



# SECURITY COUNCIL REPORT

## CROSS-CUTTING REPORT

2012 NO.2  
31 May 2012

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Major General Robert Mood of Norway, the head of UNSMIS in Syria, arrives to inspect the site of twin blasts in Damascus on May 10, 2012.



## Protection of Civilians in Armed Conflict

This is Security Council Report's fifth *Cross-Cutting Report on the Protection of Civilians in Armed Conflict* following the publication of our first such report in October 2008. With this report we continue to systematically track the Security Council's involvement in the protection of civilians since it first emerged as a separate thematic topic in 1999. The report looks at relevant developments at the thematic level since our last cross-cutting report and analyses Council action in country-specific situations relating to the protection of civilians, highlighting the case of Syria. It also discusses the impact of evolving Council dynamics and outlines some emerging issues for the Council's future consideration. It is our hope that the report will serve as a useful resource for Security Council members and others as they prepare for the Council's next open debate on the protection of civilians and beyond.

## TABLE OF CONTENTS

<b>1. Summary and Conclusions</b> ....	2
<b>2. Background and Normative Framework</b> .....	3
<b>3. Key Developments at the Thematic Level</b> .....	4
3.1 Open Debate on the Protection of Civilians in November 2011 ...	4
3.2 The Council's Informal Expert Group on the Protection of Civilians .....	5
3.3 Other Thematic Developments .	6
<b>4. Analysis of Council Action in Country-Specific Situations</b> ...	7
4.1 Resolutions .....	7
4.2 Presidential Statements and Press Statements.....	9
4.3 Developments in Council Sanctions Regimes.....	10
<b>5. Country-Specific Reporting to the Council on Protection of Civilians</b> .....	12
5.1 Secretary-General's Reports ...	12
5.2 Briefings to the Council on Protection of Civilians and Human Rights Issues in Country-Specific Situations .....	13
<b>6. Special Issues Involving UN Peacekeeping Operations</b> ....	14
<b>7. Case Study: Syria</b> .....	14
<b>8. Council Dynamics</b> .....	21
<b>9. Looking Ahead: Some Future Options for the Council</b> .....	22
<b>Annex I: UN Documents and Useful Additional Sources</b> .....	24
<b>Annex II: Methods of Research</b> ....	28
<b>Annex III: Current Protection Mandates in UN Peacekeeping Operations (as of May 2012)</b> .....	29
<b>Annex IV: Meetings of the Council's Informal Expert Group on Protection of Civilian and Related Council Decisions since its establishment in 2009</b> .....	32

## 1. Summary and Conclusions

The year 2011 was a remarkable one for the Security Council's involvement in the protection of civilians. Following its landmark decisions on Libya in resolutions 1970 and 1973, which included the authorisation of military force to protect civilians and the referral of the situation to the International Criminal Court (ICC), as well as its clear response in resolution 2014 to threats against the population in Yemen, the Council struggled to reach agreement on an effective response to the killing of civilians in Syria. The Council also continued to face difficult protection challenges in other situations already on its agenda, including Afghanistan, Côte d'Ivoire, the Democratic Republic of the Congo (DRC), Somalia, South Sudan and Sudan. Overall, protection of civilians seemed to be a key concern in much of the Council's work.

The controversy surrounding the implementation of the protection of civilians mandate in Libya appears to have created a new level of mistrust among Council members that negatively impacted the Council's work, not only on protection of civilians issues, but also more generally. Our analysis of overall Council action in country-specific situations seems to indicate, however, that at least within the period covered by the report, the Council's approach to the protection of civilians in terms of measurable outcomes did not significantly change. In particular,

- The Council continued to consistently address protection issues in relevant country-specific decisions, including resolutions and presidential statements. In decisions on existing peacekeeping operations and other mandated missions, protection language was sometimes

strengthened, in particular with regard to issues of impunity and accountability.

- The Council established two new peacekeeping operations in 2011 with a protection of civilians mandate, the UN Mission in the Republic of South Sudan (UNMISS) and the UN Interim Security Force for Abyei (UNISFA) while terminating one, the UN Mission to Sudan (UNMIS). At present eight out of a total of 16 UN peacekeeping operations have mandates to protect civilians under imminent threat of physical violence. (Please refer to annex III for a complete list of these missions and their protection related mandates.)
- Three of these eight UN peacekeeping missions with a protection mandate, the UN Stabilisation Mission in the DRC (MONUSCO), the UN Mission in Côte d'Ivoire (UNOCI) and the AU/UN Hybrid Mission in Darfur (UNAMID), have developed comprehensive protection of civilians strategies as requested by the Council in resolution 1894.
- The Council continued to actively use sanctions as a tool to target those responsible for violations against civilians, listing several individuals as subject to targeted measures based on such violations. Following the establishment of a new sanctions regime for Libya in March 2011, five of the Council's 12 sanctions regimes now include listing criteria relating to violations of international human rights or humanitarian law.
- The Council also added recruitment and use of children, as well as targeting of civilians, to the criteria for the Somali sanctions regime (which already included obstruction of humanitarian access). This decision followed a briefing in the Somalia/Eritrea Sanctions Committee in May 2011 by the Secretary-General's Special Representative for Children



and Armed Conflict, Radhika Coomaraswamy, in which she proposed that new listing criteria related to children be added to the sanctions regime. (This was only Coomaraswamy's second briefing to a sanctions committee. Her first briefing was to the DRC Sanctions Committee in May 2010.)

- With regard to the Secretary-General's reporting on the protection of civilians, the Secretariat has yet to finalise new guidance for UN operations and other relevant missions on protection reporting "with a view to streamlining [such] reporting and enhancing the Council's monitoring and oversight", as requested by the Council in resolution 1894. Our analysis of reports issued in 2011 seems to indicate, however, that UN peacekeeping operations have started to develop a more homogeneous reporting approach than before, with a focus on protection mandate implementation.
- In addition to the Secretary-General's reports, the Council seemed to rely increasingly on situation-specific briefings by the Office for the Coordination of Humanitarian Affairs (OCHA) for additional information on humanitarian issues and protection challenges. There were ten such briefings in 2011 compared with five in 2010. A new development in 2011 was that it also on five occasions invited the Office of the High Commissioner for Human Rights (OHCHR) to brief on country-specific situations.
- While there were no significant changes in the functioning of the Council's informal expert group on the protection of civilians, one new development was the decision to request for the first time a thematic briefing, focusing on humanitarian access issues. Apart from this, the expert group has continued to focus on mandate renewals and has maintained a slightly lower level of activity

with ten meetings in 2011 compared with 12 in 2010. As in the past, only OCHA is invited to brief. China still has not participated in any of the meetings of the group and Russia has attended only occasionally.

These findings, however, do not reflect the Council's difficulties in taking action to ensure the protection of civilians in Syria. The present report therefore includes a special case study on Syria which attempts to shed some light on the internal Council dynamics at play, including the impact of the situation in Libya, and why it has been so difficult for the Council to agree on what course of action to take. (For additional information please see the case study on Libya in our 2011 cross-cutting report.) The case of Syria demonstrates above all some of the fundamental differences among Council members that continue to hamper effective Council action, in particular when it comes to the protection of civilians.

The Syria case also illustrates how the normative framework for the protection of civilians and the responsibility to protect are distinct, but closely linked. When considering the protection of civilians it is important to have a clear understanding of the difference between the two concepts. (The present report does not address this in greater detail, but readers may find it useful to refer to the discussion of the two concepts that was included in our 2008 cross-cutting report on the protection of civilians.)

Looking immediately ahead, there seems to be a sense that the present dynamics within and current composition of the Council are not necessarily conducive to further advancing the thematic protection agenda. Discussions on the protection of civilians are expected to continue to be difficult. No outcome is therefore envisaged for

the upcoming debate on protection of civilians expected in June. The debate will provide an opportunity for Council members and the wider UN membership, however, to discuss the recommendations of the Secretary-General's report on the protection of civilians, which is due at the end of May, and signal what issues they believe deserve closer Council consideration, including possibly some of the emerging issues which are highlighted in the final section of this report.

## 2. Background and Normative Framework

The Security Council first addressed protection of civilians as a thematic issue in 1999. The Council's involvement came after a period in which the international community had witnessed a series of particularly violent events around the world, including those in Bosnia, Rwanda, Sierra Leone and Liberia, where civilians had suffered disproportionately. This led to increased international awareness of the need to strengthen the protection of civilians caught in armed conflict. Ensuring such protection came to be seen by many as a key element of the Council's responsibility to maintain international peace and security.

The concept of protection of civilians is founded in the universally accepted rules of international humanitarian, human rights and refugee law which are set out in a range of international legal instruments. They include:

- The Geneva Conventions of 12 August 1949, in particular the Fourth Convention, and their 1977 Additional Protocol I relating to the Protection of Victims of International Armed Conflicts and Protocol II relating to the Protection of Victims of Non-International Armed Conflicts;

- The 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and the 1966 International Covenant on Civil and Political Rights;
- The 1951 Convention Relating to the Status of Refugees and its 1967 Optional Protocol;
- The 1989 Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;
- The 1994 Convention on the Safety of UN and Associated Personnel and its 2005 Optional Protocol;
- The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The 1998 Rome Statute of the International Criminal Court; and
- customary international humanitarian law.

Protection of civilians as a separate conceptual thematic issue for Council consideration was first articulated in 1998 in two Secretary-General's reports—on the causes of conflict and promotion of peace in Africa (S/1998/318) and on protection of humanitarian assistance to refugees and others (S/1998/883).

The Council's first thematic decision on protection of civilians in armed conflict was a presidential statement (S/PRST/1999/6) adopted on 12 February 1999 which condemned attacks against civilians, called for respect for international humanitarian law and expressed the Council's willingness to respond to situations in which civilians had been targeted by combatants. It requested a report from the Secretary-General on recommendations for the Council's future work. The first landmark report containing forty recommendations was issued in September that same year

(S/1999/957). On 17 September, the Council adopted its first resolution on the protection of civilians. Resolution 1265 stressed the need to ensure compliance with international humanitarian law, address impunity and improve access for and safety of humanitarian personnel, and it also emphasised the importance of conflict prevention and cooperation with regional and other organisations.

Since that time, the Council has remained engaged on the issue of protection of civilians, both at the thematic level and in country-specific situations. It is now established practice for the Council to hold biannual open debates on the protection of civilians. The Council has adopted three additional thematic resolutions—resolutions 1296, 1674 and 1894—reaffirming its initial commitment to the issue and strengthening provisions in certain areas.

In addition, resolution 1502 adopted on 26 August 2003 in the wake of the attack on the UN compound in Baghdad, reinforced the Council's previous decisions on the protection of humanitarian and UN and associated personnel. On 23 December 2006, the Council adopted resolution 1738 on the protection of journalists and other media professionals.

The Council has adopted a total of nine presidential statements on the protection of civilians. The second presidential statement of 15 March 2002 (S/PRST/2002/6) endorsed an aide-mémoire proposed by the Secretary-General as an instrument of guidance to facilitate the Council's consideration of issues pertaining to the protection of civilians in country-specific situations, in particular relating to peacekeeping mandates. It listed key objectives for Council action and specific questions for consideration in meeting those objectives. The

aide-mémoire was last revised on 22 November 2010. This revision was endorsed by the Council in its 22 November 2010 presidential statement (S/PRST/2010/25).

In January 2009, the Council created an informal expert group on the protection of civilians at the initiative and under the chairmanship of the UK. This group meets regularly at working level in connection with the renewal of relevant UN mandates to receive briefings by OCHA on key protection issues for consideration in the drafting of country-specific resolutions. Also, it recently for the first time invited OCHA to give a thematic briefing on humanitarian access.

At the request of the Council, the Secretary-General has issued a total of eight reports on the protection of civilians, providing more than one hundred recommendations to the Council. The established reporting cycle is every 18 months, but each report is explicitly requested by the Council in a presidential statement. As mentioned earlier, the ninth report is due in May this year.

### 3. Key Developments at the Thematic Level

#### 3.1 Open Debate on the Protection of Civilians in November 2011

The Council held its most recent open debate on the protection of civilians on 9 November 2011 under the presidency of Portugal (S/PV.6650 and Resumption 1). It was chaired by the president of Portugal, Aníbal Cavaco Silva, and featured briefings by the Secretary-General, the UN High Commissioner for Human Rights Navi Pillay, Assistant Secretary-General for Humanitarian Affairs Catherine Bragg, and the Director for International Law and Cooperation of the International Committee of the Red



Cross (ICRC) Philip Spoerri. In addition to all Council members, nearly 30 member states spoke.

Ahead of the November 2011 debate, Portugal and OCHA co-hosted a workshop on “Accountability and Fact-finding Mechanisms for Violations of International Humanitarian Law and Human Rights Law: The Role of the Security Council—Past and Future”. Portugal also invited Council members to address in their statements ways to enhance accountability for such violations.

The Secretary-General, in his statement during the debate, recalled the five core challenges identified in his past two reports to the Council on the protection of civilians:

- enhanced compliance with international human rights and humanitarian law;
- more consistent and effective engagement with non-state armed groups in order to improve their compliance with the law;
- strengthened protection by peacekeepers;
- improved humanitarian access; and
- enhanced accountability.

He urged the Council to study the recommendations from the workshop on accountability and also emphasised the importance of prevention of conflict as a means to ensure the protection of civilians.

Pillay focused on concerns linked to the work of the Office of the High Commissioner for Human Rights (OHCHR) in a number of country-specific situations, including in Afghanistan, Côte d’Ivoire, the DRC, Gaza, Iraq, Libya, Somalia, South Sudan, Syria, Yemen and the disputed Abyei region between Sudan and South Sudan. She highlighted in particular the importance of the findings of the commission of inquiry for Côte d’Ivoire and the ongoing work of similar

commissions for Libya and Syria established by the Human Rights Council (HRC) as well as the findings of the assessment mission to Yemen established by the OHCHR. Pillay welcomed the DRC’s proposal to establish special chambers to try the most serious crimes described in the mapping report on violations committed in the DRC which was released by the OHCHR in 2010 and covered the period 1993 to 2003. With regard to Abyei, she suggested that the UNISFA, the UN force deployed there, should have a human rights component to monitor the situation and also called for an independent international investigation into violations of international human rights and international humanitarian law in the region.

Bragg also focused her briefing on the protection challenges in specific situations, including Afghanistan, Colombia, Darfur, DRC, Gaza and southern Israel, Libya, Somalia, South Sudan, Syria, Yemen, and regions affected by the Lord’s Resistance Army (LRA). With regard to Libya, she expressed concern in particular about the widespread availability of small arms, abandoned weapons and ammunition and the presence of explosive remnants of war. Emphasising the need to hold accountable those responsible for violations in all of these situations, Bragg highlighted some of the issues discussed at the workshop co-hosted with Portugal, including the possible development of a checklist of issues for the Council to consider when making referrals to the ICC; Council support for national authorities in conducting investigations and prosecutions; the use of fact-finding missions; and reparations mechanisms.

Spoerri noted that there seemed to be agreement that the situation on the ground in Libya had not kept pace with recent normative progress on the protection of civilians and highlighted three major concerns: the growing violence

against health-care facilities and personnel which Spoerri characterised as “one of the most serious yet neglected humanitarian issues of the day”; the vulnerability of migrants living in or crossing through countries affected by violence as had been manifest in the Arab Spring; and the impact on civilians related to the conduct of hostilities. Spoerri also emphasised the importance of ICRC’s impartiality and expressed concern about “all measures that effectively hamper contact by humanitarian agencies with organised non-state armed groups.”

Brazil, an elected Council member at the time, in its statement during the debate introduced “responsibility while protecting” as a new concept aimed at further developing the consensus on responsibility to protect with regard to the use of force. (Brazil also referred to this in its statement in the general debate of the General Assembly in September 2011.) More specifically, and in line with the principles first proposed by the International Commission on Intervention and State Sovereignty in its 2001 report, Brazil proposed a set of principles to guide the international community when exercising its responsibility to protect and called for “enhanced Council procedures” to monitor and assess how resolutions are interpreted and implemented to ensure responsibility while protecting. It circulated a concept note proposing a set of principles for the use of force to protect civilians which among other things emphasised prevention as the best policy, strict limits on the use of force to protect civilians and accountability for those to whom authority is granted to use force.

### **3.2 The Council’s Informal Expert Group on the Protection of Civilians**

The Council’s informal expert group on the protection of civilians has continued to meet regularly. While there have been

no major changes in the way it operates, the group has developed one new practice by inviting OCHA to give its first thematic briefing. The briefing which was held on 7 February 2012 focused on humanitarian access, addressing such issues as the legal framework relating to humanitarian access, key challenges, types of access constraints, most significant recent constraints and global best practices.

Apart from this, the format of the meetings has stayed the same. OCHA plays a secretariat role for the group and is the only briefer, while the Department of Peacekeeping Operations (DPKO) is present to answer questions. Briefings focus on the most important protection concerns in the situation under consideration. OCHA also reports on actions taken on the ground to address such concerns, and makes suggestions for Council action, including possible language for inclusion in resolutions based on the aide-mémoire endorsed by the Council.

In the period since our last cross-cutting report, the expert group met twice in July to discuss the respective mandate renewals for UNAMID and the UN Assistance Mission for Iraq (UNAMI), then in September to consider the extension of the authorisation for the AU Mission for Somalia (AMISOM) and in October to prepare for the renewal of the International Security Assistance Force in Afghanistan (ISAF). In 2012, in addition to the February meeting on humanitarian access in March there was a meeting on the UN Assistance Mission in Afghanistan (UNAMA) and one on UNISFA in May.

A total of ten meetings were held in 2011 compared with 12 in 2010 and seven over the course of 2009. So far in 2012 (as of May), the group has met three times.

### 3.3 Other Thematic Developments

On 12 July 2011, under the presidency of Germany, the Council held an open debate (S/PV.6581 and resumption 1) on children and armed conflict and adopted resolution 1998, expanding the criteria for listing parties to conflict in the Secretary-General's reports on children and armed conflict to include those that attack or threaten schools and hospitals. The Council also expressed its intention when establishing, modifying or renewing the mandate of relevant sanctions regimes to consider including provisions on parties to armed conflict that violate international law relating to the protection of children in armed conflict. The Council heard from the Secretary-General, the Special Representative of the Secretary-General for Children and Armed Conflict, Radhika Coomaraswamy, and Executive Director of UNICEF, Anthony Lake.

On 28 October 2011, the Council held its annual open debate (S/PV.6642 and resumption 1) on women, peace and security with "Women's Participation and Role in Conflict Prevention and Mediation" as the theme. (The Secretary-General's report on women, peace and security (S/2011/598) was issued just prior to the debate on 29 September.) The Council adopted a presidential statement (S/PRST/2011/20) which underlined the importance of the participation of women in conflict prevention and resolution efforts, including in the negotiation and implementation of peace agreements and among other things reiterated its condemnation of all violations of applicable international law committed against women and girls in situations of armed conflict while calling on member states to bring to justice those responsible for such violations.

On 23 February 2012, the Council held an open debate (S/PV.6722) on the Secretary-General's annual report on conflict-related sexual violence

(S/2012/33). Margot Wallström, the Secretary-General's Special Representative on the issue, briefed together with Under-Secretary-General for Peacekeeping, Hervé Ladsous, and a representative from civil society, Amina Megheirbi, speaking on behalf of the NGO Working Group on Women, Peace and Security. The Council adopted a presidential statement (S/PRST/2012/3) which commended the Special Representative's work and the importance of the associated team of experts. The statement invited the Special Representative to continue to provide briefings to the Council and requested the Secretary-General to recommend appropriate actions. It also stressed the need for continued data collection under the monitoring, analysis and reporting arrangements on sexual violence in armed conflict, post-conflict situations and other situations relevant to the implementation of resolution 1888 (which created the office of the Special Representative).

On 19 January, the Council held an open debate (S/PV.6705) on the promotion and strengthening of the rule of law in the maintenance of international peace and security and adopted a presidential statement (S/PRST/2012/1) on justice and the rule of law as "an indispensable element for peaceful coexistence and the prevention of armed conflict". Among other things, the statement recalled resolution 1894 and reiterated the Council's call on all parties to armed conflict to comply with the obligations applicable to them under international humanitarian law and take all required steps to protect civilians. The Council also reaffirmed its strong opposition to impunity and serious violations of international humanitarian law and human rights law and stressed states' responsibility in this regard.

## 4. Analysis of Council Action in Country-Specific Situations

### 4.1 Resolutions

The Council adopted a total of 66 resolutions in 2011, a slight increase from the 59 adopted in 2010. Of these, we found that 30 resolutions on country-specific situations, or 45.5 percent, could reasonably be expected to address protection issues. These numbers were similar to previous years as illustrated in the below chart. This section highlights some of the most important decisions among these as well as trends in the Council's approach to the protection of civilians in 2011.

*The Council continued to consistently address protection issues in relevant resolutions.*

Five of the 30 resolutions referred to above, or about 16.7 percent, did not contain any reference to protection issues. Four of these five, however, pertained to technical issues such as authorisation of redeployment of troops, as was the case of two resolutions on UNOCI (S/RES/1968 and S/RES/1992) or the technical rollover of a mandate (S/RES/1981 on UNOCI and S/RES/1978 on UNMIS). In the one remaining case, the Council extended the mandate of the Panel of Experts for the Darfur sanctions regime without making any reference to the violations of international human rights or humanitarian law that the Panel is charged with investigating (S/RES/1982). While it could be argued that this was a technical decision, it contrasts with previous mandate extensions for this panel as well as the mandate renewals for the panels of experts of the sanctions regimes for Côte d'Ivoire, the DRC and Somalia which included specific references highlighting the importance of addressing such violations. (For more details about the Sudan sanctions

please see below, under *Developments in Council Sanctions Regimes.*)

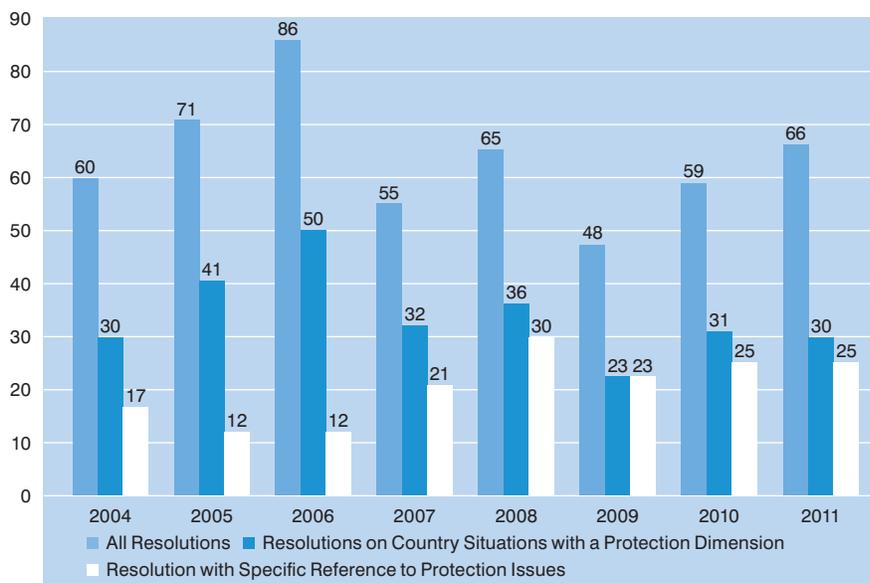
*The Council continued to strengthen protection language in decisions on existing peacekeeping operations or other mandated missions, particularly on the issues of impunity and accountability.* Protection of civilians remained a key concern in Council decisions on Afghanistan, Côte d'Ivoire, the DRC, Haiti, Sudan, and to a certain extent Somalia. In particular, the Council seemed to strengthen language related to the issues of impunity and accountability. The following are examples of some Council decisions in 2011 which saw the inclusion of new language compared with decisions in 2010.

- When renewing the mandate of MONUSCO in resolution 1991, the Council specifically welcomed and supported efforts by the DRC authorities to combat impunity for perpetrators of human rights and international humanitarian law violations.
- In resolution 2003 on UNAMID, the Council added language reaffirming the importance of ending impunity and ensuring justice for crimes

committed in Darfur and calling on the government of Sudan to respect its legal obligations, including by ensuring accountability for serious violations of international human rights and humanitarian law.

- In resolution 2008 on UNMIL, the Council welcomed efforts by the Liberian government to combat sexual and gender-based violence and fight against impunity for such crimes.
- In resolution 2000 on UNOCI, the Council stressed the importance of investigating alleged human rights abuses and violations committed by all parties and reaffirmed that those responsible for such abuses and violations must be held accountable. It also called on the government of Côte d'Ivoire to ensure accountability for all human rights violations and called on UNOCI to support national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law in Côte d'Ivoire.

There were also some noteworthy developments relating to the protection mandates of existing UN missions.



The resolution on UNAMID emphasised protection of civilians as one of its core responsibilities and provided more detailed instructions on protection tasks, such as “proactive deployment and patrols in areas at high risk of conflict.”

The Council agreed on some significant revisions to UNOCI’s mandate in response to the post-electoral crisis which followed the presidential election in November 2010. In resolution 1975, adopted on 30 March 2011, the Council authorised UNOCI to use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence, “including to prevent the use of heavy weapons against the civilian population”. (For more details on the implications of this decision, please see the case study on Côte d’Ivoire in our 2011 cross-cutting report on protection of civilians.) In a later decision, resolution 2000 adopted on 27 July, the Council called on UNOCI to monitor and report on violations and abuses against vulnerable populations, including children, and help prevent such violations and abuses. It also called for a strengthening of the mission’s capacity to monitor, investigate and report on human rights and international humanitarian law violations and a revision of its comprehensive strategy for the protection of civilians.

*The Council terminated one UN peacekeeping mission in 2011 with a protection mandate (UNMIS), but established two new missions with such mandates (UNMISS and UNISFA).* On 11 July 2011, following the establishment of South Sudan as an independent state, the Council, in resolution 1997, terminated the mandate of UNMIS, which had been created to support implementation of the Comprehensive Peace Agreement between Sudan and South Sudan and had protection of civilians as one of its tasks. The Council had already authorised, in resolution

1996 of 8 July, the establishment of a new peacekeeping operation with a protection mandate for South Sudan, UNMISS, whose main task it is to consolidate peace and security in the newly independent state.

One of UNMISS’s tasks is “to support the government of South Sudan in exercising its responsibility for conflict prevention, mitigation, and resolution and protect civilians” through (among other things) deterring violence and “protecting civilians under imminent threat of physical violence”, in particular when the government of South Sudan is not providing such security. The Council also requested the Secretary-General to present benchmarks for the mission and then report on progress every four months.

On 27 June 2011, in response to growing tensions in the Abyei border area between Sudan and South Sudan, the Council decided in resolution 1990 to establish UNISFA. This force is mandated “to protect civilians in the Abyei area under imminent threat of physical violence” without prejudice to the responsibilities of the relevant authorities.

At present there are therefore eight UN peacekeeping operations with a mandate to protect civilians under imminent threat of physical violence. (Please refer to annex III for a full list of these operations and their protection related mandates.)

*For the first time since 2005, in resolution 1970 on Libya, the Council referred a situation to the ICC.* Resolution 1970, adopted on 26 February 2011, referred the situation in Libya to the ICC and invited the ICC prosecutor to address the Council within two months of the adoption of the resolution and then every six months on any actions taken. This was only the second time that the Council referred a situation to the ICC in the history of

the Court. The first time was the referral of the situation in Darfur on 31 March 2005 in resolution 1593.

(The ICC prosecutor announced his decision to open an investigation in the situation in Libya on 3 March, and on 27 June 2011 the Court issued three arrest warrants for Muammar Al-Qaddafi, Saif Al-Islam Qaddafi and Abdullah Al-Senussi for crimes against humanity. The case against the elder Al-Qaddafi has been terminated due to his death on 20 October 2011 whereas at the time of writing Saif Al-Islam Qaddafi was in custody in Libya and Abdullah Al-Senussi was in the custody of Mauritania.)

*Also in response to the Libya crisis, the Council took the unprecedented step of authorising a coalition of UN member states to use force to protect civilians.* In resolution 1973 of March 2011 the Council demanded an immediate ceasefire and complete end to violence against civilians and authorised member states “to take all necessary measures...to protect civilians and civilian populated areas under threat of attack” in Libya. Divisions over the interpretation of this mandate and how it was carried out by the North Atlantic Treaty Organisation (NATO) have subsequently been the focus of intense discussions and the resolution remains one of the Council’s most controversial decisions on the protection of civilians. The Council terminated the authorisation on 27 October 2011 when it adopted resolution 2016. (For further background and analysis on Libya, please refer to the case study in last year’s cross-cutting report.)

*While remaining deeply divided on how to ensure the protection of civilians in Syria, the Council was able to agree on a resolution on Yemen which included clear protection language.* In response to increasing violence

against civilians in connection with anti-government protests in Yemen, on 21 October 2011 the Council adopted resolution 2014 which among other things condemned human rights violations by the government, stressed that all responsible should be held accountable, demanded that all sides immediately reject the use of violence to achieve political goals and demanded that the government immediately ensure their actions comply with obligations under applicable international humanitarian law and human rights law and take action to end attacks against civilians and civilian targets by security forces.

By contrast, earlier in October, the Council failed to adopt a draft resolution on Syria (S/2011/612) proposed by the UK, which would have contained similar language in response to the crisis there, condemning human rights violations and the use of force against civilians by the Syrian government, demanding an end to all violence and demanding that the government comply with their obligations under applicable international law. (For more background on this, please refer to our case study on Syria below.)

#### 4.2 Presidential Statements and Press Statements

In 2011 the number of presidential statements adopted by the Council decreased once again, continuing a downward trend from the most recent high of 67 in 2005. Last year the Council adopted only 22 statements compared with 30 in 2010. As noted in our previous cross-cutting report, presidential statements tend to respond to specific developments and highlight specific issues and are therefore less reliable as a measure of Council commitment to the protection of civilians than resolutions. We did find, however, that in 2011 there was a clear focus on protection of civilians in relevant Council statements.

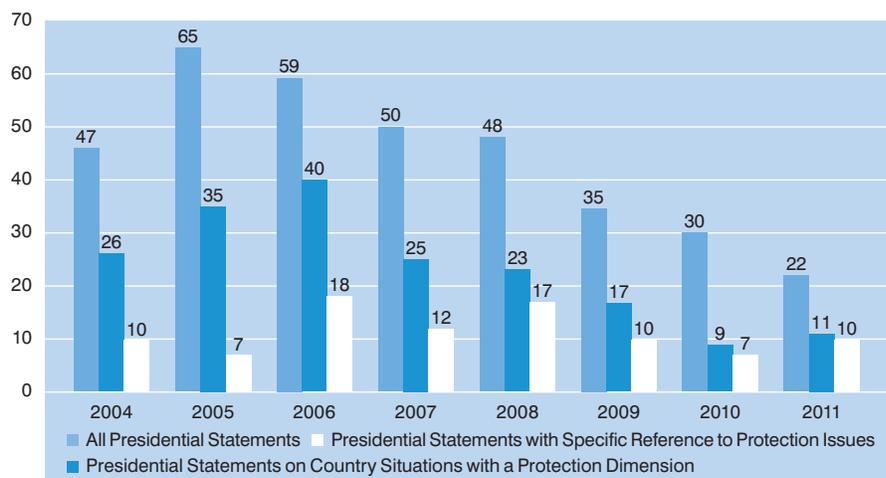
According to our analysis, as shown in the above chart, 11 of the presidential statements adopted in 2011, or 50 percent, could reasonably be expected to address protection issues and of these ten in fact did. The only exception was a statement on Afghanistan which welcomed the conference held in Bonn on 5 December 2011 (S/PRST/2011/22).

There were three presidential statements on Sudan (S/PRST/2011/3, S/PRST/2011/8, and S/PRST/2011/12) and all of these had strong protection language, expressing concern about violence against civilians as well as displacement and addressing issues such as the importance of ending impunity and ensuring humanitarian access. A statement on the DRC (S/PRST/2011/11) also focused on similar issues and stressed in particular the need to fight against impunity. Three statements on Somalia (S/PRST/2011/6, S/PRST/2011/10 and S/PRST/2011/13) had much less of an emphasis on protection of civilians, but either condemned attacks against civilians or contained language on humanitarian access.

Among the ten statements relevant to our analysis, a statement on Syria and another one on the LRA were perhaps the most noteworthy. The 14 November

2011 statement on the LRA (S/PRST/2011/21) was the first presidential statement specifically on this issue since 2008. It contained very strong protection language, demanding among other things an immediate end to all attacks by the LRA and condemning the continued violations of international humanitarian law, the recruitment and use of child soldiers and sexual violence. It also stressed the responsibility of the governments of affected countries to protect their population as well as the role of UN missions in the region and the importance of bringing LRA leaders indicted by the ICC to justice.

The 3 August presidential statement on Syria (S/PRST/2011/16) was also significant in that it was the only action the Council was able to take in 2011 in response to the crisis there. The statement condemned violations of human rights and the use of force against civilians by the Syrian government, called for an immediate end to the violence and called on the government “to fully respect human rights and to comply with their obligations under applicable international law”. It also called on Syrian authorities to alleviate the humanitarian situation by halting the use of force against affected towns, to allow access



for international humanitarian agencies and cooperate fully with the OHCHR.

It is worth noting that the trend towards fewer presidential statements seems to have been accompanied by an increasing number of press statements. In 2011, there were a total of 74 press statements by the Council. This compares with 54 in 2010, 35 in 2009 and 47 in 2008. While the majority of the press statements were not relevant to our analysis, we found that there were 24 statements in 2011 on situations with a protection dimension. Of these, 22 included protection language and many of them focused almost exclusively on protection issues. It should be noted, however, that press statements by the Council do not carry the same legal and political weight as a presidential statement. (For more background on Council practice with regard to the use of press statements, please refer to *In Hindsight: Security Council Press Statements* in our May 2012 Forecast.)

### 4.3 Developments in Council Sanctions Regimes

In 2011, the Council expanded its use of targeted sanctions as a tool for enhancing compliance with international humanitarian and human rights law by targeting violators of the law in order to change their behaviour. Acting at different levels, it expanded the legal basis for listing perpetrators of such violations, first by establishing a new sanctions regime for Libya and then by adding new criteria on the use of children and targeting of civilians to the sanctions provisions concerning Somalia. The Council also agreed on several new listings of individuals subject to targeted sanctions using such violations as a reason. (The decisions regarding the type of measures are included in Council resolutions as opposed to most, but not all listing decisions, which are taken within a sanctions committee. Some listings,

however, most recently in the case of Côte d'Ivoire and Libya, have been decided at Council level, through resolutions.)

Five of the 12 sanctions regimes established by the Council currently include listing criteria related to violations of international human rights or humanitarian law. In all of these five cases, the criteria have in fact been used as a basis for some of the targeted sanctions designations. The following analysis offers additional details on developments in each of the five relevant sanctions regimes.

#### *Côte d'Ivoire*

The Côte d'Ivoire sanctions regime, established in 2004 by resolution 1572, imposes an arms embargo and also includes travel restrictions and asset freeze on any persons responsible for serious violations of human rights and international humanitarian law.

At the start of 2011, there had been no new listings under the sanctions regime since 2006, when three individuals were designated by the Côte d'Ivoire Sanctions Committee as subject to the targeted sanctions, including one on the basis of human rights and humanitarian law violations. But following the crisis in Côte d'Ivoire after the November 2010 presidential elections, there was renewed focus on sanctions as a possible tool for putting pressure on those seen as responsible for much of the violence.

In a report to the Council submitted on 17 March 2011 (S/2011/272), the Monitoring Group for the Côte d'Ivoire sanctions regime expressed concern about increasing levels of armed violence, "particularly the targeting of civilians". It suggested six individuals and three entities to be added to the targeted sanctions list. Subsequently, in resolution 1975 adopted on 30 March, the Council imposed targeted sanctions against former President Laurent

Gbagbo (who had refused to accept the election results and step down), his wife and three associates. (Three of these listings were among the names contained in the report by the Monitoring Group.) The justification for four of the new listings (all except Gbagbo) referred to "public incitement to hatred and violence" or "participation in violent repressions of popular movements".

#### *Democratic Republic of the Congo (DRC)*

The DRC sanctions regime includes provisions imposing a travel ban and asset freeze on individuals found to have committed serious violations of international law involving the targeting of children or women or obstruction of access to or the distribution of humanitarian assistance in the eastern part of the country. (Established in 2003 by resolution 1493, the sanctions regime was expanded twice in 2008.)

At the start of 2011, of the 24 individuals listed by the DRC Sanctions Committee as subject to targeted sanctions, two were designated exclusively on the basis of having committed violations of international humanitarian law whereas the justifications for 11 others were partially based on such violations.

In 2011, the Group of Experts monitoring the DRC sanctions regime continued to report extensively on violations of international humanitarian law and human rights law. Both its 2011 mid-term report issued on 7 June (S/2011/345) and its final report issued on 2 December (S/2011/738) contained a separate section addressing such violations. The final report provided detailed information on the kind of abuses committed and names of perpetrators.

The Sanctions Committee added two individuals to the sanctions list in 2011, one in October and one in November. One of the individuals (Ntabo Ntaberi Sheka) was designated for having



committed “serious violations of international law involving the targeting of children”.

When extending the sanctions in resolution 2021 on 29 November 2011, the Council renewed its request to the Group of Experts to focus its activities, among other things, on “perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces” operating in the eastern DRC. It also renewed its call on the DRC authorities to fight impunity.

#### *Libya*

The sanctions regime for Libya, established on 26 February 2011 by resolution 1970, includes targeted sanctions against individuals or entities “involved in or complicit in ordering, controlling, or otherwise directing the commission of serious human rights abuses against persons in the Libyan Arab Jamahiriya, including by being involved in or complicit in planning, commanding, ordering or conducting attacks, in violation of international law, including aerial bombardments, on civilian populations and facilities”.

Resolution 1970 designated ten individuals as subject to the travel ban and six individuals as subject to both the travel ban and asset freeze. On 17 March, in resolution 1973, the Council listed another two individuals and five entities as subject to the targeted sanctions and in June, the Sanctions Committee designated another two individuals.

As the situation in Libya improved, the Council on 16 September 2011 adopted resolution 2009 which lifted the asset freeze on some entities and also partially lifted the arms embargo, but kept the individual sanctions in place. At present, 20 individuals remain on the targeted sanctions lists (subject to either the travel ban or the asset freeze). The justification for eight of these

individuals refers directly to violence against demonstrators or dissidents, repression of demonstrations or human rights abuses.

#### *Somalia*

In 2011, the Council expanded the Somalia sanctions regime by adding to the criteria for imposing targeted sanctions the recruitment and use of children as well as the targeting of civilians, including women and children. Obstruction of humanitarian access was already included in the criteria.

According to resolution 2002 of 29 July 2011, targeted measures can be imposed on individuals or entities designated by the Eritrea/Somalia Sanctions Committee “as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia; as being political leaders or military leaders recruiting and using children in armed conflict in violation of applicable international law; and as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender based violence, attacks on schools and hospitals and abduction and forced displacement.”

This decision followed a briefing in the Somalia/Eritrea Sanctions Committee on 23 May by the Secretary-General’s Special Representative for Children and Armed Conflict in which she proposed that a new listing criteria related to children be added to the sanctions regime. (This was the Special Representative’s second briefing to a sanctions committee. Her first briefing was to the DRC Sanctions Committee in May 2010.)

Over the course of 2011 the difficult humanitarian access situation in Somalia continued. This was reflected in the Monitoring Group’s final report to the Sanctions Committee, submitted in

June 2011 (S/2011/433). It contained a separate section on obstruction of humanitarian assistance which described the operational environment for humanitarian organisations in Somalia as “among the most prohibitive in the world” and provided details on ongoing obstacles. The main culprit identified in the report was the Islamist rebel group Al Shabaab, which was placed on the sanctions list for Somalia already in April 2010 with obstruction of humanitarian assistance as part of the justification.

In July 2011, the Sanctions Committee added two individuals to the sanctions list for Somalia and Eritrea, but none of these were designated for violations relating to international human rights or humanitarian law. Of the 11 individuals and the one entity which at press time were listed under the Somalia/Eritrea sanctions regime, only Al Shabaab was designated for protection of civilians-related violations.

It should also be noted that in March 2011 the Council renewed the exemption to the asset freeze provisions of resolution 1844, first adopted in 2010, for funds “necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia”.

#### *Sudan*

The sanctions regime for Sudan includes targeted measures against those who commit violations of international humanitarian or human rights law or other atrocities in Darfur. The Council has placed specific individuals on the sanctions list only once, in April 2006. Four individuals were listed through a separate Council resolution (resolution 1672) rather than a consensual decision of the 1591 Sanctions Committee for Sudan. One of these was designated for violations of international humanitarian law.

The only action taken by the Council in 2011 relating to this sanctions regime was the adoption on 17 May of

resolution 1982 which extended the mandate of the Panel of Experts. This was seen as a technical extension which was necessary due to delays in constituting the Panel and may explain why it did not, in contrast to previous mandate extensions, contain any substantive language referring to the continued and widespread violations of relevant international law. Also as a consequence of these delays, the Panel did not submit a written report to the Council in 2011. Its final report was submitted to Council members in late January 2012, but at press time it had yet to be made public. In its previous report (S/2011/111), which was submitted to the Sanctions Committee on 20 September 2010, but not issued as a public UN document until 8 March 2011, the Panel of Experts concluded that “human suffering...continues through violations of international humanitarian law and human rights” including attacks against civilians, peacekeepers and humanitarian aid workers and recommended that the Council act on the Panel’s previous proposals for additional listings.

## 5. Country-Specific Reporting to the Council on Protection of Civilians

### 5.1 Secretary-General’s Reports

The Security Council has provided the Secretary-General with clear instructions to report on the protection of civilians in country-specific situations, most recently in resolution 1894 of 11 November 2009, when the Council asked the Secretary-General for more detailed and comprehensive reporting on protection of civilians. The resolution also requested the Secretary-General to develop guidance for UN operations and other relevant missions on protection reporting “with a view to streamlining such reporting and

enhancing the Council’s monitoring and oversight”. The Council reiterated these requests in its 22 November 2010 presidential statement (S/PRST/2010/25) on protection of civilians.

It appears that work on developing such guidance is still ongoing and is not expected to be finalised until later in 2012 at the earliest. In the meantime the Secretary-General has continued to report extensively on the protection of civilians. In contrast with previous years, we found some progress toward more uniform reporting on the protection of civilians.

The Secretary-General submitted a total of 88 reports to the Security Council in 2011. Of these, there were 37 reports on situations with a protection dimension which were therefore relevant to our analysis. (This compares with a total of 90 reports in 2010, of which 45 could be expected to deal with protection of civilians issues.) With only a few exceptions almost all 2011 reports did in fact contain information or observations relevant to the Council’s consideration of protection challenges.

As in previous years, we focused our analysis on situations where protection of civilians was a key concern, including Afghanistan, Côte d’Ivoire, the DRC, Haiti, Somalia, Sudan and South Sudan. Our analysis of the Secretary-General’s reports on these situations seems to indicate that in 2011 a more uniform approach started to emerge in the reporting on protection of civilians-related issues. The main differences related to the type of UN presence in the country and specific provisions in the mandates relating to protection of civilians.

In Afghanistan, there is no UN peacekeeping operation, but UNAMA is mandated to monitor human rights violations and protection of civilians. As in previous years, the Secretary-General’s

reports on Afghanistan continued to provide some of the most detailed information on civilian casualties of all of his reports although they did not have separate sections on protection of civilians. Under the heading of human rights, the reports provided specific numbers on civilian casualties, trends, main perpetrators (whether anti-government groups or not), weapons used and main regions where casualties happened. Under the humanitarian assistance heading, the reports provided detailed information on displacement and the use of explosive devices as well as general trends relating to the conduct of hostilities.

None of the other reports contained the same level of detailed information. However, we found that in situations with a UN peacekeeping presence, there was a more uniform reporting approach than in previous years, focusing on implementation of protection mandates and strategies. The reports on MONUSCO, UNAMID, UNMIS, UNMISS and UNISFA addressed protection of civilians as part of assessing progress towards the achievement of the mandate of the mission or describing implementation of the mission’s protection strategy. While such an approach started to emerge in 2010, it seemed to become more of a norm in 2011. This enhanced focus on implementation of protection mandates should help the Council to better monitor the missions’ performance and progress on the ground.

The reports on Côte d’Ivoire and Haiti had a different structure, although the UN missions in these two countries, UNOCI and MINUSTAH, are also mandated to protect civilians. In the latest report on UNOCI issued in December 2011, there was a section on child protection, but no other mention of protection of civilians. This could be seen to reflect, however, that the

situation in the country had greatly improved since the post-electoral crisis following the presidential elections in November 2010. The reports on Haiti also reflected that protection of civilians is less of a concern for MINUSTAH than for the missions deployed in Africa mentioned above.

Reports on Somalia fall in a separate category as there was no UN presence there in 2011. While the reports contained separate sections on protection of civilians and human rights, they continued to reflect the lack of access to reliable information relevant to the protection of civilians due to the security situation and limited UN or other international presence in Somalia. As the security situation there has recently been improving and the UN Political Office for Somalia (UNPOS) has now relocated to Mogadishu, in the future the Secretary-General may be able to provide more reliable and detailed information on civilian casualties and other issues relevant to the protection of civilians.

## **5.2 Briefings to the Council on Protection of Civilians and Human Rights Issues in Country-Specific Situations**

In addition to the information it receives on protection related issues in the Secretary-General's reports and in briefings in the informal expert group, the Council also gets valuable updates on such issues through briefings on country-specific situations. In recent years, the Under-Secretary-General for Humanitarian Affairs, or her representative, has regularly been briefing the Council or Council members in informal consultations (often after a field visit) to convey concerns about a specific situation. In 2011, there was a noticeable increase in the number of such briefings compared with 2010.

A much more recent practice is for the Council to invite OHCHR, either the

High Commissioner herself or the Assistant Secretary-General heading the office in New York, to brief on a country-specific situation. While it was initially the High Commissioner who briefed the Council when it first took up protection of civilians in 1999 as a thematic issue, this role was soon taken over by OCHA. From 2002 onwards it was very rare for the High Commissioner to appear before the Council. This changed in 2009, however, when OHCHR for the first time since 2002 was invited to participate in the November open debate on the protection of civilians.

An interesting new development in 2011 was that the OHCHR, in addition to the open debates on protection of civilians, was invited to brief the Council or Council members in informal consultations on a number of country-specific issues. Over the course of 2011 this occurred on five occasions, as compared to none in 2010 or the previous several years. They included:

- a briefing by the High Commissioner in a 13 April Council meeting on the situation in Côte d'Ivoire at which the Under-Secretary-General for Humanitarian Affairs and the Secretary-General's Special Representative for Côte d'Ivoire Choi Young-Jin also spoke (S/PV.6513);
- a briefing for Council members in consultations on 28 July by the Assistant Secretary-General of OHCHR in New York, Ivan Simonovic, on the human rights situation in Southern Kordofan (Sudan);
- an 18 August briefing in consultations by the High Commissioner together with the Under-Secretary-General for Humanitarian Affairs on the situation in Syria (during which the High Commissioner urged Council members to consider referring the pattern of widespread or systematic human rights violations by Syrian security and military forces to the ICC);

- a briefing in consultations by the High Commissioner on 19 August on Southern Kordofan and Libya; and
- a briefing in consultations on the situation in Syria by the High Commissioner on 12 December (in which she indicated that crimes against humanity had likely been committed by government forces.)

In addition to the two times mentioned above, OCHA was invited to brief on country-specific protection concerns on the following occasions in 2011:

- a briefing by the Under-Secretary-General for Humanitarian Affairs on 20 January in a Council meeting on the situation in Haiti (S/PV.6471) at which the Under-Secretary-General for Peacekeeping Operations also spoke;
- a briefing by the Under-Secretary-General for Humanitarian Affairs on the situation in Libya in a Council meeting on 9 May (S/PV.6530);
- a briefing on 13 May in consultations by the Under-Secretary-General for Humanitarian Affairs on the protection of civilians in Chad to assess the situation following the 31 December 2010 withdrawal of the United Nations Mission in Central African Republic and Chad (MINURCAT) based on the Secretary-General's special report on protection of civilian in Chad (S/2011/278);
- a 15 July briefing in consultations by the Under-Secretary-General for Humanitarian Affairs on the humanitarian situation in Southern Kordofan;
- a 25 July briefing in consultations by Assistant-Secretary-General for Humanitarian Affairs Catherine Bragg on the situation in Somalia;
- an 8 August briefing in consultations by the Under-Secretary-General for Humanitarian Affairs on the situation in Southern Kordofan at which the Under-Secretary-General for Peacekeeping Operations also spoke;
- a 10 August briefing by the Assistant-Secretary-General for Humanitarian

Affairs in a meeting on Somalia at which the Secretary-General's Special Representative for Somalia also spoke (S/PV.6599); and

- a 28 November briefing in consultations on Yemen by Deputy Director of OCHA, Philippe Lazzarini during which the Secretary-General's Special Adviser, Jamal Benomar also spoke.

All in all, the Under-Secretary-General for Humanitarian Affairs or another OCHA representative briefed on country-specific situations a total of ten times in 2011 as compared with five such briefings in 2010.

## 6. Special Issues Involving UN Peacekeeping Operations

Since we first wrote about the challenges of implementing Council authorised protection mandates in UN peacekeeping operations in our initial cross-cutting report on protection of civilians published in 2008, significant progress has been made at the policy level to address remaining challenges and improve UN performance. The Secretariat has now finalised the main policy and guidance material that were either requested by the Council or recommended by the General Assembly's Special Committee on Peacekeeping Operations.

In early 2011 the Secretariat finalised a framework for drafting comprehensive protection of civilians strategies in UN peacekeeping operations aimed at helping missions to ensure the most effective implementation of protection mandates. Such strategies aim to identify protection risks and activities to be undertaken to address those risks, analyse resources and capacities necessary to implement protection mandates, clarify roles and responsibilities and ensure that there are

mechanisms in place for monitoring and reporting as well as review when missions fail to protect civilians. Three of the eight UN missions with a protection mandate have now developed protection strategies (MONUSCO, UNAMID, and UNOCI) whereas one mission is in the process of drafting such a strategy (UNMISS).

Also in 2011, the Secretariat finalised a series of protection of civilians training modules for peacekeeping personnel as requested by the Council in resolution 1894 addressing such topics as the international legal dimensions of the protection of civilians and how to ensure protection in the context of UN peacekeeping operations. They also include several scenario based exercises. The training modules were disseminated to peacekeeping operations and national peacekeeping training centres in November 2011. (They are also posted on the peacekeeping resource hub at [www.peacekeepingbestpractices.unlb.org](http://www.peacekeepingbestpractices.unlb.org).)

This year, the Secretariat finalised the resource and capabilities matrix for implementation of protection mandates in UN peacekeeping operations which had been requested by the 2010 session of the Special Committee. The matrix also responded to the Council's call in resolution 1894 that "mandated protection activities must be given priority in decisions about the use of available capacity and resources in the implementation of mandates." It focuses on protection of civilians activities that have significant resource and capability implications as well as activities that have not been subject to thorough analysis in the past. Its objective is to help missions match available resources and capabilities with the protection tasks they plan to undertake.

With these new tools in place, it seems that efforts to improve implementation

of protection mandates have shifted from development of new policy and guidance tools to operationalisation and practical implementation by missions. The focus is now on how to make sure that the new tools developed in New York have a positive impact in the field. A new position of "Protection of Civilians Coordination Officer" was recently created within DPKO to strengthen the Secretariat's capacity to provide additional support to UN missions with a protection mandate in planning and implementing protection activities and carry forward what has been agreed.

Looking ahead, some of the issues related to protection mandates that were discussed at this year's session of the Special Committee included the need for additional baseline guidance for missions at the operational level; the importance of mission communication and outreach strategies to engage more effectively with local communities; the need to improve early warning mechanisms; the need for further work on how missions can assist in building the protection capacity of host authorities; and improved headquarters and field coordination efforts with regional bodies and other relevant actors. (At the time of writing, the Committee had yet to agree on this year's report.) These are issues that are also relevant for the Council's decisions on protection mandates in UN peacekeeping operations.

## 7. Case Study: Syria

Syria stands out as one of the most divisive and difficult situations on the Council's agenda since our last cross-cutting report. In the face of thousands of civilian deaths the Council was unable to agree on any effective response to ensure the protection of civilians. (At the time of writing the UN



estimated that more than 9,000 people, mostly civilians, had been killed.) In particular, the Council was unable to take any action at the earliest stages of the crisis to ensure the protection of civilians by preventing the situation from escalating into an armed conflict. This inaction stands in sharp contrast to the Council's forceful action on Libya. In this case study we attempt to shed some light on the internal Council dynamics at play, including any impact of the Libyan experience, and why it was so difficult for the Council to agree on what course of action to take.

The crisis in Syria started in mid-March 2011 with anti-government demonstrations in the southern city of Dera'a which gradually spread to other parts of the country. While the protesters at first demanded greater freedom and political and economic reforms, they soon started to call for the toppling of the government, echoing similar messages in other countries of the region. In response, the Syrian government announced a number of political reform measures, but there were also reports of increasingly violent repression of demonstrations.

In the Council, there was growing concern about the situation. On 25 April 2011, EU Council members (France, Germany, Portugal and the UK) proposed a draft press statement that would call for an end to the violence, stress the importance of respect for human rights, support the Secretary-General's call for an independent investigation into killings of civilians and also stress the potential impact of the situation in Syria for peace and security across the Middle East.

Council members were unable to agree on a press statement, however, mainly because of opposition from Russia and Lebanon. (Lebanon was an elected Council member at that time and

exercised caution due to its complex relationship with Syria. Most Council members were sensitive to Lebanon's position.) In a public meeting on 27 April at which Under-Secretary-General for Political Affairs B. Lynn Pascoe gave a briefing on the situation in Syria, differences among Council members became apparent.

Pascoe, while acknowledging political reforms undertaken by Syrian President Bashar Al-Assad, said that reliable sources were consistently reporting "the use of artillery fire against unarmed civilians, door-to-door arrest campaigns, the shooting of medical personnel who attempt to aid the wounded, raids against hospitals, clinics and mosques and the purposeful destruction of medical supplies and arrests of medical personnel." He also said that in only very few cases had there been credible reports of protesters using force.

While a majority of Council members focused on the need for the Syrian government to stop the violence, emphasised the implications for regional stability and supported calls for an independent investigation into the killings of civilians, Russia argued that the situation in Syria did not constitute a threat to international peace and security. Russia also claimed that the violence did not originate only from one side and said that "a real threat to regional security could arise from outside interference in Syria's domestic situation".

Meanwhile, on 29 April, the Human Rights Council (HRC) adopted a resolution requesting OHCHR to send urgently an investigative mission to Syria.

In the 10 May open debate on protection of civilians, many speakers expressed concern about the situation in Syria. It was raised by the Assistant Secretary-General for Human Rights, Ivan Simonovic, and by OCHA head

Valerie Amos in their briefings as well. Syria was also raised in other meetings, including in discussions on Libya and in the monthly briefings on the Middle East. Some Council members, however, continued to maintain that the situation in Syria was an internal matter and not a question of international peace and security. There were also different views on whether the crisis could be considered an armed conflict in which the normative framework for the protection of civilians would apply. Some argued that Syria was instead a case where the responsibility to protect was a more relevant concept.

As the crisis in Syria only continued to escalate, there was a renewed push for Council action led by France and the UK. After weeks of informal consultations among Council members, on 25 May, France, Germany, Portugal and the UK circulated a draft resolution on Syria. The draft recalled the Syrian government's responsibility to protect its citizens; stressed the need for accountability; condemned the systematic abuse of human rights including killings, arbitrary detention, disappearances and torture; and called on Syrian authorities to:

- respect human rights and international humanitarian law, act with restraint and refrain from reprisals and allow unhindered humanitarian access;
- undertake comprehensive and credible reforms for genuine political participation;
- release all prisoners of conscience;
- lift the siege of Dera'a and other affected towns and lift all media and communications restrictions; and
- launch a credible and impartial investigation and cooperate with the HRC's investigative mission.

In addition, it called on all UN member states to prevent the supply or sale of arms and related materiel to Syria and

asked the Secretary-General to report back to the Council within two weeks.

There continued, however, to be considerable opposition to any Council action on Syria, although the arguments against it started to shift. With an influx of displaced Syrians into northern Lebanon as well as cross border incursions into Lebanon from Syria, the impact of the crisis on regional security became more readily apparent. Instead of referring to the crisis in Syria as an internal matter, some of the Council members opposing a resolution seemed to argue that it would only stimulate further regional insecurity. In addition, concerns related to implementation of the authorisation under resolution 1973 on Libya to use force to protect civilians had also emerged as an argument against any action on Syria that might be interpreted as a first step towards military action or as being aimed at regime change. (For more background on resolution 1973, please see the case study on Libya in our 2011 cross-cutting report on protection of civilians.)

While discussions in the Council continued, the Secretary-General's Special Advisers on the Prevention of Genocide, Francis Deng, and Responsibility to Protect, Edward Luck, on 21 July said that the scale and gravity of the violations in Syria indicated a serious possibility that crimes against humanity had been committed and continued to be committed. They reminded the Syrian government of its responsibility to protect its population and to ensure that security and civilian personnel under government command comply with international human rights obligations.

On 2 August, in informal consultations, Assistant Secretary-General for Political Affairs Oscar Fernández-Taranco told Council members that 140 people were reported killed in a military offensive on 31 July, while a total of 3,000

people had gone missing and 12,000 people had been imprisoned since protests erupted in mid-March.

The briefing seemed to galvanise Council members to act. On 3 August, they agreed on a presidential statement (S/PRST/2011/16) condemning the widespread violations of human rights and the use of force against civilians by Syrian authorities and calling for an immediate end to all violence. The statement also called on the Syrian authorities to fully respect human rights and to comply with their obligations "under applicable international law" and stressed that those responsible for the violence should be held accountable. In addition, it called on Syrian authorities to allow unhindered humanitarian access and asked the Secretary-General for an update on the situation in Syria within 7 days. (In a rare procedural move, Lebanon disassociated itself from the statement after its adoption.)

The statement did not appear to have any impact on the situation on the ground, however, as the crisis only seemed to escalate and there were reports of a growing number of civilian casualties. In consultations on 10 August, Fernández-Taranco told Council members that close to 2,000 people had been killed since the start of the protests. He also cited reports of Syrian security forces opening fire on its own troops if they refused to fire on civilians.

There were increasingly strong denunciations of the violence in Syria from the region, including by the Gulf Cooperation Council and the Arab League with Saudi Arabia, Kuwait and Bahrain recalling their ambassadors.

On 22 August, the HRC decided to dispatch an independent international commission of inquiry to Syria as a follow-up to the OHCHR fact-finding mission it had authorised in April. The

mission reported that it had found a pattern of widespread or systematic human rights violations by Syrian security and military forces, including murder, enforced disappearances, torture, deprivation of liberty, and persecution. It concluded that the scale and nature of these acts might amount to crimes against humanity.

On 23 August, the UK circulated a new draft resolution on Syria supported by the Council's EU members and the US that would impose targeted sanctions (asset freeze or travel ban) against President Al-Assad and 22 other key Syrian figures. It would also impose an arms embargo, set up a sanctions committee and create a panel of experts. Additionally, it would welcome the HRC's decision to establish an independent international commission of inquiry.

Around the same time, Russia, supported by China, circulated a draft resolution on Syria offering a competing approach. This draft, which made no mention of sanctions, emphasised the need to respect the principles of national sovereignty and non-intervention in internal matters, and called on the Syrian government to implement announced political reforms.

Discussions among Council members continued for the next several weeks and deep divisions came to a head on 4 October when the UK, with the support of France, Germany and Portugal, put a significantly revised draft resolution to a vote. Responding to the concerns of several Council members, any reference to sanctions had been dropped from the draft. The resolution demanded that Syrian authorities cease violations of human rights, cease the use of force against civilians, allow humanitarian access and ensure safe and voluntary return of those who had fled the violence. The draft also called for an inclusive Syrian-led process, the



appointment by the Secretary-General of a special envoy and for states to exercise vigilance over arms supplies to Syria. As a follow-up measure, it requested a report from the Secretary-General within 30 days on implementation of the resolution.

The draft resolution was not adopted as China and Russia voted against while Brazil, India, Lebanon and South Africa abstained. The differences among Council members were clearly spelt out in the ensuing explanations of vote (S/PV.6627).

Russia said the result of the voting reflected a “conflict of political approaches” and claimed that the rejected draft was based on a philosophy of confrontation while the Russian/Chinese draft was based on respect for national sovereignty and territorial integrity as well as the principle of non-intervention. Russia also maintained that the situation in Syria could not be considered separately from the Libyan experience. In particular, Russia expressed concern that the “Libyan model” for military intervention might be used in Syria and strongly criticised the way NATO had implemented the mandate under resolution 1973. China expressed similar views on the differences in approach.

South Africa also alluded to the differences over Libya, expressing concern that the draft resolution was part of a hidden agenda “aimed at once again instituting regime change” as the sponsors of the resolution had not wanted to include language that clearly excluded the possibility of military action.

By contrast, those who supported the draft resolution argued that the situation in Syria had only deteriorated further since the adoption of the presidential statement on 3 August and that the time for stronger Council action was therefore long overdue.

Following the October veto, the four EU Council members and the US shifted their focus to bilateral initiatives and support for the efforts of the Arab League and Turkey to yield results on the Syrian situation. The Arab League on 2 November approved an action plan that had been agreed with Syrian authorities to end all acts of violence, free all detainees held as a result of the crisis, withdraw all military elements from cities, and provide free access for relevant Arab League states and international media. On 27 November, the Arab League imposed economic and political sanctions on Syria due to its failure to implement the action plan.

Meanwhile, the number of civilian deaths in Syria continued to increase. There was growing concern among observers that the situation in Syria was rapidly approaching a level of conflict that would be equal to civil war. In its first report published on 23 November, the commission of inquiry established by the HRC stated that it had been unable to verify the level of the intensity of combat between Syrian armed forces and other armed groups and for the purposes of the report would therefore not apply international humanitarian law to the events in Syria that were part of its investigations. It expressed concern, however, that the violence in Syria risked rapidly rising to the level of an internal armed conflict under international law.

On 12 December, Council members were briefed on Syria in informal consultations by Navi Pillay. Pillay said the crisis in Syria had escalated and that crimes against humanity had likely been committed by government forces. According to the High Commissioner’s Office, since the crisis began in March, the government crackdown in Syria had resulted in excess of 5,000 deaths including civilians and soldiers who had defected or had been executed for

refusing to shoot civilians. Pillay estimated that hundreds of members of Syria’s military or security services had also been killed. She also said there were 12,400 refugees and tens of thousands internally displaced and that 14,000 people had been detained.

Among Council members there appeared to be broad agreement that the situation was grave and had deteriorated to a point that it might be time to make a new attempt at reaching a unified Council position. There was also a growing recognition that any Council action must be closely coordinated with the Arab League. However, significant differences remained on how the Council should approach the situation.

Russia circulated a revised draft resolution on Syria on 15 December that would demand the cessation of violence by all parties, rule out military intervention, call for the prevention of arms supplies to the opposition and urge implementation of the November 2011 Arab League initiative—including the deployment of an observer mission to Syria. However, negotiations failed to gain much traction as EU Council members and the US presented a number of amendments reflecting elements of the draft resolution that had been vetoed in October.

A new push for the Council to act was made by Morocco in January. (It had just joined the Council as an elected member replacing Lebanon.) On 27 January, Morocco circulated a draft resolution calling for an end to the violence in Syria and supporting the Arab League’s action plan of 2 November and a 22 January decision which explicitly called for President Al-Assad to allow his vice-president to facilitate political dialogue with the opposition. This was followed, however, on 30 January by a revised Russian draft, demonstrating once again the

fundamental split among Council members on this issue.

On 31 January, following an Arab League request, the Council received briefings by the chairman of the Arab League ministerial committee on Syria, Sheikh Hamad bin Jassim bin Jabr Al-Thani (Qatar) and the Secretary-General of the Arab League, Nabil Elaraby. They claimed Syria had failed to make any effort to cooperate in resolving the crisis and called on the Council to adopt the draft resolution proposed by Morocco.

On 4 February, Morocco's draft resolution, which was co-sponsored by seven Council members and ten countries from the region, was put to a vote. The draft condemned the continued violations of human rights by Syrian authorities, including the use of force against civilians, and demanded that they cease all violence, protect its population, release all persons "detained arbitrarily", withdraw all Syrian military and armed forces from cities and towns, guarantee the freedom of peaceful demonstrations and allow unhindered access for the Arab League and all Arab and international media to "determine the truth about the situation on the ground", echoing the demands of the Arab League 2 November action plan. It also called for an inclusive Syrian-led political process, expressed support for the Arab League 22 January decision, called on Syrian authorities to cooperate with the Arab League observer mission as well as the commission of inquiry dispatched by the HRC and as a follow-up measure, requested the Secretary-General to report within 21 days on implementation of the resolution.

Once again, the draft resolution was not adopted due to the negative votes of China and Russia. It was supported, however, by all of the other 13 Council members, indicating a shift towards a greater majority favouring Council

action on the Syrian situation. Growing concerns about the need to protect civilians seem to have been one of the driving factors behind this shift.

It seems that one of the key issues dividing the Council was the political transition process as defined by the Arab League. The Arab League plan called for power to be delegated to the Syrian vice president, who would oversee the process, including the formation of a national unity government which would work towards elections within a specified timeframe. Some members were concerned that this could be interpreted as a call for regime change in Syria.

In its explanation of vote Russia said that some Council members' call for regime change had undermined any possibility of a political settlement and argued that the proposed resolution "did not adequately reflect the true state of affairs in Syria" as it did not address violence and attacks committed by armed groups associated with the opposition. China, on the other hand, said that imposing any solution would not help resolve the Syrian crisis, but might instead further complicate the situation. Concerns about the "Libya model" being applied to Syria seemed less of a factor in the vote, or at least were not openly referred to as an argument against the proposed resolution (S/PV.6711).

With no prospect of having the resolution adopted in the Council, Morocco and its co-sponsors took the matter to the General Assembly. There seemed to be significant concern among some P5 Council members about any possible General Assembly resolution being adopted under the Uniting for Peace mechanism (resolution 377 (V) of 3 November 1950) which in their view would be an encroachment on the Council's mandate. (Uniting for Peace is

a procedural mechanism developed during the Cold War which, in line with Article 12 of the Charter, provides for the General Assembly to address peace and security issues when the Council is stalemated and unable to execute its responsibility. It was concocted by the US in 1950 during the Korean War to take action against North Korea since the USSR would not allow any Council decision.)

In the end, the General Assembly resolution on Syria (A/RES/66/253) was not adopted under Uniting for Peace, but under agenda item 34, "The Situation in the Syrian Arab Republic". The 16 February resolution contained most of the language from the draft Council resolution, and also requested the Secretary-General to appoint a Special Envoy to support efforts to find a peaceful solution. The resolution was adopted with 137 votes in favour, 12 against and 17 abstentions.

The strategy behind the vote in the General Assembly was to increase the pressure on reluctant Council members to act and bring the issue back to the Council. This seemed at least partially to work as soon thereafter the Council entered a phase of focusing its energies towards finding a unified response to Syria.

Shortly after the vote in the General Assembly, on 23 February, the Secretary-General together with the Secretary-General of the Arab League, announced the appointment of Kofi Annan, the former UN Secretary-General, as the joint UN-Arab League Special Envoy for Syria.

Also in February, as the situation continued to deteriorate, OCHA head Amos announced her intention to visit Syria to assess the humanitarian situation, but was unable to gain timely entry by Syrian authorities. In response, Council members were able to agree on a



press statement on 1 March (SC/10564) calling on Syrian authorities to grant Amos “immediate and unhindered access”, expressing concern at the “rapidly deteriorating” humanitarian situation and calling on all parties in Syria, in particular the Syrian authorities, to facilitate the provision of humanitarian assistance and allow evacuation of the wounded. Four days later, Amos was granted permission to visit and travelled to Syria between 7 and 9 March.

After her trip, which included a visit to Homs, one of the cities hardest hit by the ongoing violence, Amos expressed extreme concern over the situation. She said she was horrified by the destruction she had seen and that there was clear evidence of the use of heavy artillery and tanks against civilians. On 13 March, she briefed Council members in informal consultations, informing them that the Syrian government had agreed to conduct a preliminary humanitarian assessment with the support of the UN.

In another statement on Syria issued on 15 March, the Secretary-General’s Special Advisers on the Prevention of Genocide and the Responsibility to Protect said the Syrian government had “manifestly failed to protect the Syrian population” and that there was strong and growing evidence that crimes against humanity were being committed in Syria. They called on the international community “to take immediate collective action to protect populations at risk of further atrocity crimes in Syria.”

On 16 March, Kofi Annan briefed Council members in consultations about progress in his mediation efforts, including details of a six-point proposal to end the crisis submitted to Syrian authorities earlier in the month. The proposal called for the authorities to:

- commit to work with Annan in an inclusive Syrian-led political process

- “to address the legitimate aspirations and concerns of the Syrian people“;
- commit to stop the fighting and achieve a UN supervised cessation of hostilities to protect civilians and stabilise the country;
- ensure humanitarian access and accept and implement a daily two hour humanitarian pause;
- intensify efforts to release arbitrarily detained persons;
- ensure freedom of movement throughout the country for journalists; and
- respect freedom of association and the right to demonstrate peacefully.

In his briefing, Annan also urged Council members to send a unified message to Damascus. Subsequently, on 21 March, the Council adopted a presidential statement (S/PRST/2012/6) expressing its full support for Annan’s mediation efforts and the six-point plan. It also called on the Syrian government as well as the opposition to implement the plan “fully and immediately“, while requesting Annan to update the Council regularly and consider further steps “as appropriate“.

On 27 March, Annan announced that Syria had accepted his six-point plan. In informal consultations on 2 April, Annan briefed Council members on the details of the response, informing them that the Syrian government had agreed to withdraw its troops and heavy weapons from population centres by 10 April. The Council was also briefed by the Under-Secretary-General for Peacekeeping Operations who provided information on initial planning by DPKO in cooperation with Annan’s team for a possible UN mechanism to monitor cessation of violence. Annan urged Council members to send a signal to Syrian authorities on the importance of adhering to the 10 April deadline and also to endorse planning for a UN monitoring mission.

Once again the Council responded with unity to Annan’s request by adopting a presidential statement on 5 April (S/PRST/2012/10) calling on the Syrian government “to implement urgently and visibly” its commitments to cease troop movements towards population centres, cease all use of heavy weapons in such centres and begin pullback of military concentrations in and around population centres and “to fulfil these in their entirety by no later than 10 April”. The Council also called on the opposition to stop all armed violence within 48 hours of the government fulfilling these measures. Additionally, it requested the Secretary-General to provide proposals for a monitoring mechanism “as soon as appropriate“, reiterated its call for the urgent implementation of all aspects of the six-point plan and for full, unimpeded humanitarian access.

On 11 April, Annan announced that he had received a letter from the Syrian government confirming that it would “cease all military fighting throughout Syrian territory” by 6 a.m. on 12 April. In a briefing in informal consultations on 12 April, Annan informed Council members that the cease fire appeared to be holding, but he also said that Syria had not fully complied with the six-point plan. He requested the deployment of an advance team of UN monitors as soon as possible to sustain the moment of calm and allow for the initiation of political dialogue between the Syrian government and opposition elements.

Although Council members appeared unified in their support for Annan and his plan, Russia still continued to have reservations on certain points. In response to Annan’s request for an observer team, two draft resolutions were circulated: one by the US and one by Russia. While Council members were able to reach agreement fairly quickly and on 14 April adopted resolution 2042, reaffirming its support for

the six-point plan, calling on the Syrian government to implement its commitments and authorising an advance observer team, the resolution was not very strong on human rights and protection of civilians issues although it did contain a provision calling on Syrian authorities to allow immediate, full and unimpeded humanitarian access.

Similarly, when the Council a week later discussed authorisation of a full observer mission for Syria, two draft resolutions were put forward: one by France and one by Russia. It seems Russia remained hesitant to define too clearly in a binding resolution Syria's commitments under the six-point plan or to signal any consequential action in the case of non-compliance. In a compromise decision on 21 April, the Council adopted resolution 2043, authorising the establishment of a UN Supervision Mission in Syria (UNSMIS) comprising an initial deployment of 300 unarmed military observers. It provided UNSMIS with a more limited civilian capacity than what had been envisaged in the French draft, left it to the Secretary-General to assess whether the conditions for deployment had been met and remained vague on any possible follow-up action. It contained a provision on humanitarian access similar to the one in resolution 2042.

At the time of writing, there was still uncertainty as to Syria's commitment to implement the six-point plan. Briefing Council members in consultations on 24 April, Annan said Syria had failed to comply with its obligations to end the use of heavy weapons and withdraw its security forces from population centres. He also expressed concern over reports that the targeting of civilians continued. Among Council members, there seemed to be considerable scepticism over the Syrian government's sincerity in adhering to its commitments. Many of them, including EU members and

the US, indicated that they viewed the deployment of UNSMIS as the last opportunity for Syria to comply with the six-point plan and that if it should fail to do so, the Council must take action. It was therefore far from clear that the crisis in Syria was on a firm path towards being resolved or that the Council would stay united in its approach.

Much has been made of the impact of the Libya experience on the Council's ability to deal effectively with Syria. In particular, the position of some Council members that NATO exceeded the Council's mandate in resolution 1973 by using the authorisation to protect civilians as a pretext for pursuing regime change seems to have made them very reluctant to authorise any action under Chapter VII in the case of Syria or even any action at all. As noted above, some members alluded to such concerns when explaining their positions in the early phases of the Syria crisis. In addition to China and Russia, which abstained on resolution 1973, South Africa, which voted in favour, seemed to feel strongly that it was in some way cheated into supporting it.

As the crisis in Syria deteriorated, however, Council members' views, including that of South Africa, evolved. There seemed to be agreement that the situation in Syria was very different from Libya and would require a different response. No one was advocating in favour of military intervention. References to Libya seemed to be largely absent from the discussions following the October veto. As the crisis went on, it became clear, in particular with the failed vote in February on the draft resolution proposed by Morocco, that China and Russia's opposition to any Council action was based on concerns other than about what happened in Libya. This is not to say that any connection with Libya should be ignored, but it is not clear that it was

the overarching driving force in the Council's deliberations on Syria. Rather, the Libya experience could be seen as a convenient excuse for those opposing any Council action to protect civilians in Syria.

Ultimately, the case of Syria illustrates above all how remaining fundamental differences among Council members continue to hamper effective action to ensure the protection of civilians. The Council remains divided over what should be considered an internal matter and what constitutes a threat to international peace and security when violence against civilians is being committed. While some members, like China and Russia, emphasise respect for national sovereignty as an overriding principle, a majority seem to more readily support action under Chapter VII when civilians are threatened. In the specific case of Syria, divisions among Council members were exacerbated by differences of view as to who was to blame for the violence against civilians—the government or its opposition.

The Syria case can also be seen as a missed opportunity for the Council to take preventive action as a means to protect civilians. While views may differ over the nature of the crisis in Syria, Council members seem to agree on the importance of preventive action and mediation in the early stages of a crisis as the best way to protect civilians from the potential impact of an armed conflict. While the Council's support for Annan was welcomed, it was also generally seen as "too little too late". The Council could undoubtedly have been much more effective and could have prevented much bloodshed if it had supported a mediation mechanism at an earlier stage. As noted above, the draft resolution that was presented back in October, but was vetoed by China and Russia, called for the appointment of a Special Envoy. In the

end, it was only because of a request from the General Assembly that Annan was appointed, but this was more than four and a half months later, after many more civilians had been killed. It is an open question whether the Council would have found it possible to agree on a unified approach to Syria earlier in the crisis if it had not been for the Libya intervention and the high level of mistrust that this created.

## 8. Council Dynamics

A significant shift seems to have taken place in Council dynamics relating to the protection of civilians over the past year and a half. As we noted in our 2010 cross-cutting report, there was at the time (October 2010) a considerable number of Council members committed to the protection of civilians and the Council seemed particularly active on the issue, adopting a new thematic resolution on protection of civilians in November 2009, the first since 2006, and a presidential statement in November 2010. The situation started to change in 2011, however, both because of the new composition of the Council and divisions over how the protection mandate in Libya was being carried out. This continued in 2012 with the arrival of five new elected members, some of whom have strong views on what the Council should do or not do to ensure the protection of civilians, and the Libya experience still fresh in some members' minds.

At the thematic level, the debate on protection of civilians in November 2011 provided some indication of the differences of view among Council members. The shift in Council dynamics has been most notable, however, in discussions on children and armed conflict and women, peace and security. Negotiations of resolution 1998 on children

and armed conflict, adopted on 12 July 2011, and the presidential statement on women, peace and security of 23 February 2012 (S/PRST/2012/3) were considered difficult. It seems that some Council members, including France, Portugal and the UK, felt there was an attempt by some other members to roll back already agreed language on some of the issues and also challenge the mandates of the respective Special Representatives of the Secretary-General.

These divisions seem to reflect more general differences among Council members on the role of the Council on protection issues. Members like India and Pakistan seem to attach particular importance to the respect for the mandates of the different UN organs and are concerned about what they see as a tendency of the Council to encroach on the responsibilities of the General Assembly. They seem to favour a more strict interpretation than some other members of what should be considered a threat to international peace and security. Pakistan in particular, seems to question some of the Council decisions that were made when it was not a member. This has been met with strong reactions from some Council members, however, who believe that new members cannot disregard past Council decisions. The UK alluded to this in the February debate on sexual violence when it said there was a "disturbing trend recently of certain members.... arguing that they do not feel bound by resolutions adopted when they were not on the Council."

At the situation-specific level, leaving aside Syria, differences seem to be less pronounced as Council members take a more pragmatic approach. Still, Council members who favour stronger language on the protection of civilians feel that they have to work harder to ensure that protection language is included in relevant resolutions, and make more of

an effort to explain what the purpose is and why it is needed.

Overall, one of the fundamental differences dividing the Council when it comes to protection of civilians, as demonstrated in the case of Syria, remains the issue of national sovereignty. Council members like Azerbaijan, China, India, Pakistan and Russia, emphasise the need to respect national sovereignty as a key element in any decision to ensure the protection of civilians, and are therefore generally reluctant to take action, particularly when it comes to authorising measures under Chapter VII of the Charter. Other members give less weight to the sovereignty argument and have a lower threshold for when the Council should act to ensure the protection of civilians.

These differences are also reflected in how Council members have responded to the Brazilian initiative on "responsibility while protecting" with some enthusiastically endorsing it and others rather reluctantly agreeing to discuss it. It seems, however, that Brazil is planning to take forward its initiative in the General Assembly first, possibly hoping for further follow-up in the Council at a later stage. The General Assembly is expected to hold a debate in July to consider the Secretary-General's upcoming report on the responsibility to protect and Brazil is likely to use this as an opportunity to continue to promote the "responsibility while protect" concept.

With regard to the Council's informal expert group on the protection of civilians, there seems to be general agreement that it continues to be useful, although some members believe it would add value if UN actors other than OCHA could be invited to brief the group from time to time. In particular, there seems to be an interest in having briefings also by a representative of the OHCHR. At the time of writing, some of the elected Council members who

joined this year felt they needed more time (most had only attended one or two meetings) to have an informed opinion. China still does not participate while Russia only sporadically attends meetings (and mostly when Afghanistan or Iraq is being discussed).

Because of the current climate on the protection of civilians in the Council, at the time of writing there were no plans to have any outcome from the upcoming thematic debate on the protection of civilians. Council members who are normally supportive of a more ambitious approach seemed concerned that any attempt to advance the normative framework would only result in a push-back from those who favour more limited Council involvement and that it would be very difficult to agree on a text. There is also a sense that the real challenge is to ensure implementation on the ground of what has already been agreed at the normative level and that another thematic Council decision would not add much value at this stage. The Council cannot wait too long to adopt another presidential statement, however, if it wants the Secretary-General to produce another report on the protection of civilians within the normal 18-month timeframe since it will need to make a specific request for him to do this.

## 9. Looking Ahead: Some Future Options for the Council

The Secretary-General's upcoming report on the protection of civilians is expected to provide a set of recommendations for the Council's consideration centred on the five continuing challenges for the protection of civilians: enhanced compliance with international human rights and humanitarian law, more consistent and effective

engagement with non-state armed groups in order to improve their compliance with the law, strengthened protection by peacekeepers, improved humanitarian access and enhanced accountability.

At the time of writing, as noted above, there seemed to be limited appetite for a new thematic decision on the protection of civilians. The main option for the Council in the short term is therefore to continue to implement the existing normative framework at the country-specific level using the tools already at its disposal such as the aide-mémoire and the informal expert group and taking forward the Secretary-General's recommendations.

In addition, Council members could consider some of the recent initiatives on protection of civilians promoted by Council members and other UN member states for future action to strengthen the protection of civilians agenda.

One such option would be to take up some of the conclusions from the workshop on accountability organised by Portugal and OCHA in November 2011. (These are also likely to be reflected in the Secretary-General's report.) The workshop focused on three key aspects of accountability: individual criminal responsibility, fact-finding mechanisms and reparations. Some suggestions that were made to the Council at the workshop included:

- developing an indicative checklist to guide the Council's engagement with the ICC at the time it is considering referrals and more generally, including reflections on when a situation constitutes a threat to international peace and security that warrants a referral to the ICC; considerations of funding for cases referred to by the Court; exceptions in the referrals; the Council's role in promoting cooperation with the Court and the issue of

article 16 deferrals;

- considering ways to encourage UN member states to do more to investigate and prosecute perpetrators of violations of international humanitarian law;
- more systematically keeping apprised of the reports of non-Council mandated commissions of inquiry for situations on the Council's agenda;
- supporting the work of non-Council mandated fact-finding mechanisms by requesting states and other relevant actors to cooperate during investigations and implement recommendations; and
- supporting the establishment of national reparations programmes.

Another option would be for Council members to engage in a discussion on the concept proposed by Brazil on the "responsibility while protecting" which called for "enhanced Council procedures" to monitor and assess how resolutions are interpreted and implemented when it comes to the protection of civilians. More specifically, Brazil has suggested the following elements as a basis for discussion:

- prevention is always the best policy as it reduces the risk of armed conflict and the human costs associated with it;
- the international community must first exhaust all peaceful means to protect civilians under threat of violence;
- the use of force must always be authorised by the Council or, in exceptional circumstances by the General Assembly (in line with resolution 377 (V));
- the authorisation for the use of force "must be limited in its legal, operational and temporal elements" and the scope of military action must abide by the mandate and be carried out in strict conformity with international law;
- the use of force must produce as little



violence and instability as possible and “under no circumstance can it generate more harm than it was authorised to prevent”; and

- the Council must ensure the accountability of those to whom authority is granted to resort to the use of force.

A further option for Council members is to use the upcoming debate on the protection of civilians in June to express support for some of the emerging issues relating to the protection of civilians that have so far been receiving attention mostly outside the Council. There are in particular three issues that have been discussed recently: the impact of explosive weapons in densely populated areas, civilian casualty tracking and making amends.

The issue of explosive weapons was raised by the Secretary-General in both his 2009 and 2010 reports on the protection of civilians. He expressed concern at the humanitarian impact of explosive weapons, particularly when used in densely populated areas and, in his 2010 report, specifically urged UN member states and other interested stakeholders “to consider the issue of explosive weapons closely, including by supporting more systematic data collection and analysis of the human costs of their use” as part of a process to strengthen the implementation of international humanitarian and human rights law. Developments in 2011 in Afghanistan, Libya, Somalia, Sudan, and Syria and elsewhere only seem to have confirmed the gravity of the issue. Possible options include:

- acknowledging that the use of explosive weapons in populated areas causes severe harm to individuals and communities and is a serious protection of civilians concern;
- supporting the Secretary-General’s call for further work to better understand the impact of explosive weapons in populated areas and to

develop mechanisms for improving civilian protection; and

- when dealing with country-specific situations such as Somalia or Sudan, addressing the use of explosive weapons and its impact on the civilian population.

The issue of civilian casualty tracking is closely linked to the call for better monitoring of the impact of explosive weapons. It is being promoted by a group of 51 NGOs which in September 2011 launched a new initiative called the “Every Casualty Campaign”. The campaign calls on all states to ensure full and transparent reporting of those killed in armed violence around the world. A central argument of the campaign is that the lack of any legal obligation within international humanitarian law to record all civilian casualties of conflict (as opposed to obligations that exist to account for military casualties) needs to be addressed. More specifically the campaign calls for the establishment of casualty-recording mechanisms as a means to tackle impunity, recognise and ease the suffering of family members and promote the protection of human rights. Its supporters also argue that improved casualty recording will help address the five core protection challenges identified by the Secretary-General by enabling better understanding and assessment of harm against civilians as well as better informed protection operations.

It seems that this idea has already been gaining some support in the Council in the context of Somalia. In a report on Somalia in December 2011 (S/2011/759) the Secretary-General noted that the NGO Campaign for Innocent Victims in Conflict had recommended the establishment of a cell to track, analyse, investigate and respond to all incidents of civilian harm caused by AMISOM. Subsequently, in its resolution 2036 on AMISOM, the Council welcomed the

progress made by the mission in reducing civilian casualties during its operations and commended “AMISOM’s commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell” and also called on international donors and partners to support the establishment of such a cell.

Possible options include:

- acknowledging the importance of counting civilian casualties;
- supporting the call on all states to ensure full and transparent reporting of those killed in armed violence around the world; and
- using the example of Somalia as a basis for addressing the issue in other country-specific situations.

Making amends to civilians harmed by lawful combat operations is the third such emerging issue. It is being promoted internationally by the “Making Amends Campaign” which brings together a group of NGOs. As opposed to reparations, which are a legal remedy to which victims of violations of international humanitarian, human rights and criminal law are entitled, there is no legal obligation under international law for making amends to civilian victims harmed by lawful combat operations.

The “Making Amends Campaign” promotes the idea that all civilians affected by armed conflict should have a right to compensation for harm suffered regardless of whether violations of international humanitarian law occurred or not and seeks a global standard of behaviour. Amends may include public apologies, monetary payments and livelihood assistance programs. Such practices exist and have been carried out for instance in Afghanistan, but there are widely varying policies.

Possible options include:

- encouraging states to make amends in relevant country-specific situations;
- emphasising that all civilians affected

by armed conflict, including those suffering losses as a result of lawful acts under international law, deserve help; and

- welcoming the emerging practice of states making amends to civilians whom they harm during armed conflict.

## Annex I: UN Documents and Useful Additional Sources

### Security Council Resolutions

#### Thematic Security Council Resolutions on Protection of Civilians

- S/RES/1894 (11 November 2009) focused on compliance, humanitarian access and implementation of protection mandates in UN peacekeeping.
- S/RES/1738 (23 December 2006) condemned intentional attacks against journalists, media professionals and associated personnel, and requested the Secretary-General to include as a sub-item in his next reports on protection of civilians the issue of the safety and security of journalists, media professionals and associated personnel.
- S/RES/1674 (28 April 2006) *inter alia* reaffirmed the responsibility to protect as formulated in the 2005 World Summit Outcome Document and expressed the Council's intention to ensure that protection is clearly outlined and given priority in peacekeeping mandates.
- S/RES/1502 (26 August 2003) condemned all violence against humanitarian and UN and associated personnel, recalled obligations to protect such personnel under international humanitarian, refugee and human rights law, and called for unimpeded humanitarian access.

- S/RES/1296 (19 April 2000) reaffirmed the Council's commitment to protection of civilians and requested another report on the issue from the Secretary-General.
- S/RES/1265 (17 September 1999) was the Council's first thematic resolution on protection of civilians, condemning targeting of civilians, calling for respect for international humanitarian, refugee and human rights law, expressing willingness to take measures to ensure compliance and to consider how peacekeeping mandates might better address the negative impact of conflict on civilians.

#### Other Thematic Resolutions

- S/RES/1998 (12 July 2011) expanded the criteria for listing parties to conflict in the Secretary-General's reports on children and armed conflict to include those that attack or threaten schools and hospitals.
- S/RES/1960 (16 December 2010) established a monitoring, analysis and reporting mechanism on conflict-related sexual violence in situations on the Council's agenda; and also called upon parties to armed conflict to make specific, time-bound commitments to prohibit and punish sexual violence and asked the Secretary-General to monitor those commitments.
- S/RES/1889 (5 October 2009) reaffirmed previous decisions on women, peace and security and requested the Secretary-General *inter alia* to ensure that all country reports to the Council provide information on the impact of situations of armed conflict on women and girls.
- S/RES/1888 (30 September 2009) requested the Secretary-General

to appoint a Special Representative to provide leadership and strengthen UN coordination of action on sexual violence in armed conflict and to ensure more systematic reporting on sexual violence to the Council, and decided to include specific provisions on sexual violence in UN peacekeeping mandates.

- S/RES/1882 (4 August 2009) expanded the criteria for inclusion on the Secretary-General's list of violators in his reports on children and armed conflict beyond the recruitment of children to include the killing and maiming of children and/or rape and other sexual violence against children.
- S/RES/1820 (19 June 2008) addressed sexual violence in conflict and post-conflict situations and asked the Secretary-General for a report with information on the systematic use of sexual violence in conflict areas and proposals for strategies to minimise the prevalence of such acts with benchmarks for measuring progress.

#### Sanctions Regimes Targeting Violations of International Humanitarian Law

- S/RES/2002 (29 July 2011) expanded the targeted sanctions relating to Somalia to include violations of international law involving the recruitment and use of children in armed conflict and the targeting of civilians including children and women.
- S/RES/1975 (30 March 2011) imposed sanctions on former Ivorian president Laurent Gbagbo and his circle.
- S/RES/1970 (26 February 2011) referred the situation in Libya to the ICC, imposed an arms embargo and targeted sanctions on individuals and entities designated as

responsible for the commission of serious human rights abuses.

- S/RES/1857 (22 December 2008) expanded the DRC sanctions regime to include individuals obstructing humanitarian assistance in the eastern part of the DRC.
- S/RES/1844 (20 November 2008) established a targeted sanctions regime for Somalia imposing measures on individuals or entities designated as obstructing humanitarian assistance in Somalia.
- S/RES/1807 (31 March 2008) expanded the DRC sanctions regime to include individuals operating in the DRC and committing serious violations of international law involving the targeting of children or women.
- S/RES/1698 (31 July 2006) expanded the DRC sanctions regime to include in the designation criteria recruitment or use of children in armed conflict or the targeting of children.
- S/RES/1672 (25 April 2006) designated four individuals as subject to the targeted measures imposed on Darfur.
- S/RES/1596 (18 April 2005) established a targeted sanctions regime for the DRC.
- S/RES/1591 (29 March 2005) established a targeted sanctions regime for Darfur which included in the designation criteria violations of international humanitarian law or other atrocities.
- S/RES/1572 (15 November 2004) established a sanctions regime for Côte d'Ivoire imposing targeted measures on persons responsible for serious violations of human rights and international humanitarian law.

#### **Other Country-Specific Resolutions**

- S/RES/2043 (21 April 2012) established the UN Supervision Mission in Syria (UNSMIS).

- S/RES/2042 (14 April 2012) authorised the deployment of 30 military observers to Syria.
- S/RES/2021 (29 November 2011) extended the DRC sanctions regime.
- S/RES/2016 (27 October 2011) lifted the no-fly zone and the provisions for the use of force for the protection of civilians in Libya.
- S/RES/2014 (21 October 2011) was on the situation in Yemen.
- S/RES/2009 (16 September 2011) was on the situation in Libya, partially lifting the arms embargo.
- S/RES/2008 (16 September 2011) renewed UNMIL's mandate for 12 months.
- S/RES/2003 (29 July 2011) renewed UNAMID's mandate until 31 July 2012.
- S/RES/2000 (27 July 2011) renewed UNOCI's mandate until 31 July 2012.
- S/RES/1997 (11 July 2011) authorised the withdrawal of UNMIS.
- S/RES/1996 (8 July 2011) established the UN Mission in South Sudan (UNMISS).
- S/RES/1992 (29 June 2011) extended the temporary redeployment of armed helicopters from UNMIL to UNOCI until 30 September 2011.
- S/RES/1991 (28 June 2011) extended the mandate of MONUSCO until 30 June 2012.
- S/RES/1990 (27 June 2011) established the UN Interim Security Force in Abyei (UNISFA) for six months.
- S/RES/1982 (17 May 2011) extended the mandate of the Sudan sanctions panel of experts until 19 February 2012.
- S/RES/1981 (13 May 2011) extended the mandate of UNOCI until 31 July and authorised the Secretary-General to extend until 30 June the temporary redeployment of UNMIL military assets to support UNOCI.

- S/RES/1978 (27 April 2011) renewed UNMIS until 9 July 2011.
- S/RES/1973 (17 March 2011) authorised all necessary measures—excluding an occupation force—to protect civilians in Libya and enforce the arms embargo, imposed a no-fly zone, strengthened the sanctions regime and established a panel of experts to monitor the regime.
- S/RES/1972 (17 March 2011) extended for 16 months the humanitarian exemption to the asset freeze provision of the Somalia sanctions regime.
- S/RES/1968 (16 February 2011) extended the mandate of troops temporarily deployed from UNMIL to UNOCI for another three months.
- S/RES/1967 (19 January 2011) authorised an increase of 2,000 troops in the overall strength of UNOCI and extended the mandate of troops temporarily deployed from the UNMIL to UNOCI.

#### **Security Council Presidential Statements**

##### **Thematic Presidential Statements on Protection of Civilians**

- S/PRST/2010/25 (22 November 2010) endorsed an updated aide-mémoire and requested a report from the Secretary-General by May 2012.
- S/PRST/2009/1 (14 January 2009) reaffirmed previous decisions on protection of civilians and endorsed an updated aide-mémoire.
- S/PRST/2008/18 (27 May 2008) reaffirmed previous decisions on protection of civilians and requested a report from the Secretary-General by May 2009.
- S/PRST/2005/25 (21 June 2005) expressed concern about limited progress on the ground to protect civilians, stressed in particular the need to provide physical protec-

tion for vulnerable groups, and invited the Secretary-General to address challenges related to peacekeeping.

- S/PRST/2004/46 (14 December 2004) reaffirmed the Council's commitment to the protection of civilians.
- S/PRST/2003/27 (15 December 2003) contained an updated aide-mémoire.
- S/PRST/2002/41 (20 December 2002) underscored the importance of the aide-mémoire, expressing the Council's willingness to update it annually, and also addressed in particular issues related to humanitarian access, refugees and internally displaced persons and gender-based violence.
- S/PRST/2002/6 (15 March 2002) contained an aide-mémoire to assist Council members in their consideration of protection of civilians issues.
- S/PRST/1999/6 (12 February 1999) was the first thematic decision on protection of civilians which also requested the first report from the Secretary-General on the issue.

#### **Other Thematic Presidential Statements**

- S/PRST/2012/3 (23 February 2012) commended the work of the Secretary-General's Special Representative on Sexual Violence in Conflict and stressed the need for continued data collection under the monitoring, analysis and reporting arrangements on sexual violence.
- S/PRST/2012/1 (19 January 2012) was on justice and the rule of law.
- S/PRST/2011/20 (28 October 2011) on women, peace and security underlined the importance of the participation of women in conflict prevention and resolution efforts and among other things reiterated the Council's condemnation of all

violations of applicable international law committed against women and girls in situations of conflict.

- S/PRST/2010/10 (16 June 2010) was on children and armed conflict in which the Council expressed its readiness to adopt targeted and graduated measures against persistent violators, invited the Working Group on Children and Armed Conflict to exchange pertinent information with relevant sanctions committees and for sanctions committees to regularly invite the Special Representative on Children and Armed Conflict to provide briefings.

#### **Country-Specific Presidential Statements**

- S/PRST/2012/10 (5 April 2012) was on the situation in Syria.
- S/PRST/2012/6 (21 March 2012) was on the situation in Syria, supporting the Joint Special Envoy's six-point plan for mediation of the Syrian crisis.
- S/PRST/2011/21 (14 November 2011) was on the LRA.
- S/PRST/2011/16 (3 August 2011) was on the situation in Syria.
- S/PRST/2011/13 (24 June 2011) was on the situation in Somalia.
- S/PRST/2011/12 (3 June 2011) was on Sudan in response to the Sudanese military takeover of Abyei.
- S/PRST/2011/11 (18 May 2011) was on the situation in the DRC.
- S/PRST/2011/10 (11 May 2011) was on the situation in Somalia.
- S/PRST/2011/8 (21 April 2011) was on the situation in southern Sudan, implementation of the CPA and the situation in Darfur.
- S/PRST/2011/6 (10 March 2011) was on Somalia, stressing the need for a comprehensive strategy.
- S/PRST/2011/3 (9 February 2011) welcomed the announcement of the results of the southern Sudan

referendum on independence.

#### **Reports of the Secretary-General**

##### **Thematic Reports on Protection of Civilians**

- S/2010/579 (11 November 2010) was the eighth (and latest) report.
- S/2009/277 (29 May 2009)
- S/2007/643 (28 October 2007)
- S/2005/740 (28 November 2005)
- S/2004/431 (28 May 2004)
- S/2002/1300 (26 November 2002)
- S/2001/331 (30 March 2001)
- S/1999/957 (8 September 1999) was the landmark first report on the issue.

##### **Other**

- S/2012/33 (13 January 2012) was a report on conflict-related sexual violence.
- S/2011/759 (9 December 2011) was a report on Somalia which referred to the recommendation by CIVIC to establish a civilian casualty tracking cell within AMISOM.
- S/2011/598 (29 September 2011) was a report on women, peace and security.
- S/2011/278 (29 April 2011) was a report on protection of civilians in Chad.
- S/1998/883 (22 September 1998) was on protection of humanitarian assistance to refugees and others in conflict situations.
- S/1998/318 (13 April 1998) was on the causes of conflict and the promotion of durable peace and sustainable development in Africa.

#### **Meeting Records**

##### **Thematic Debates on Protection of Civilians**

- S/PV.6650 and Res. 1 (9 November 2011)
- S/PV.6531 and Res. 1 (10 May 2011)
- S/PV.6427 and Res.1 (22 November 2010)
- S/PV.6354 and Res.1 (7 July 2010)

- S/PV.6216 and Res. 1 (11 November 2009)
- S/PV.6151 and Res. 1 (26 June 2009)
- S/PV.6066 and Res. 1 (14 January 2009)
- S/PV.5898 and Res. 1 (27 May 2008)
- S/PV.5781 and Res. 1 (20 November 2007)
- S/PV.5703 (22 June 2007)
- S/PV.5577 and Res. 1 (4 December 2006)
- S/PV.5476 (28 June 2006)
- S/PV.5319 and Res. 1 (9 December 2005)
- S/PV.5209 (21 June 2005)
- S/PV.5100 and Res. 1 (14 December 2004)
- S/PV.4877 (9 December 2003)
- S/PV.4777 (20 June 2003)
- S/PV.4660 and Res. 1 (10 December 2002)
- S/PV.4492 (15 March 2002)
- S/PV.4424 (21 November 2001)
- S/PV.4312 and Res. 1 (23 April 2001) and Corr. 1
- S/PV.4130 and Res. 1 (19 April 2000) and Corr. 1
- S/PV.4046 (16 September 1999) and Res. 1 and 2 (17 September 1999)
- S/PV.3980 and Res. 1 (22 February 1999)
- S/PV.3977 (12 February 1999)
- S/PV.3968 (21 January 1999)

#### **Other Council meetings**

- S/PV.6756 (21 April 2012) was the vote on resolution 2043 on Syria.
- S/PV.6751 (14 April 2012) was the vote on resolution 2042 on Syria.
- S/PV.6722 and Res. 1 (23 February 2012) was an open debate on conflict-related sexual violence.
- S/PV.6711 (4 February 2012) was the meeting in which China and Russia vetoed the second draft resolution on Syria.
- S/PV.6710 (31 January 2012) was

- a briefing on Syria by the Arab League calling on the Council to adopt draft resolution S/2012/77.
- S/PV.6705 and Res. 1 (19 January 2012) was an open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security.
  - S/PV.6642 and Res. 1 (28 October 2011) was an open debate on women, peace and security.
  - S/PV.6627 (4 October 2011) was the meeting in which China and Russia vetoed the first draft resolution on Syria.
  - S/PV.6599 (10 August 2011) was a meeting on Somalia which featured the Assistant-Secretary-General for Humanitarian Affairs as one of the briefers.
  - S/PV.6581 and Res. 1 (12 July 2011) was an open debate on children and armed conflict.
  - S/PV.6530 (9 May 2011) was a briefing on Libya by the Under-Secretary-General for Humanitarian Affairs.
  - S/PV.6524 (27 April 2011) was a meeting on Syria.
  - S/PV.6513 (13 April 2011) was a meeting on Côte d'Ivoire which featured the High Commissioner for Human Rights as one of the briefers.
  - S/PV.6471 (20 January 2011) was a meeting on Haiti which had the Under-Secretary-General for Humanitarian Affairs as one of the briefers.

#### **Other**

- SC/10564 (1 March 2012) was a Council press statement on the humanitarian situation in Syria calling on Syrian authorities to grant access to the Under-Secretary-General for Humanitarian Affairs.
- A/HRC/19/69 (22 February 2012) was the second report of the commission of inquiry on Syria

- established by the Human Rights Council.
- A/RES/66/253 (16 February 2012) was the General Assembly resolution on Syria endorsing the Arab League's 22 January decision on a Syrian political transition and requesting the Secretary-General to appoint a special envoy.
  - S/2012/77 (4 February 2012) was the second draft resolution on Syria vetoed by China and Russia.
  - S/2011/738 (2 December 2011) was a report from the Group of Experts for the DRC sanctions regime.
  - A/HRC/S-17/2/Add.1 (23 November 2011) was the first report of the commission of inquiry on Syria established by the Human Rights Council.
  - SC/10461 (28 November 2011) was a press release from the DRC Sanctions Committee announcing the listing of one individual for targeted sanctions on the basis of violations against children.
  - S/2011/701 (9 November 2011) was a letter from Brazil submitting its concept note on "Responsibility while Protecting."
  - S/2011/612 (4 October 2011) was the first draft resolution on Syria vetoed by China and Russia.
  - A/HRC/RES/S-17/1 (22 August 2011) was a Human Rights Council resolution deciding to dispatch urgently an independent international commission of inquiry to Syria.
  - S/2011/433 (18 July 2011) was a report from the Monitoring Group for the Somalia sanctions regime.
  - S/2011/345 (7 June 2011) was the mid-term report from the Group of Experts for the DRC sanctions regime.
  - A/HRC/RES/S-16/1 (29 April 2011) was a Human Rights Council resolution requesting an investigative mission to Syria.

- S/2011/272 (17 March 2011) was a report from the Monitoring Group for the Côte d'Ivoire sanctions regime.
- S/2011/111 (8 March 2011) was a report from the Panel of Experts for the Sudan sanctions regime.
- SC/8631 (7 February 2006) was a press release from the Côte d'Ivoire Sanctions Committee announcing the listing of three individuals subject to targeted measures under resolution 1572.

### Useful Additional Sources

- *Syria's Phase of Radicalisation*, International Crisis Group, Middle East Briefing No. 33, 10 April 2012
- *Legal Foundations for "Making Amends" to Civilians Harmed by Armed Conflict*, International Human Rights Clinic, Harvard Law School, February 2012
- *Monitoring Explosive Violence*, Action on Armed Violence, March 2012
- *The Legal Obligation to Record Civilian Casualties of Armed Conflict*, Oxford Research Group, June 2011
- *The New Horizon Initiative: Progress Report No.2*, DPKO/DFS, December 2011
- *Highlights from the Workshop on Accountability and Fact-finding Mechanisms for Violations of International Humanitarian Law and Human Rights Law: The Role of the Security Council – Past and Future*, OCHA/ Permanent Mission of Portugal to the UN, 1 November 2011
- *International Legal Protection of Human Rights in Armed Conflict*, Office of the High Commissioner for Human Rights, 2011
- *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, Global Centre for the Responsibility to Protect, Policy Brief, January 2009

## Annex II: Methods of Research

Security Council Report (SCR) published its first cross-cutting report on protection of civilians in October 2008. It provided background on relevant provisions of international law and Security Council involvement in the issue starting in the 1990s. It also analysed the way that the Council had implemented its thematic decisions on protection of civilians in specific cases following the adoption of its first thematic decisions in 1999 through to the end of 2007 and examined protection issues in the context of implementation of UN peacekeeping mandates.

Following this first report, SCR has published a cross-cutting report on protection of civilians annually. The aim of this series of reports is to systematically track the Council's involvement in protection of civilians both at the thematic and at the country-specific levels. Each report looks at important developments at the thematic level over the previous year, including in the context of UN peacekeeping. It also analyses Council decisions on protection of civilians in country-specific situations during the previous full calendar year. Additionally, it reviews developments in Council sanctions regimes and offers options for the Council's consideration to address protection issues more effectively.

In this fifth cross-cutting report on the protection of civilians, the statistical analysis focuses on Council decisions and reports of the Secretary-General for the year 2011 in order to allow for a meaningful comparison year-by-year. In other parts of the report, however, we have included references also to developments in 2012, such as in the case study on Syria, so as to provide an as up-to-date-picture as possible of current trends relating to the protection of civilians.

It should also be noted that the statistical analysis only covers country-specific situations which can reasonably be assumed to have a protection dimension either because of the existence of a relevant mandate for a UN peacekeeping mission, or because of the nature of the conflict. Thematic decisions were excluded from the statistical analysis, but where relevant are referred to in other parts of the report.

In this regard it is important to point out that the present report does not analyse in-depth Council action on children and armed conflict or sexual violence. While these are important protection issues, they are discussed in separate SCR cross-cutting reports. (Our most recent cross-cutting reports on Children and Armed Conflict and Women, Peace and Security were published on 6 July 2011 and 27 January 2012 respectively.) However, any substantive language on these issues in country-specific Council resolutions is accounted for in the statistical analysis section.

Information was obtained through research interviews with members of the Council, the UN Secretariat and NGO representatives, as well as from publicly available documents. It should be noted that SCR does not have any field presence, and that no field missions were conducted as part of the research for this report.

## Annex III: Current Protection Mandates in UN Peacekeeping Operations (as of May 2012)

Situations	Operation/ Relevant Council Decisions	Protection-Related Mandate
<b>1. Côte d'Ivoire</b>	UNOCI (2004-) S/RES/2000 (27 July 2011)	<ul style="list-style-type: none"> <li>• Protect, without prejudice to the primary responsibility of the Ivorian authorities, the civilian population from imminent threat of physical violence, within its capabilities and areas of deployment.</li> <li>• Revise the comprehensive strategy for the protection of civilians and coordinate with the UN protection of civilians strategy in liaison with the UN country team, to take into account the new realities on the ground and the specific needs of vulnerable groups, and to include measures to prevent gender-based violence pursuant to resolution 1960 (2010) and resolution 1882 (2009).</li> <li>• Work closely with humanitarian agencies, particularly in relation to areas of tensions and of return of displaced persons, to collect information on and identify potential threats against the civilian population, as well as reliable information on violations of international humanitarian and human rights law, bring them to the attention of the Ivorian authorities as appropriate, and to take appropriate action in accordance with the United Nations system-wide protection strategy in harmonization with UNOCI's protection strategy.</li> <li>• Monitor and report on violations and abuses against vulnerable populations, including children in line with resolution 1612 (2005), 1882 (2009) and 1998 (2011) and contribute to efforts to prevent such violations and abuses.</li> <li>• Contribute to the promotion and protection of human rights in Côte d'Ivoire, with special attention to grave violations and abuses committed against children and women, notably sexual and gender-based violence, in close coordination with the Independent Expert established under the Human Rights Council's resolution A/HRC/17/27.</li> <li>• Monitor, help investigate, and report publicly and to the Council, on human rights and humanitarian law violations with a view to preventing violations, developing a protecting environment and ending impunity, and, to this end, to strengthen its human rights monitoring, investigation and reporting capacity.</li> <li>• Bring to the attention of the Council all individuals identified as perpetrators of serious human rights violations and to keep the Committee established pursuant to resolution 1572 (2004) regularly informed of developments in this regard.</li> <li>• Support the efforts of the Ivorian Government in combating sexual and gender-based violence, including through contributing to the development of a nationally owned multisectoral strategy in cooperation with UN Action Against Sexual Violence in Conflict entities, to appoint Women Protection Advisers and to ensure gender expertise and training, as appropriate and from within existing resources, in accordance with resolutions 1888 (2009), 1889 (2009) and 1960 (2011).</li> <li>• Continue to facilitate unhindered humanitarian access and help strengthening the delivery of humanitarian assistance to conflict-affected and vulnerable populations, notably by contributing to enhance security conducive to this delivery.</li> <li>• Support the Ivorian authorities in preparing for the voluntary, safe and sustainable return of refugees and displaced persons in cooperation with relevant humanitarian organizations, and in creating security conditions conducive to it.</li> </ul>
<b>2. DRC</b>	MONUSCO (2010-) S/RES/1925 (28 May 2010)	<ul style="list-style-type: none"> <li>• Ensure the effective protection of civilians, including humanitarian personnel and human rights defenders, under imminent threat of physical violence, in particular violence emanating from any of the parties engaged in the conflict.</li> <li>• Support the efforts of the Government of the DRC to ensure the protection of civilians from violations of international humanitarian law and human rights abuses, including all forms of sexual and gender-based violence, to promote and protect human rights and to fight impunity, including through the implementation of the Government's "zero-tolerance policy" with respect to discipline and human rights and humanitarian law violations, committed by elements of the security forces, in particular its newly integrated elements.</li> </ul>

Situations	Operation/ Relevant Council Decisions	Protection-Related Mandate
		<ul style="list-style-type: none"> <li>• Support national and international efforts to bring perpetrators to justice, including by establishing Prosecution Support Cells to assist the FARDC military justice authorities in prosecuting persons arrested by the FARDC.</li> <li>• Work closely with the Government to ensure the implementation of its commitments to address serious violations against children, in particular the finalization of the Action Plan to release children present in the FARDC and to prevent further recruitment, with the support of the Monitoring and Reporting Mechanism.</li> <li>• Implement the United Nations system-wide protection strategy in the DRC, operationalising it with MONUSCO's protection strategy built on best practices and extend useful protection measures, such as the Joint Protection Teams, Community Liaison Interpreters, Joint Investigation Teams, Surveillance Centres and Women's Protection Advisers.</li> <li>• Support the Government's efforts, along with international partners and neighbouring countries, to create an environment conducive to the voluntary, safe and dignified return of internally displaced persons and refugees, or voluntary local integration or resettlement.</li> <li>• Support the efforts of the Government of the DRC to bring the ongoing military operations against the FDLR, the Lord's Resistance Army (LRA) and other armed groups, to a completion, in compliance with international humanitarian, human rights and refugee law and the need to protect civilians, including through the support of the FARDC in jointly planned operations, as set out in paragraphs 21, 22, 23 and 32 of resolution 1906 (2009).</li> <li>• Coordinate strategies with other United Nations missions in the region for enhanced information-sharing in light of the attacks by the LRA and, at the request of the Government of the Democratic Republic of the Congo, provide logistical support for regional military operations conducted against the LRA in the Democratic Republic of the Congo, in compliance with the international humanitarian, human rights and refugee law and the need to protect civilians.</li> </ul>
<b>3. Haiti</b>	MINUSTAH (2004-) S/RES/1542 (30 April 2004)	<ul style="list-style-type: none"> <li>• Protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment, without prejudice to the responsibilities of the government and of police authorities.</li> <li>• Support efforts to promote and protect human rights, particularly of women and children, in order to ensure individual accountability for human rights abuses and redress for victims.</li> <li>• Monitor and report on the human rights situation, in cooperation with the Office of the United Nations High Commissioner for Human Rights, including on the situation of returned refugees and displaced persons.</li> <li>• Provide advice and assistance within its capacity to the Transitional Government in the investigation of human rights violations and violations of international humanitarian law, in collaboration with the Office of the High Commissioner for Human Rights, to put an end to impunity.</li> <li>• Coordinate and cooperate with the Transitional Government as well as with their international partners, in order to facilitate the provision and coordination of humanitarian assistance, and access of humanitarian workers to Haitian people in need, with a particular focus on the most vulnerable segments of society, particularly women and children.</li> </ul>
<b>4. Lebanon</b>	UNIFIL (1978-) S/RES/1701 (11 August 2006)	<ul style="list-style-type: none"> <li>• Take all necessary action in areas of deployment of its forces and as it deems within its capabilities, to ensure the security and freedom of movement of UN personnel, humanitarian workers and, without prejudice to the responsibility of the Government of Lebanon, to protect civilians under imminent threat of physical violence.</li> <li>• Help ensure humanitarian access to civilian populations and the voluntary and safe return of displaced persons.</li> </ul>
<b>5. Liberia</b>	UNMIL (2003-) S/RES/1509 (19 September 2003)	<ul style="list-style-type: none"> <li>• Without prejudice to the efforts of the government, to protect civilians under imminent threat of physical violence, within its capabilities.</li> <li>• Facilitate the provision of humanitarian assistance, including by helping to establish the necessary security conditions.</li> </ul>



Situations	Operation/ Relevant Council Decisions	Protection-Related Mandate
		<ul style="list-style-type: none"> <li>• Contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children and demobilised child soldiers, within UNMIL's capabilities and under acceptable security conditions.</li> <li>• Ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection and monitoring activities.</li> </ul>
<b>6. South Sudan</b>	UNMISS (2011-) S/RES/1996 (8 July 2011)	<ul style="list-style-type: none"> <li>• Support the Government of the Republic of South Sudan in exercising its responsibilities for conflict prevention, mitigation, and resolution and protect civilians through:               <ul style="list-style-type: none"> <li>– exercising good offices, confidence-building, and facilitation at the national, state, and county levels within capabilities to anticipate, prevent, mitigate, and resolve conflict;</li> <li>– establishment and implementation of a mission-wide early warning capacity, with an integrated approach to information gathering, monitoring, verification, early warning and dissemination, and follow-up mechanisms;</li> <li>– monitoring, investigating, verifying, and reporting regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law, working as appropriate with the Office of the High Commissioner for Human Rights, bringing these to the attention of the authorities as necessary, and immediately reporting gross violations of human rights to the UN Security Council;</li> <li>– advising and assisting the Government of the Republic of South Sudan, including military and police at national and local levels as appropriate, in fulfilling its responsibility to protect civilians, in compliance with international humanitarian, human rights, and refugee law;</li> <li>– deterring violence including through proactive deployment and patrols in areas at high risk of conflict, within its capabilities and in its areas of deployment, protecting civilians under imminent threat of physical violence, in particular when the Government of the Republic of South Sudan is not providing such security; and</li> <li>– providing security for UN and humanitarian personnel, installations and equipment necessary for implementation of mandated tasks, bearing in mind the importance of mission mobility, and contributing to the creation of security conditions conducive to safe, timely, and unimpeded humanitarian assistance.</li> </ul> </li> <li>• Facilitating a protective environment for children affected by armed conflict, through implementation of a monitoring and reporting mechanism.</li> </ul>
<b>7. Sudan (Darfur)</b>	UNAMID (2007-) S/RES/1769 (31 July 2007) S/2007/307/Rev.1 (5 June 2007) (The resolution refers to this document, a joint report by the Secretary-General and the Chairperson of the AU Commission, for details about UNAMID's mandate.)	<ul style="list-style-type: none"> <li>• Contribute to the restoration of necessary security conditions for the safe provision of humanitarian assistance and to facilitate full humanitarian access throughout Darfur.</li> <li>• Contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians, within its capability and areas of deployment.</li> <li>• Contribute to a secure environment for economic reconstruction and development, as well as the sustainable return of internally displaced persons and refugees.</li> <li>• Contribute to the promotion of respect for and protection of human rights and fundamental freedoms.</li> <li>• Assist in the promotion of the rule of law in Darfur including through support for strengthening an independent judiciary and the prison system, and assistance in the development and consolidation of the legal framework.</li> </ul>
<b>8. Abyei</b>	UNISFA (2011-) S/RES/1990 (27 June 2011)	<ul style="list-style-type: none"> <li>• Facilitate the delivery of humanitarian aid and the free movement of humanitarian personnel in coordination with relevant Abyei Area bodies as defined by the Agreement.</li> <li>• Ensure the security and freedom of movement of United Nations personnel, humanitarian personnel and members of the Joint Military Observers Committee and Joint Military Observer Teams.</li> <li>• Without prejudice to the responsibilities of the relevant authorities, to protect civilians in the Abyei Area under imminent threat of physical violence.</li> </ul>

## Annex IV: Meetings of the Council's Informal Expert Group on Protection of Civilian and Related Council Decisions since its establishment in 2009

Mission discussed	Meetings in 2009	Meetings in 2010	Meetings in 2011
UNOCI	2 (January and July)	2 (January and June)	2 (March and June)
AMISOM		2 (January and December)	1 (September)
MINURCAT (terminated on 31 December 2010)		2 (February and December)	
UNAMA	1 (March)	1 (March)	1 (February)
UNMIS	1 (April)	1 (April)	1 (May)
UNMISS			1 (May)
MONUSCO	1 (December)	1 (April)	1 (June)
UNAMID	1 (July)	1 (July)	1 (July)
UNAMI	1 (July)	1 (July)	1 (July)
ISAF		1 (September)	1 (October)
<b>Total number of meetings</b>	<b>7</b>	<b>12</b>	<b>10</b>

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**Security Council Report is supported by the Governments of Australia, Austria, Belgium, Canada, Finland, Germany, Kuwait, Liechtenstein, Luxembourg, Norway, Singapore, Sweden and Switzerland, the Ford Foundation, the John D. and Catherine T. MacArthur Foundation and the William and Flora Hewlett Foundation. It is incorporated as a not for profit Organisation and operates in affiliation with the School of International and Public Affairs at Columbia University in New York.**

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