

Several members underlined the need to assist host countries, pointing to the negative impact of refugees on their economies and societies.⁵ In that regard, the representative of Ukraine voiced deep concern at the cases where refugees and internally displaced persons themselves became a source of instability and renewed strife. He proposed that following conflict situations, the Council consider sending special missions to major refugee camps and areas to assess the situation on the ground, or establishing, with the consent of the host country, preventive deployment missions, if circumstances so required.⁶ Similarly, the representative of Jamaica regretted the fact that sometimes refugees became potential pools for rebel recruitment, thereby posing a threat to the peace and security of the host communities.⁷ The High Commissioner, however, held that it was very difficult to maintain the civilian character of refugee camps since most of the refugees were victims of internal conflict who had fled their countries either temporarily or in an effort to fight back.⁸

Some members underlined the need to respect the sovereignty of States when addressing the refugee problem.⁹ In that context, the representative of Malaysia reiterated that humanitarian assistance must be apolitical in nature and predicated on the principles

⁵ Ibid., p. 8 (Namibia); p. 12 (Jamaica); p. 14 (Canada); and p. 20 (Mali).

⁶ Ibid., p. 17.

⁷ Ibid., p. 13.

⁸ Ibid., p. 14.

⁹ Ibid., p. 16 (Tunisia); and p. 22 (China).

of strict neutrality and non-selectivity. He urged donors to resist the temptation to use humanitarian aid as a means of exerting political pressure on the parties in a conflict.¹⁰ Nevertheless, the representative of Canada held that sovereignty did not exempt the concerned countries of their responsibility to provide full access to others in order that the basic needs of refugees and internally displaced persons could be met.¹¹

At the same meeting, the President (United States) made a statement on behalf of the Council,¹² by which the Council, *inter alia*:

Stressed the need to address the root causes of armed conflict in a comprehensive manner in order to prevent those circumstances that lead to internal displacement and the outflow of refugees; emphasized that national authorities had the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction;

Urged all parties concerned to comply strictly with their obligations under international humanitarian, human rights and refugee law, and emphasized the need for better implementation of relevant norms with regard to internally displaced persons;

Reaffirmed the responsibility of States hosting refugees to ensure the security and the civilian and humanitarian character of refugee camps and settlements, in accordance with existing international standards and international humanitarian, human rights and refugee law; underlined the unacceptability of using refugees and other persons in refugee camps and settlements to achieve military purposes in the country of asylum or the country of origin.

¹⁰ Ibid., p. 10.

¹¹ Ibid., p. 15.

¹² S/PRST/2000/1.

41. Protection of civilians in armed conflict

Decision of 19 April 2000 (4130th meeting): resolution 1296 (2000)

On 8 September 1999, the Secretary-General submitted to the Security Council the first report on the protection of civilians in armed conflict.¹ The Secretary-General presented the realities faced by civilians in armed conflict and the challenges those situations posed to the international community. Stressing that protection of civilians was fundamental

to the central mandate of the United Nations, the Secretary-General stated that the Council should play a leading role in compelling parties to conflict to respect the rights guaranteed to civilians by international law and convention. To strengthen the capacity of the Council and the United Nations to protect civilians, he recommended, *inter alia*, that the Council take steps to strengthen the Organization's capacity to plan and deploy rapidly by enhancing the participation in the United Nations Standby Arrangements System and increasing the numbers of civilian police and specialized civil administration and humanitarian personnel. Furthermore, the Council should establish a

¹ S/1999/957, submitted pursuant to the presidential statement of 12 February 1999 (S/PRST/1999/6).

permanent technical review mechanism of United Nations and regional sanctions which could be used to ascertain the probable impact of sanctions on civilians. In case an outbreak of violence against civilians was imminent, the Council should impose arms embargoes; consider the deployment of a preventive peacekeeping operation or of another preventive monitoring presence; make greater use of targeted sanctions to deter and contain those who committed egregious violations of international humanitarian and human rights law; and 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 was suspected. To alleviate the suffering of civilians, the Council should underline in its resolutions, at the onset of a conflict, the imperative for civilian populations to have unimpeded access to humanitarian assistance; ensure that, whenever required, peacekeeping and peace enforcement operations were authorized and equipped to control or close down hate media assets; and consider the imposition of appropriate enforcement action in the face of massive and ongoing abuses. He concluded by underscoring that the Council needed to act rapidly to ensure that the legal protection conferred upon civilians in armed conflict was accompanied by physical security.

At its 4130th meeting,² on 19 April 2000, the Council included in its agenda the above-mentioned report. The Council was briefed by the Secretary-General and the President of the International Committee of the Red Cross (ICRC). Statements were made by all Council members³ and the representatives of Australia, Austria, Azerbaijan,⁴ Bahrain, Colombia, Egypt, Indonesia, Israel, Japan, New Zealand, Portugal

² For more information on the discussion at this meeting, see chap. VI, part I, sect. F, case 3, with regard to relations with subsidiary organs established by the General Assembly; chap. X, part IV, with regard to the constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter; chap. XI, part I, sect. B, with regard to the discussion relating to Article 39 of the Charter; and chap. XII, part I, sect. E, case 8, with regard to Article 2, paragraph 7.

³ Canada was represented by its Minister for Foreign Affairs.

⁴ The representative of Azerbaijan spoke on behalf of Georgia, Uzbekistan, Ukraine, Azerbaijan and the Republic of Moldova (GUUAM).

(on behalf of the European Union)⁵, the Republic of Korea and Singapore, and by the Permanent Observer of Switzerland.⁶

The Secretary-General urged the Council to give greater consideration to the creation of a rapid deployment force to be readily used in cases of humanitarian need. Highlighting the positive impact of preventive measures taken in the Central African Republic and Prevlaka, he stressed that preventive missions, including the dispatch of monitors and fact-finding missions, could make the difference between the peaceful settlement of disputes and violent conflict. In cases where the mass exodus of a civilian population could not be prevented, the security of refugee camps should be enhanced. He underscored the importance of improving the protection of civilians by setting up temporary security zones and safe corridors, noting that a credible force must be deployed in such security zones if the consent of the parties was not forthcoming.⁷

The President of the International Committee of the Red Cross reiterated the distinction made in the Secretary-General's report between physical protection and legal protection. Arguing that coercive measures should be envisaged only in extreme cases to protect civilians, he stressed that the legitimacy of the cause being defended could, in no circumstance, exempt a military operation from the obligations laid down in international humanitarian law. Confusion between military action, designed to address the causes of conflict, and humanitarian action, intended to address its effects, was dangerous and a cause for concern since being associated with coercive action would jeopardize the work of humanitarian organizations by undermining their credibility and acceptance by the parties to a conflict. In his view, firm resolve on the part of the Council to take bold political decisions and create the conditions necessary for humanitarian organizations to preserve their indispensable independence would guarantee the effective

⁵ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Malta, Norway, Poland, Romania, Slovakia and Slovenia aligned themselves with the statement.

⁶ The representative of the Sudan was invited to participate but did not make a statement.

⁷ S/PV.4130 and Corr.1, pp. 2-4.

implementation of the shared objectives to protect civilians.⁸

Speakers expressed their support for the recommendations contained in the report of the Secretary-General⁹ and noted that the provisions contained in the draft resolution under consideration¹⁰ represented a concerted effort of the Council to take the issue forward. They agreed on the importance of promoting respect for international humanitarian, human rights and refugee law and stressed the need for early warning, preventive action or preventive deployment. They highlighted the importance of a comprehensive, integrated approach on the part of the international community, for greater efforts to address the root causes of conflict and emphasized the responsibility of State authorities in ensuring access to civilian populations at risk. They called for, *inter alia*, controlling the inflow of arms into conflict areas and keeping refugee camps safe from armed elements. Furthermore, speakers expressed support for the recommendations in the report related to the special protection needs of women and children.

The representative of the Netherlands underlined the importance of combining United Nations actions in the field of politics, human rights, humanitarian assistance, disarmament, demobilization and reintegration, and development. He encouraged the Secretary-General to make full use of the prerogatives conferred on him by the Charter of the United Nations and participate fully in the preparation of United Nations mandates.¹¹ The representative of the United Kingdom held that the proactive role of the Secretary-General needed to be strengthened to improve coordination and the flow of information within the United Nations system.¹²

Several representatives emphasized that the adoption of sanctions by the Council in cases of armed conflict should not contribute to a worsening of the situation for civilians.¹³ To avoid the unintended humanitarian impact of sanctions regimes, the representative of Jamaica expressed support for the use

of humanitarian exemptions and “smart” sanctions.¹⁴ Similarly, several speakers favoured targeted sanctions.¹⁵

The representative of the United States insisted that every specific situation of armed conflict must be dealt with individually, in its own context, bearing in mind the global standards set by international humanitarian law.¹⁶ Similarly, the representative of China held that the Council should review and address the issue of the protection of civilians in armed conflict on a case-by-case basis, dealing with each situation on its own merits.¹⁷ In that context, several speakers touched upon the issue of respect for political independence, sovereignty and territorial integrity in protecting civilians in armed conflict.¹⁸

The President (Canada) drew the attention of the Council to a draft resolution;¹⁹ it was put to the vote and adopted unanimously as resolution 1296 (2000), by which the Council, *inter alia*:

Emphasized the need, when considering ways to provide for the protection of civilians in armed conflict, to proceed on a case-by-case basis, taking into account the particular circumstances, and affirmed its intention to take into account relevant recommendations contained in the report of the Secretary-General of 8 September 1999 when carrying out its work;

Expressed its intention to collaborate with representatives of the relevant regional and subregional organizations, where appropriate, in order further to improve opportunities for the resolution of armed conflicts and the protection of civilians in such conflict;

Emphasized the importance for humanitarian organizations to uphold the principles of neutrality, impartiality and humanity in their humanitarian activities;

Requested the Secretary-General to disseminate appropriate guidance to United Nations personnel involved in peacemaking, peacekeeping and peacebuilding activities and to ensure that such personnel had the appropriate training, and

⁸ *Ibid.*, pp. 4-7.

⁹ S/1999/957.

¹⁰ S/2000/335.

¹¹ S/PV.4130 and Corr.1, p. 8.

¹² *Ibid.*, p. 16.

¹³ *Ibid.*, p. 11 (France); p. 21 (Jamaica); and p. 26 (Canada); S/PV.4130 (Resumption 1) and Corr.1, p. 6 (Republic of Korea).

¹⁴ S/PV.4130 and Corr.1, p. 21.

¹⁵ *Ibid.*, p. 25 (Mali); S/PV.4130 (Resumption 1) and Corr.1, p. 4 (Portugal on behalf of the European Union); and p. 6 (Republic of Korea).

¹⁶ S/PV.4130 and Corr.1, p. 9.

¹⁷ *Ibid.*, p. 14.

¹⁸ *Ibid.*, p. 14 (China); p. 17 (Tunisia); and p. 22 (Ukraine); S/PV.4130 (Resumption 1) and Corr.1, p. 12 (Egypt); p. 15 (Bahrain); and p. 22 (Indonesia). For more information, see chap. XII, part I, sect. E, case 8, with regard to Article 2, paragraph 7.

¹⁹ S/2000/335.

urged relevant Member States to disseminate appropriate instructions and to ensure that appropriate training was included in their programmes for personnel involved in similar activities;

Requested the informal working group of the Security Council on the general issue of sanctions to consider the recommendations contained in the report of the Secretary-General of 8 September 1999 relating to its mandate;

Requested the Secretary-General to submit by 30 March 2001 his next report on the protection of civilians in armed conflict, and further requested the Secretary-General to include in that report any additional recommendations on ways the Council and other organs of the United Nations, acting within their sphere of responsibility, could further improve the protection of civilians in situations of armed conflict.

**Decision of 15 March 2002 (4493rd meeting):
statement by the President**

On 30 March 2001, the Secretary-General submitted to the Council the second report on the protection of civilians in armed conflict.²⁰ He noted that only a few of the recommendations in his first report had been implemented. Pointing out that the political and legal instruments available for the protection of civilians had been developed in a world where State actors were overwhelmingly dominant, he stressed the need to update them to reflect the internal nature of conflicts. Additionally, new mechanisms and strategies were required to deal with the changed circumstances. The Secretary-General recommended, *inter alia*, that the Council actively engage the parties to each conflict in a dialogue aimed at sustaining safe access for humanitarian operations and demonstrate its willingness to act where such access was denied; consider the establishment of arrangements addressing impunity and for truth and reconciliation, as appropriate, during the crafting of peacekeeping mandates; conduct more frequent fact-finding missions to conflict areas with a view to identifying the specific requirements for humanitarian assistance; make provision for the regular integration in mission mandates of media monitoring mechanisms for hate media; and emphasize in its resolutions the direct responsibility of armed groups under international humanitarian law. Moreover, he encouraged the Council to further develop the concept of regional approaches to regional and subregional crises, in particular when formulating mandates of peacekeeping operations. The Council should also develop a regular

²⁰ S/2001/331, submitted pursuant to resolution 1296 (2000).

exchange with the General Assembly and other organs of the United Nations on issues pertaining to the protection of civilians in armed conflict.

The Secretary-General emphasized that reports and recommendations were no substitute for effective action and that the primary responsibility for the protection of civilians fell on Governments and armed groups involved in conflict situations. Where they did not honour those responsibilities, it was up to the Council to take action.

At its 4312th meeting,²¹ on 23 April 2001, the Council included in its agenda the above-mentioned report. The Council was briefed by the Deputy Secretary-General, the United Nations High Commissioner for Human Rights and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Statements were made by all Council members, the representatives of Argentina, Australia, Bahrain, Canada, Egypt, India, Indonesia, Iraq, Israel, Japan, Jordan, Malaysia, Mexico, Nepal, New Zealand, Pakistan, the Republic of Korea, Sierra Leone, South Africa, Sweden (on behalf of the European Union and associated and aligned countries), the Syrian Arab Republic, the United Arab Emirates and Yemen, and the Permanent Observers of Palestine, the Organization of the Islamic Conference and Switzerland.

In his introductory remarks, the President (United Kingdom) stressed the need for the discussion to centre on the implementation aspect of the Secretary-General's recommendations. At the same time, he emphasized that the Council had to respect the division of responsibilities in the United Nations system, in particular between the Council and other organs of the United Nations. The topic of coordination would therefore be relevant.²²

Introducing the second report of the Secretary-General, the Deputy Secretary-General noted that the

²¹ For more information on the discussion at this meeting, see chap. I, part V, cases 11 and 15, with regard to the conduct of business (rules 27-36); chap. X, part IV, with regard to the constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter; and chap. XI, part I, sect. B, with regard to the discussion relating to Article 39 of the Charter, and part III, sect. B, with regard to the discussion relating to Article 41.

²² S/PV.4312, p. 3.

report focused on several priorities for the international community: (a) the criminal prosecution of violations of international criminal law; (b) the question of access to vulnerable populations; and (c) the separation of civilians and armed elements in refugee camps or other settlements where displaced persons gathered. She pointed out that many of the main recommendations of the Secretary-General's first report²³ had gone unimplemented and hoped that the current meeting would facilitate the transition from words to deeds and from intention to implementation.²⁴

On the subject of human rights fact-finding during situations of armed conflict, the High Commissioner observed that establishing the facts could play a crucial part in the protection of civilians, and pointed to past fact-finding missions in Afghanistan, East Timor, Sierra Leone and Kosovo. Regarding human rights mechanisms, she welcomed the fact that the Council was increasingly looking to and drawing on the expertise of the special mechanisms of the Commission on Human Rights. She also saw great merit in proposals for a focal point for civilians in peacekeeping missions and for increased emphasis on protection in peacekeeping mandates.²⁵

The Under-Secretary-General welcomed, in particular, the idea of establishing a cross-cutting team in the Office for the Coordination of Humanitarian Affairs and the Department of Peacekeeping Operations to ensure that issues related to the protection of civilians were adequately addressed in the mandates of peacekeeping operations. He elaborated on several proposals contained in the second report of the Secretary-General for which the Office had a leading role, such as the work of the Inter-Agency Standing Committee on developing a manual of best practices and guidance for access negotiations and strategies, and the strengthening of collaboration with non-governmental organizations on the issue of staff security in the field.²⁶

Speakers endorsed the Secretary-General's call for a culture of protection and stressed the need to implement the recommendations made in the two reports. They reaffirmed the need for all States to comply strictly with their obligations under

international humanitarian and human rights law, emphasizing that national Governments had the primary responsibility for ensuring the protection of civilians. They also reaffirmed the importance of preventing conflicts from occurring in the first place.

Several speakers stressed the need for those who had committed gross violations of international criminal law, including non-State actors, to be brought to justice through recourse to the International Criminal Court, the existing Tribunals or truth and reconciliation mechanisms.²⁷ In that regard, many speakers emphasized the need for all States to sign and ratify the Rome Statute of the International Criminal Court.²⁸ The representative of India expressed the view that the Council should weigh whether ad hoc international tribunals gave value for the money they already had.²⁹

Turning to non-State actors, speakers held that the Council must consistently urge armed groups to commit themselves to the standards contained in international humanitarian and human rights law. Pointing out the need for the United Nations and other humanitarian actors to negotiate with non-State actors in order to provide assistance to affected populations, several speakers welcomed the proposal for the Inter-Agency Standing Committee to develop a manual of guidelines for access negotiations and strategies, as mentioned in the report of the Secretary-General.³⁰ Noting that the Geneva Conventions did not contain a right of unimpeded access, the representative of India questioned the legal basis of the Secretary-General's recommendation. In his view, such a right violated international humanitarian law and the Council had no power to grant it. He argued that the denial of access needed not and usually would not constitute a threat to

²⁷ S/PV.4312, p. 8 (Bangladesh); pp. 21-22 (Russian Federation); p. 24 (Ireland); p. 29 (Norway); p. 31 (Mauritius); and p. 32 (United Kingdom); S/PV.4312 (Resumption 1) and Corr.1, p. 37 (Nepal).

²⁸ S/PV.4312, p. 24 (Ireland); p. 29 (Norway); p. 31 (Mauritius); and p. 32 (United Kingdom); S/PV.4312 (Resumption 1) and Corr.1, p. 4 (Canada); p. 6 (Sweden on behalf of the European Union); p. 34 (Israel); and p. 37 (Nepal).

²⁹ S/PV.4312 (Resumption 1) and Corr.1, p. 16.

³⁰ S/PV.4312, p. 9 (Bangladesh); p. 11 (Ukraine); p. 13 (Singapore); and p. 23 (Ireland); S/PV.4312 (Resumption 1) and Corr.1, p. 11 (Switzerland).

²³ S/1999/957.

²⁴ S/PV.4312, pp. 3-4.

²⁵ *Ibid.*, pp. 4-7.

²⁶ S/PV.4312 (Resumption 1) and Corr.1, pp. 2-3.

international peace and security, the only trigger for Council action.³¹

Several representatives stressed the need to develop clear criteria and procedures for the identification and separation of armed elements from civilians as well as the need to send international military observers to monitor the situation in refugee camps.³² The representative of India expressed scepticism with regard to the effectiveness of such criteria, while the representatives of Australia and Indonesia raised concern as to the difficulty of drafting such criteria.³³

Commenting on the effects of hate media on the protection of civilians, several speakers highlighted the need to integrate media monitoring mechanisms into mission mandates.³⁴ With regard to the importance of disseminating accurate information on international humanitarian and human rights law and on the role of the United Nations, the representatives of Bangladesh and Jamaica held that a mass media component should be built into the mandate of missions and welcomed closer collaboration between the Department of Public Information and the Department of Peacekeeping Operations towards that end.³⁵

Speakers underlined the need for effective cooperation and coordination among the plethora of actors involved in the protection of civilians in armed conflict and supported the Secretary-General's observation in his first report that the Council could play a leading role in devising an overall approach to crisis resolution and encouraging cooperation between all components of the United Nations system, regional forces, donors and non-State actors. Many speakers advocated stronger cooperation between the Council and regional organizations.³⁶ The representative of India,

however, noted that in the past the Council had often either sheltered behind regionalism to avoid having to take action or subcontracted its powers and abdicated its responsibilities to some regional organizations.³⁷

Several speakers contended that the best means to ensure civilian protection started with conflict prevention.³⁸ The representative of Bangladesh held that strengthening the Organization's early-warning capacities would go a long way towards ensuring a better understanding of protection needs.³⁹ The representative of Singapore held that the Council should give serious consideration to working out clear criteria for intervention by force as a means of protection, as demonstrated by its role in Kosovo and East Timor.⁴⁰ The representative of Jamaica proposed that the Council should explore ways of integrating civilian protection issues into the Council's approach to prevention.⁴¹ The representative of Canada pointed out that three recent peacekeeping missions, in the Democratic Republic of the Congo, East Timor and Sierra Leone, included provisions for civilian protection.⁴² The representative of Jordan argued that where peacekeeping mandates included the protection of civilians, members of the Council should be first in line to offer their troops for service and not leave the Secretary-General to scramble for troops.⁴³

Several speakers linked the issue of civilian protection with the impact of sanctions, and some expressed support for a permanent technical review mechanism on the impact of sanctions on civilians, and highlighted the importance of a pre-assessment of the humanitarian impact of sanctions.⁴⁴ The representative

³¹ S/PV.4312 (Resumption 1) and Corr.1, p. 17.

³² S/PV.4312, p. 10 (Ukraine); pp. 11-12 (Tunisia); p. 13 (Singapore); p. 19 (United States); and p. 23 (Ireland); S/PV.4312 (Resumption 1) and Corr.1, p. 9 (Republic of Korea).

³³ S/PV.4312 (Resumption 1) and Corr.1, p. 17 (India); p. 26 (Australia); and p. 33 (Indonesia).

³⁴ S/PV.4312, p. 9 (Bangladesh); p. 16 (Jamaica); p. 19 (United States); p. 24 (Ireland); and p. 33 (United Kingdom); S/PV.4312 (Resumption 1) and Corr.1, p. 6 (Sweden on behalf of the European Union).

³⁵ S/PV.4312, p. 9 (Bangladesh); and p. 16 (Jamaica).

³⁶ *Ibid.*, p. 15 (Jamaica); p. 22 (Russian Federation); p. 25 (Colombia); p. 26 (Mali); p. 31 (Mauritius); and p. 33 (United Kingdom); S/PV.4312 (Resumption 1) and

Corr.1, p. 8 (Argentina); p. 9 (Republic of Korea); p. 21 (Malaysia); p. 23 (New Zealand); p. 26 (Australia); p. 29 (Organization of the Islamic Conference); p. 34 (Indonesia); and p. 38 (Nepal).

³⁷ S/PV.4312 (Resumption 1) and Corr.1, p. 17.

³⁸ S/PV.4312, p. 8 (Bangladesh); p. 15 (Jamaica); p. 17 (China); p. 22 (Russian Federation); p. 27 (Mali); and p. 31 (Mauritius); S/PV.4312 (Resumption 1) and Corr.1, p. 13 (South Africa); p. 16 (United Arab Emirates); p. 22 (Pakistan); p. 33 (Mexico); and p. 36 (Nepal).

³⁹ S/PV.4312, p. 8.

⁴⁰ *Ibid.*, p. 14.

⁴¹ *Ibid.*, p. 14.

⁴² S/PV.4312 (Resumption 1) and Corr.1, p. 4.

⁴³ *Ibid.*, p. 13.

⁴⁴ S/PV.4312, p. 9 (Bangladesh); p. 15 (Jamaica); p. 18 (China); and p. 25 (Colombia); S/PV.4312 (Resumption 1) and Corr.1, p. 9 (Republic of Korea); and p. 12 (Switzerland).

of Pakistan contended that there were no smart sanctions, or targeted sanctions, only unjust sanctions.⁴⁵

In respect of future action, several speakers favoured, *inter alia*, setting up a Security Council working group to study the implementation of the recommendations and decisions relating to the protection of civilians, with a view to providing the Council with information for decision-making.⁴⁶ The representative of Norway advocated the elaboration of a road map establishing a targeted plan of action guiding the different actors in implementing the recommendations.⁴⁷ The representative of Jamaica called for drawing up a checklist for drafting resolutions and elaborating peacekeeping and peacebuilding mandates.⁴⁸ In concurring with the idea, the representative of Ireland opined that all peacekeeping operations should include a human rights component.⁴⁹ The representative of Singapore, echoed by the representative of Canada, proposed an objective and impartial annual audit of the Council's work *vis-à-vis* the protection of civilians.⁵⁰ Several speakers recommended mainstreaming the protection of civilians into the work of the Secretariat and the Council, including through the reports of the Secretary-General, the Secretariat's briefings to the Council and Council missions to conflict areas.⁵¹

By a letter dated 21 June 2001 from the President of the Council to the Secretary-General,⁵² the Council members requested that the recommendations on the protection of civilians contained in the Secretary-General's two reports⁵³ be reorganized with the aim of clarifying responsibilities, enhancing cooperation and facilitating implementation. To ensure closer cooperation between the Office for the Coordination of Humanitarian Affairs and the Department of

Peacekeeping Operations, the Council encouraged the Secretary-General to establish a cross-cutting team for the two offices. To facilitate consideration by the Council of issues pertaining to the protection of civilians in its deliberations on the establishment, change or closing of peacekeeping mandates, Council members requested that an aide-memoire listing the relevant issues be drafted in close cooperation with the Council. In addition, Council members requested a briefing by the Secretariat on the status of those initiatives by November 2001.

At its 4424th meeting,⁵⁴ on 21 November 2001, held against the background of the above-mentioned letter,⁵² the Council was briefed by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator on the implementation plan for the protection of civilians in armed conflict. During the interactive debate, questions were posed by the representatives of Bangladesh, Colombia, France, Ireland, Mali, Mauritius, Norway, Singapore, Tunisia, Ukraine and the United Kingdom.

In his briefing, the Under-Secretary-General elaborated on the three main initiatives taken by the Office for the Coordination of Humanitarian Affairs in response to suggestions made by the President of the Council in his letter of 21 June 2001. Regarding the suggestion to create a road map for the implementation of the Secretary-General's recommendations, the Under-Secretary-General indicated that an implementation chart would be included in a comprehensive report of the Secretary-General to the Council to be submitted in November 2002. To assist in the preparation of the road map, the Office had organized three workshops, with the participation of interested Member States, the Secretariat, agencies, the International Committee of the Red Cross, non-governmental organizations and other actors. At the workshops, participants had discussed such issues as States' obligations under international humanitarian and human rights law; operationalizing the guiding principles concerning internally displaced persons; and including elements related to the protection of civilians in the mandates of peacekeeping operations. Regarding the aide-memoire, he announced that a checklist of key issues to be considered by the Council in the design and planning of peacekeeping mandates was being

⁴⁵ S/PV.4312 (Resumption 1) and Corr.1, p. 23.

⁴⁶ S/PV.4312, p. 12 (Tunisia); p. 14 (Jamaica); and p. 24 (Ireland); S/PV.4312 (Resumption 1) and Corr.1, p. 20 (Malaysia).

⁴⁷ S/PV.4312, pp. 29-30.

⁴⁸ *Ibid.*, p. 14.

⁴⁹ *Ibid.*, p. 24.

⁵⁰ *Ibid.*, p. 13 (Singapore); S/PV.4312 (Resumption 1) and Corr.1, p. 5 (Canada).

⁵¹ S/PV.4312, p. 19 (United States); and p. 33 (United Kingdom); S/PV.4312 (Resumption 1) and Corr.1, p. 4 (Canada).

⁵² S/2001/614.

⁵³ S/1999/957 and S/2001/331.

⁵⁴ For more information on the discussion at this meeting, see chap. I, part V, case 11, with regard to special cases concerning the application of rules 27-36.

developed. On the issue of strengthening the cooperation between the Office and the Department of Peacekeeping Operations, he pointed to the establishment of a cross-cutting team to facilitate consideration of issues related to the protection of civilians in the design, planning and implementation of peacekeeping operations.⁵⁵

In response to questions raised by Council members, the Under-Secretary-General indicated that an inter-agency process had been initiated for the preparation of a manual for United Nations field staff, with guidance for practical steps on when, how and on what basis to engage or disengage armed groups. The manual would be shared in an appropriate forum with members of the Council. He further noted that some issues, such as women and peace and security, protection of civilians in armed conflict, children and armed conflict and conflict prevention, which were dealt with separately by the Council, were in fact complementary, and pointed out the need to identify the common threads.⁵⁶

At the 4492nd meeting,⁵⁷ on 15 March 2002, at which the Council was briefed by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, statements were made by all Council members.

Underlining the need to keep the protection of civilians high on the Council's agenda, the Under-Secretary-General noted, *inter alia*, the increased dialogue and partnerships among United Nations agencies and offices, through coordinated efforts, in the areas of humanitarian access, child protection and other protection issues. Concerning the allegations of sexual exploitation of children in refugee camps in Guinea, Liberia and Sierra Leone, he reiterated the Secretary-General's policy of zero tolerance for any such acts perpetrated by anyone employed by or affiliated with the United Nations and referred to the investigation launched by the Office of Internal Oversight Services.

⁵⁵ S/PV.4424, 2-4.

⁵⁶ *Ibid.*, pp. 7-9 and pp. 12-13.

⁵⁷ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to the discussion relating to Article 39 of the Charter; and chap. XII, part II, sect. A, case 15, with regard to Article 24.

The Under-Secretary-General further informed the Council of progress that had been made in the development of the aide-memoire, which represented an unprecedented example of interactive cooperation between the Council and the Secretariat. He hoped that the document would serve as a checklist facilitating the Council's consideration of the establishment, change or phasing out of any peacekeeping operations. He pointed out that, in addition to identifying 13 core objectives for protecting civilians in armed conflict, it also provided, in part, a useful framework for considering interrelated and complementary thematic issues such as women and peace and security; children in armed conflict; and conflict prevention.⁵⁸

Council members focused, *inter alia*, on the aide-memoire before them and expressed gratitude to Norway and Canada for their support to the issue on the agenda. They recalled that in the past the majority of the victims of conflict were soldiers, whereas today, over 90 per cent of the victims were civilians. Cognizant of the primary role of the Council in the maintenance of peace and security, they underlined the need for a better response by the Council to the protection of civilians in armed conflicts through fostering a culture of protection, and for the Council to look at ways to prevent conflicts.

Several members cited examples of recent and current conflicts, which to varying degrees had demonstrated complete disregard for the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as other international legal standards.⁵⁹

With respect to the aide-memoire, speakers stressed that it was not a blueprint but rather a toolbox that would enable the Council to become more effective in addressing concerns related to the protection of civilians. They noted that, like any other tool, it would be useful only to the extent that it was utilized to solve particular tasks. In that respect, several representatives underlined the importance of applying the aide-memoire on a case-by-case basis.⁶⁰ The representative of Singapore suggested that a review should be conducted of all peacekeeping

⁵⁸ S/PV.4492, pp. 2-5.

⁵⁹ *Ibid.*, p. 6 (France); p. 13 (Mauritius); pp. 15-16 (Syrian Arab Republic); and p. 18 (Russian Federation).

⁶⁰ *Ibid.*, p. 8 (Colombia); p. 14 (Bulgaria); and p. 17 (Mexico).

operations using the aide-memoire as a checklist for evaluation.⁶¹ Several representatives stressed the need periodically to update and review the aide-memoire in the light of the Council's experience with peacekeeping mandates.⁶²

Speakers held that the serious allegations of sexual exploitation of children in refugee camps in West Africa by United Nations personnel had indicated the possible value of the aide-memoire in highlighting relevant protection concerns and in ensuring a more systematic approach to the planning process for peacekeeping operations. Several representatives stressed the need to develop codes of conduct, so as to give substance to the Secretary-General's call for zero tolerance in cases of abuse of civilians by United Nations personnel.⁶³ In that regard, the Under-Secretary-General announced that he had requested the task force within the Inter-Agency Standing Committee to elaborate a code of conduct for all humanitarian professionals within the United Nations or outside, including non-governmental organizations. He stated that the Department of Peacekeeping Operations was already working on the issue with regard to peacekeeping operations.⁶⁴

Referring to the road map for the recommendations arising from the Secretary-General's report of 30 March 2001,⁶⁵ the representatives of the United Kingdom and Ireland drew attention to the need to ensure consistency and synergy between the aide-memoire and the road map.⁶⁶ The representative of Singapore, echoed by the representative of Bulgaria, suggested that the forthcoming Secretary-General's report on the road map should highlight specific tools for the implementation of the recommendations.⁶⁷

The representatives of the United Kingdom and Guinea particularly welcomed the establishment of the cross-cutting team composed of representatives of the Office for the Coordination of Humanitarian Affairs and the Department of Peacekeeping Operations.⁶⁸ The

representatives of the United Kingdom and the United States proposed that the two bodies could hold joint briefings in the context of deliberations concerning peacekeeping mandates.⁶⁹

At the 4493rd meeting, on 15 March 2002, the President (Norway) made a statement on behalf of the Council,⁷⁰ by which the Council, *inter alia*:

Reaffirmed its concern at the hardships borne by civilians during armed conflict, and recognized the consequent impact that had on durable peace, reconciliation and development, bearing in mind its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, and underlining the importance of taking measures aimed at conflict prevention and resolution;

Adopted the aide-memoire contained in the annex to the statement as a means to facilitate the consideration by the Council of issues pertaining to protection of civilians; further emphasized the need, when considering ways to provide for the protection of civilians in armed conflict, to proceed on a case-by-case basis, taking into account the particular circumstances.

Decision of 20 December 2002 (4679th meeting): statement by the President

On 26 November 2002, the Secretary-General submitted to the Council the third report on the protection of civilians in armed conflict,⁷¹ in which he drew attention to three global issues challenging the capacity of Member States to protect civilians. The first issue related to an increased focus on gender-based violence in humanitarian crisis and conflict situations. Acknowledging that the issue went beyond the United Nations system, the Inter-Agency Standing Committee set up the Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises, charged with assessing weaknesses or gaps in existing procedures and standards of behaviour and proposing specific measures for their remedy. He indicated that the United Nations was implementing a number of preventive and remedial measures aimed at enhancing the protection and care of vulnerable persons in situations of humanitarian crisis and conflict, and was working to ensure that the design of peacekeeping and relief operations incorporated protection measures for groups vulnerable to abuse and exploitation. In that

⁶¹ *Ibid.*, p. 9.

⁶² *Ibid.*, p. 8 (Colombia); p. 10 (Ireland); p. 12 (United States); and p. 17 (Mexico).

⁶³ *Ibid.*, p. 7 (United Kingdom); p. 9 (Colombia); and p. 17 (Mexico).

⁶⁴ *Ibid.*, pp. 20-21.

⁶⁵ S/2001/331.

⁶⁶ S/PV.4492, p. 8 (United Kingdom); and p. 10 (Ireland).

⁶⁷ *Ibid.*, p. 9 (Singapore); and p. 14 (Bulgaria).

⁶⁸ *Ibid.*, p. 8 (United Kingdom); and p. 14 (Guinea).

⁶⁹ *Ibid.*, p. 8 (United Kingdom); and p. 12 (United States).

⁷⁰ S/PRST/2002/6.

⁷¹ S/2002/1300, submitted in accordance with the request of the Council, contained in the letter from the President dated 21 June 2001 (S/2001/614).

respect, he recommended that the Council consider the inclusion of a standard paragraph in relevant resolutions that required the reporting of follow-up actions and prosecutions undertaken in response to allegations of sexual abuse and exploitation.

The second issue with an increasing impact on the protection of civilians related to the commercial exploitation of conflict. Noting that the illegal exploitation of natural resources was a growing problem that served to fuel conflict and harmed the security of the civilian population, the Secretary-General recommended that the Council adopt coercive measures directed at companies and individuals involved in plundering of resources in conflict situations.

Finally, the rise of terrorism and the involvement of terrorist organizations in armed conflicts added a new and difficult set of challenges to the work on the protection of civilians. While past statements to the Council had already discussed terrorism and the role of the United Nations in the fight against terrorism, the Secretary-General believed that the Organization would need to formulate clear guidelines for its future work on the protection of civilians in armed conflicts where terrorist organizations were active.

In the report, the Secretary-General presented a number of practical initiatives that would serve to heighten awareness of the need for the protection of civilians in the daily work of the United Nations, such as the regional workshops organized by the Office for the Coordination of Humanitarian Affairs designed to allow Member States to identify threats to regional peace and security and ways to address them collectively; continued use of the aide-memoire⁷² to develop frameworks and more structured approaches to the protection of civilians by United Nations country teams in areas of conflict; and further reviews of key mandates and resolutions where the protection of civilians remained an important concern.

At its 4660th meeting,⁷³ on 10 December 2002, the Council included in its agenda the above-

⁷² See S/PRST/2002/6, annex.

⁷³ For more information on the discussion at this meeting, see chap. X, part IV, with regard to the constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter; and chap. XI, part I, sect. B, with regard to the discussion relating to Article 39 of the Charter.

mentioned report of the Secretary-General. The Council was briefed by the Secretary-General, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, and the Director-General of the International Committee of the Red Cross. Statements were made by all Council members, the representatives of Argentina, Austria (on behalf of the Human Security Network), Bangladesh, Burkina Faso, Cambodia, Canada, Chile, Denmark (on behalf of the European Union⁷⁴), Egypt, Indonesia, Israel, Japan, Norway, the Republic of Korea, Switzerland and Timor-Leste and the Permanent Observer of Palestine.⁷⁵

The Secretary-General noted that the protection of civilians in armed conflict was among the most urgent items on the agenda of the Council, since millions of civilians were targeted, subjected to human rights abuses and denied assistance. Observing that the protection of civilians was critical to achieving a sustainable peace, he stressed the need for practical action and a clear transition from policy to implementation, including by developing a more systematic approach and a structure of best practices that would translate immediately into practical action.⁷⁶

Outlining the progress achieved over the past three years, the Under-Secretary-General noted, *inter alia*, that the United Nations had raised awareness of the steps and measures needed to protect civilians more effectively. He reiterated the three significant new challenges identified in the report of the Secretary-General.⁷⁷ He welcomed the fact that the aide-memoire, adopted by the Council on 15 March 2002,⁷⁸ had led to practical applications, including the Council's recent review of the United Nations peacekeeping mandates in the Democratic Republic of the Congo and Sierra Leone. He looked forward to additional and regular reviews of other peace operations in areas of serious concern for the

⁷⁴ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

⁷⁵ The representative of Ukraine was invited to participate but did not make a statement; Norway was represented by the Deputy Minister for Foreign Affairs.

⁷⁶ S/PV.4660, p. 3.

⁷⁷ S/2002/1300.

⁷⁸ See S/PRST/2002/6, annex.

protection of civilians. He also focused on the road map contained in the annex to the Secretary-General's report, pointing out that the ultimate objective was to produce a plan of action for implementation, with specific responsibilities assigned and time frames, where appropriate. He was encouraged by the establishment of a support group of Member States, led by Norway, which would create a broader support base for the protection of civilians in armed conflict and promote and encourage the use of the aide-memoire by relevant actors and serve as a forum for information exchange. He referred to the decision of the Executive Committee on Humanitarian Affairs to create an implementation group for the protection of civilians, which would spearhead the production of the plan of action and liaise with the protection of civilians support group, donors and the Council. He expressed his intention to report back on progress achieved in 6 months, while the Secretary-General would report comprehensively to the Council every 18 months.⁷⁹

The Director-General of the International Committee of the Red Cross stated that the persistent suffering of civilians in conflict situations could not be explained by a lack of norms. On the contrary, humanitarian law had evolved over time and remained an essential frame of reference to guarantee effective protection and assistance to civilian populations that had been trapped in conflicts. However, the major challenge was applying the law, which was primarily the responsibility of States. In that respect, ICRC could only encourage States to promote a culture of respect. He stressed the need to punish violations of international humanitarian law and adopt preventive measures, such as cultivating respect for the law before crises emerged.⁸⁰

Speakers welcomed the Secretary-General's report and the road map. While stressing that the primary responsibility for the protection of civilians rested with Governments, speakers recalled that safeguarding civilians in armed conflict was at the heart of the Charter. They stressed the need for further concrete, systematic action to protect civilians in armed conflict, adding that effective protection was also critical for making peace processes succeed.

Furthermore, speakers, *inter alia*, called for the separation of civilians and armed elements and for the

⁷⁹ S/PV.4660, pp. 3-6.

⁸⁰ *Ibid.*, pp. 6-8.

United Nations and other international bodies to strengthen protection of and assistance to refugees and internally displaced persons; recalled the usefulness of the aide-memoire as a tool to promote the implementation of protection issues; praised the road map as another tool to facilitate further implementation of protection measures among the different actors involved; welcomed the introduction of new issues such as terrorism and sexual exploitation in the Secretary-General's report; and supported the design of further reviews of existing Council mandates and resolutions based on the aide-memoire, through further strengthening of joint cooperation between United Nations departments and entities, in order to integrate the protection of civilians into planning frameworks for peace missions and peace processes.

Calling for further action, speakers commended the progress already achieved by the United Nations, including the recent initiative by the Office for the Coordination of Humanitarian Affairs to hold six regional workshops on the protection of civilians in armed conflict. More specifically, they called for the proactive implementation of the aide-memoire and for closer cooperation and coordination within the Secretariat and between the programmes, funds and agencies of the United Nations system. Pointing out the interlinkages of the issues of women and peace and security; children and armed conflict; and the protection of civilians in armed conflict, several representatives expressed the view that the Council should address them in a coherent and integrated manner so as to avoid inconsistencies and duplications.⁸¹

Several speakers also called for the promotion of a culture of protection that benefited civilian populations,⁸² while other speakers stressed the need to prevent conflicts from arising.⁸³ The representative of Bulgaria noted that the culture of prevention had not been fully mainstreamed and expressed the belief that the Council ought not to intervene only when violent

⁸¹ *Ibid.*, p. 26 (United Kingdom); S/PV.4660 (Resumption 1), p. 6 (Japan); and p. 22 (Indonesia).

⁸² S/PV.4660 (Resumption 1), p. 9 (Switzerland); p. 15 (Cambodia); and pp. 16-17 (Austria).

⁸³ S/PV.4660, p. 11 (Bulgaria); p. 14 (Ireland); p. 17 (Guinea); p. 19 (Cameroon); p. 22 (Singapore); p. 25 (China); p. 26 (United Kingdom); and p. 28 (Russian Federation); S/PV.4660 (Resumption 1), p. 3 (Colombia); and p. 12 (Chile).

incidents took place on a large scale, but should act proactively before those conflicts spread.⁸⁴ Emphasizing that the idea of humanitarian intervention was a complex issue, the representative of Singapore questioned how, when and by whom a right of intervention should be exercised.⁸⁵ Recalling Articles 1 and 2 of the Charter, the representative of Egypt maintained that the protection of civilians in armed conflict must not lead to the disregard of the concept of State sovereignty or of the responsibilities and powers States had in their territory.⁸⁶ In determining whether the protection of human rights took precedence over State sovereignty, the representative of Burkina Faso, arguing that the answer depended on the circumstances and gravity of the situation, held that the endorsement by the Council was a prerequisite for intervention.⁸⁷

The representative of Canada drew attention to the inconsistency in the Council's responses aimed at protecting civilians, which called for effective steps not only to prevent assaults on civilians, but also, where prevention failed, to react.⁸⁸

Many speakers underlined the need to address the question of access to vulnerable populations by international aid workers as an indispensable requirement in the protection of civilians. A number of speakers endorsed the need for coordinated efforts by the United Nations to include conditions for humanitarian access in all framework agreements signed between States and non-State actors.⁸⁹ The representative of Ireland agreed that the Council and other actors could play a critical role in securing access by putting significant pressure on warring parties. In that respect, he believed that the aide-memoire was a valuable instrument for structuring and shaping negotiations on access and related issues.⁹⁰ Several speakers drew attention to the imperative to ensure the security and protection of aid workers.⁹¹

Speakers also stressed the need to promote the rule of law and justice, in particular by protecting

human rights and implementing humanitarian law through the implementation of, *inter alia*, the Geneva Convention relative to the Protection of Civilian Persons in Time of War and other international legal standards. To that end, speakers welcomed the existing international tribunals and the International Criminal Court, as well as other initiatives to bring to justice perpetrators of grave violations of international humanitarian and human rights law. The representative of the United Kingdom stressed the need to develop an accountability structure that rewarded a proactive approach to protection issues.⁹²

Several representatives highlighted the gravity of gender-based violence in humanitarian and conflict situations and called for strengthened efforts to ensure gender mainstreaming in peacekeeping operations.⁹³ The representative of Canada urged the Council to insert language in relevant texts requiring follow-up on allegations of sexual abuse and exploitation.⁹⁴

At its 4679th meeting, on 20 December 2002, the Council again included in its agenda the report of the Secretary-General on the protection of civilians.⁹⁵ The President (Colombia) made a statement on behalf of the Council,⁹⁶ by which the Council, *inter alia*:

Strongly condemned all attacks and acts of violence directed against civilians or other protected persons under international law;

Called upon all parties to armed conflict to comply fully with the provisions of the Charter of the United Nations and with the rules and principles of international law, in particular international humanitarian, human rights and refugee law, and to implement fully the relevant decisions of the Council;

Underscored the importance of the aide-memoire adopted by the Council on 15 March 2002, as a practical tool that provided a basis for improved analysis and diagnosis of key protection issues during deliberations on peacekeeping mandates;

Was mindful of the particular vulnerability of refugees and internally displaced persons and reaffirmed the primary responsibility of States to ensure their protection;

⁸⁴ S/PV.4660, p. 11.

⁸⁵ *Ibid.*, p. 22.

⁸⁶ S/PV.4660 (Resumption 1), p. 18.

⁸⁷ *Ibid.*, p. 26.

⁸⁸ *Ibid.*, p. 9.

⁸⁹ S/PV.4660, p. 9 (Norway); p. 24 (Mauritius); and p. 26 (United Kingdom).

⁹⁰ *Ibid.*, p. 14.

⁹¹ *Ibid.*, p. 19 (Cameroon); and p. 26 (United Kingdom); S/PV.4660 (Resumption 1), p. 8 (Switzerland).

⁹² S/PV.4660, p. 26.

⁹³ *Ibid.*, p. 13 (Mexico); p. 15 (Ireland); and p. 16 (Guinea); S/PV.4660 (Resumption 1), p. 4 (Denmark on behalf of the European Union); p. 7 (Republic of Korea); and p. 11 (Canada).

⁹⁴ S/PV.4660 (Resumption 1), p. 11.

⁹⁵ S/2002/1300.

⁹⁶ S/PRST/2002/41.

Recognized the importance of a comprehensive, coherent and action-oriented approach to the protection of civilians in armed conflict.

Decision of 15 December 2003 (4882nd meeting): statement by the President

At its 4777th meeting, on 20 June 2003, the Council was briefed by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Statements were made by a majority of Council members.⁹⁷

Presenting the progress made since the third report of the Secretary-General on the protection of civilians in armed conflict,⁹⁸ the Under-Secretary-General declared that, to make the road map a more practical and time-bound document, an implementation group on the protection of civilians, under the auspices of the Executive Committee on Humanitarian Affairs, and a Member States support group had been established and had begun to identify key areas of responsibility. Using the aide-memoire to highlight various protection concerns in the world, he cited the lack of or restricted humanitarian access; the widespread use of rape and other atrocities against women and girls as a weapon of war; the need to separate civilians and combatants; the breakdown in security, law and order; the fundamental importance of disarmament, demobilization, rehabilitation and reintegration with respect to the protection of civilians; the need to safeguard the security of humanitarian personnel; the Organization's priority to protect civilians from sexual exploitation and abuse by humanitarian workers and peacekeepers; and the status of internally displaced persons.

Reflecting on the progress made in the past few years in the area of protection, the Under-Secretary-General expressed satisfaction over the work done to promote greater sensitivity and responsibility of Member States towards the pleas of civilians caught in conflict. He stated that the framework for the protection of civilians, initiated by the Council on 12 February 1999,⁹⁹ was now well established within the United Nations system. The aide-memoire was becoming a regular point of reference for the Council in drafting mandates of peace operations. Furthermore,

⁹⁷ The representatives of Angola and Bulgaria did not make statements.

⁹⁸ S/2002/1300.

⁹⁹ S/PRST/1999/6.

the aide-memoire had contributed to a more effective and coherent humanitarian response vis-à-vis protection issues. He recommended that an update of the aide-memoire be presented to the Council at the next briefing in December 2003, together with the updated road map.¹⁰⁰

Council members agreed that the protection of civilians was an issue of utmost importance, mindful that the overwhelming majority of victims in armed conflicts were civilians — mostly vulnerable women, children and the elderly. They welcomed the efforts undertaken by the Office for the Coordination of Humanitarian Affairs to keep the protection of civilians at the top of the Organization's agenda and stressed the responsibility of the Council to take action to prevent violence against civilians in armed conflict. Council members welcomed the Under-Secretary-General's proposal to update the aide-memoire and present a revised road map in December 2003.

Council members also pointed to the gap between continued appeals to warring parties to comply with the Charter and international humanitarian law, and the fact that, in practice, such appeals were largely ignored. Massive challenges on the ground, therefore, remained. The representative of the United Kingdom expressed the view that further mainstreaming of activities in the field of protection of civilians was necessary.¹⁰¹

Sharing the view that the dissemination of information on the rights of civilians and the obligations of parties in armed conflict was crucial, speakers welcomed the organization of regional workshops. The representative of Pakistan proposed to transform the individual, ad hoc workshops into a well-defined global programme of action in terms of capacity-building and awareness-raising, with concrete follow-up to enable countries to have their own national programmes of capacity-building.¹⁰²

Council members stressed that the fight against impunity was a key priority in the protection agenda. A number of speakers held that bringing perpetrators to justice was an important element of reconciliation, facilitating the reintegration of post-conflict societies.¹⁰³ The representative of Mexico argued that

¹⁰⁰ S/PV.4777, pp. 3-8.

¹⁰¹ *Ibid.*, p. 10.

¹⁰² *Ibid.*, p. 14.

¹⁰³ *Ibid.*, p. 9 (Mexico); p. 12 (Syrian Arab Republic); p. 15 (Chile); and p. 17 (Spain).

unrestricted access of humanitarian organizations to zones of conflicts was vital and had to be enshrined in Council resolutions, whenever appropriate.¹⁰⁴

At its 4877th meeting,¹⁰⁵ on 9 December 2003, the Council was briefed by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Statements were made by all Council members and the representatives of Azerbaijan, Canada, Colombia, Egypt, Italy (on behalf of the European Union¹⁰⁶), Japan, Norway, the Republic of Korea, Sierra Leone, Switzerland and Ukraine.

In his briefing, the Under-Secretary-General presented the main challenges to the protection of civilians; the developments since the last Council briefing; and a 10-point platform for future collective action. Noting that the recent deliberate attacks against humanitarian personnel had dramatically reduced access to civilians in armed conflict, he highlighted the primary importance of addressing the issues of access and protection; the challenges to ensuring the security of humanitarian workers; the special protection needs of children; disarmament, demobilization, rehabilitation and reintegration; sexual violence; justice and reconciliation; the special protection of and assistance for internally displaced persons; and the sexual abuse of civilians by United Nations personnel.

The Under-Secretary-General presented for the Council's consideration two documents: an updated aide-memoire, reflecting evolving protection priorities which would assist the Council in ensuring that the protection needs and rights of civilians were included in its resolutions; and the road map, which Council members had called for as a tool to clarify responsibilities, enhance cooperation, facilitate implementation and further strengthen coordination within the United Nations system. He also presented 10 action points that built on areas of the road map that had enjoyed the consensus of the Council, dealing with

the issues of humanitarian access; security of humanitarian personnel; special protection of children; and that of women; impunity; forgotten emergencies; responses to the security needs of refugees and internally displaced persons; disarmament, demobilization, rehabilitation and reintegration; the impact of small arms and light weapons on the protection of civilians; and the promotion of the responsibility of armed groups and non-State actors to protect civilians and respect international humanitarian, human rights and refugee law.¹⁰⁷

Speakers stressed the importance of building a culture of protection and the need to improve humanitarian access to civilians in need, as well as ensure the safety and protection of humanitarian personnel. They drew attention to the suffering of women and children in conflict situations, and to the situation of internally displaced persons. Furthermore, they underlined the need to ensure the implementation of the measures designed to protect civilians. They highlighted the importance of an effective United Nations system-wide response, as well as improved cooperation within the system and with regional organizations.

Speakers also welcomed the updated aide-memoire and road map and expressed the view that the two documents should guide the Council in devising peacekeeping mandates. A number of speakers maintained that protection issues should be included in peacekeeping mandates, such as the facilitation by the United Nations of unhindered access by humanitarian organizations to needy populations.¹⁰⁸ The representatives of Norway and Canada argued that peacekeeping operations must be provided with unambiguous mandates and adequate resources to protect civilians, when such responsibilities were given.¹⁰⁹

The representative of Egypt remarked that, in most cases, Council intervention to protect civilians came too late or else was not commensurate with the security and emergency humanitarian needs of the population.¹¹⁰ The representative of Azerbaijan

¹⁰⁴ *Ibid.*, p. 9.

¹⁰⁵ For more information on the discussion at this meeting, see chap. XI, part III, sect. B, with regard to the discussion relating to Article 41 of the Charter.

¹⁰⁶ Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia, the former Yugoslav Republic of Macedonia and Turkey aligned themselves with the statement.

¹⁰⁷ S/PV.4877, pp. 2-7.

¹⁰⁸ *Ibid.*, p. 8 (Spain); p. 11 (United Kingdom); and p. 25 (Germany).

¹⁰⁹ S/PV.4877 (Resumption 1), pp. 10-11 (Norway); and p. 13 (Canada).

¹¹⁰ *Ibid.*, p. 7.

expressed disappointment at the lack of will on the part of the Council to ensure the implementation of its resolutions on the settlement of armed conflicts, or deal on a case-by-case basis with the reality of those hostilities and their impact on civilian populations.¹¹¹

A number of speakers underlined the need to prevent conflicts from occurring.¹¹² The representative of the Russian Federation stressed that the Council should take full account of the particular nature of specific conflict situations and, on that basis, take measures to protect civilians. He added that while the humanitarian component was crucial as an element of a comprehensive strategy for crisis prevention and during the stage of post-conflict settlement, the efficacy of humanitarian work depended to a large extent on how it was incorporated into the international efforts to find a political settlement to conflict.¹¹³ Similarly, the representative of Azerbaijan pointed out that the settlement of an armed conflict was the best option for ensuring that those who had been targeted with systematic violence would not be physically abused again.¹¹⁴ The representative of Egypt held that it was necessary to understand that the concept of providing protection to civilians in armed conflict should not stop with the end of military operations, but should extend into post-conflict peacebuilding.¹¹⁵ The representative of Sierra Leone stated that emphasis should be placed not merely on the obligation and responsibility to protect, but also on the capacity to provide protection.¹¹⁶

The representative of Japan stressed that interventions to protect civilians should not be viewed as a challenge to national sovereignty, especially when national authorities had failed, or had a limited capacity, to protect civilians.¹¹⁷ The representative of Egypt insisted on the need to balance the right of civilians to protection with the right of each State to sovereignty. In his view, the international community's treatment of and respect for one of those rights should

not be at the expense of the other. The issue of protection of civilians should be guided by the Charter and international law.¹¹⁸

Many speakers pointed out that justice and reconciliation efforts should form an integral part of the protection agenda and called for putting an end to the culture of impunity. The representative of Angola supported the inclusion in all country-related draft resolutions of a call upon States and non-State actors to adhere to international human rights, humanitarian and refugee law and to reinforce the principle of no impunity for genocide, war crimes or crimes against humanity.¹¹⁹ Some representatives highlighted the role of the International Criminal Court in achieving that goal.¹²⁰ Speaking on behalf of the European Union, the representative of Italy opined that violators of international humanitarian and human rights law must be brought to justice at the national level or, where not possible, to international justice, while the primary responsibility to carry that out lay with each State.¹²¹

At the 4882nd meeting, on 15 December 2003, the President (Bulgaria) made a statement on behalf of the Council,¹²² by which the Council, *inter alia*:

Reaffirmed the need to keep the protection of civilians in armed conflict as an important item on the Council's agenda;

Also reaffirmed its concern at the suffering inflicted upon and hardships borne by civilians during armed conflict; strongly condemned all attacks and acts of violence directed against civilians or other persons protected under international law; reaffirmed the need for parties to armed conflict to take all possible measures to ensure the safety, security and freedom of movement of United Nations and associated personnel as well as personnel of international humanitarian organizations in accordance with applicable international law; reiterated its call to all parties to armed conflict to comply fully with the provisions of the Charter of the United Nations and with the rules and principles of international law; recalled the obligations of States to respect and to ensure respect for international humanitarian law, including the four Geneva Conventions of 12 August 1949, and emphasized the responsibility of States to end impunity and to prosecute those responsible for genocide, war crimes, crimes against humanity and serious violations of humanitarian law.

¹¹¹ *Ibid.*, p. 12.

¹¹² S/PV.4877, p. 9 (Russian Federation); p. 16 (China); p. 16 (Angola); p. 22 (Cameroon); and p. 24 (Pakistan); S/PV.4877 (Resumption 1), p. 6 (Sierra Leone); and p. 14 (Canada).

¹¹³ S/PV.4877, pp. 8-9.

¹¹⁴ S/PV.4877 (Resumption 1), p. 12.

¹¹⁵ *Ibid.*, p. 7.

¹¹⁶ *Ibid.*, p. 5.

¹¹⁷ *Ibid.*, p. 2.

¹¹⁸ *Ibid.*, p. 7.

¹¹⁹ S/PV.4877, pp. 17-18.

¹²⁰ *Ibid.*, p. 8 (Spain); p. 19 (Mexico); and p. 29 (Ukraine); S/PV.4877 (Resumption 1), p. 4 (Switzerland); p. 10 (Republic of Korea); and p. 14 (Canada).

¹²¹ S/PV.4877, p. 27.

¹²² S/PRST/2003/27.