access to resources and illicit markets must be expanded and strengthened. These are actions that Member States can take today.

Finally, it bears repeating that there are no short cuts or quick solutions. Sustained support will be required to reestablish security, rebuild broken institutions, enable thousands of displaced people to return and foster reconciliation. Particular attention must be paid to accountability. As we have seen in Iraq, the legacy of communal violence and a climate of impunity set the stage for the spread of ISIL and other extremist groups. Without effective mechanisms for transitional justice, victimized communities are unlikely to return home and the risks of further violence will remain elevated. The International Criminal Court has an important role to play, whether directly in the case of signatories to the Rome Statute, through requests for ad hoc jurisdiction, or in terms of the support it provides to national mechanisms.

The set of issues I have outlined carries clear implications for the Security Council.

In terms of prevention, the Council must be prepared to address the risks of genocide, war crimes, ethnic cleansing and crimes against humanity at an earlier stage. This can only be achieved if open discussion of situations of concern becomes more regular and accepted. The Council also needs to be able to more systematically and dynamically track evolving risks, especially in contexts susceptible to an escalation of existing conflict into wider patterns of identity-based violence. Greater use of relevant briefings by senior United Nations officials, field visits, and the deployment of monitoring or observer missions can all enhance the Council's ability to anticipate and mitigate the threat posed by particular non-State armed groups. Ensuring that United Nations peace operations have the backing, resources and expertise necessary to implement robust protection mandates and support political processes is also critical.

In addition, the difficult challenges posed by non-State armed groups require a greater determination from the Members of this Council to act collectively. As we have seen in Syria, failure to resolve political crises at the outset can carry heavy consequences and ultimately enable the rise of violent extremism. I encourage all Council Members not to block credible proposals to address the threat of non-State perpetrators of egregious international crimes and to work more constructively to find creative solutions in the face of political differences.

As the spread of ISIL into Libya and the wider regional consequences of its instability clearly demonstrate, the Security Council must also be prepared to devote more sustained attention to societies in the aftermath of atrocities. The path from conflict to peace is rarely linear and frequently marked by setbacks. Effective military action against non-State armed groups is the beginning of a process, not the end.

As a final point, let me emphasize that while this Council has the authority to authorize coercive measures, experience teaches us that these rarely work in isolation. The temptation to rely on force to counteract non-State perpetrators must be tempered by an understanding of the root causes of their rise and an appreciation of their wider consequences. Lasting solutions will require the careful use of the full range of diplomatic, humanitarian, and military tools at the Security Council's disposal. All three pillars of the responsibility to protect are relevant.

The past decade has shown that the collective weight of the international community can make a difference in averting or preventing the escalation of genocide, war crimes, ethnic cleansing and crimes against humanity. But that weight must be brought to bear. With resolve and unity of purpose, we can protect the populations currently living in terror of the worst forms of persecution and violence.

I thank you and look forward to our discussion.