

Security Council Open Debate on the Protection of Civilians in Armed Conflict
25 June 2012, Security Council Chamber

Statement by Ambassador H.E. Palitha T.B. Kobona, Representative of Sri Lanka

Mr. President,

Let me join the previous speakers in thanking the Permanent Mission of China for convening this open debate. I would also like to thank the Secretary-General, the Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, the Assistant Secretary-General for Human Rights and the ICRC representative for their presentation. We are thankful to the Minister of Foreign Affairs of Guatemala for his presence here and his presentation.

Mr. President,

The Secretary-General's ninth report on civilians in armed conflict in 2012 states that the five core challenges for the protection of civilians continue to "remain urgent." It states that despite some progress, the ground reality has not qualitatively improved. Particularly worrying is that gender based violence, including sexual violence, attacks against children, schools, health facilities, humanitarian access to affected populations etc., continue unabated.

We welcome the clarification of the principles and the misconceptions and misinterpretations relating to the protection of civilians and the responsibility to protect. "The protection of civilians is a legal concept based on international humanitarian, human rights and refugee law, while the responsibility to protect is a political concept, set out in the 2005 World Summit outcome..." "There are important differences in their scope. The protection of civilians refers to violations of international humanitarian and human rights law in situations of armed conflict. The responsibility to protect is limited to violations that constitute war crimes or crimes against humanity or that could be considered genocide or ethnic cleansing." Further, the Report states that "sparing civilians from the effects of hostilities requires compliance by parties to conflict with international humanitarian law and, in particular, the principles of distinction and proportionality. It requires parties to take all feasible precautions both in attacking and in defending. The law is also clear that under no circumstances do violations of these rules by one party justify violations by any other party." We hope that the clarifications provided in the Secretary-General's report will contribute to the application of those principles in a considered and non-political manner without the ever too present overlay of emotion and propaganda. We also welcome the recommendations in the report, especially the focus on displacements and increased attacks against health facilities.

Mr. President,

Ad-hoc approaches, that we have seen far too frequently, will not achieve the noble underlying goals of these principles. Global principles, if they are to be respected, must be applied consistently and non-selectively. Furthermore the protection task cannot be the hostage of solely theoretical analyses. It requires us to be conscious of a multiplicity of different underlying factors, ranging from political realities, socio-economic influences, basic individual rights, proliferating small arms, and the sophistication of terrorists, particularly in mobilizing the media. The resort to modern technology and propaganda methods by rebel groups, in particular terrorist groups and their networks of sympathizers and the agitated media, are becoming an increasing concern. Many a time, reality has been drowned by clever propaganda. The practical realities based on the experiences of Member States, particularly those which have successfully countered terrorism, must be seriously examined instead of a theoretical application of one size fits all humanitarian framework. The use of civilians as human shields and bargaining chips by such groups has made the application of the above principles a nightmarish challenge.

Mr. President,

The protection of civilians is not a static concept and it has relevance in the immediate and medium term post-conflict contexts. Sri Lanka has seriously taken account of the principles underlined in the Council's thematic resolutions since 1999. Its commitment is demonstrated in the manner Sri Lanka addressed the needs of civilians and their protection during the conflict with the terrorist LTTE and in its aftermath. Throughout the final phase of the armed conflict, from 2006 to 2009, Sri Lanka engaged with the United Nations and its agencies, the International Committee of the Red Cross (ICRC) and representatives of the international community and civil society – both in Sri Lanka and outside. The difficulties that Sri Lanka faced in protecting its civilians and providing humanitarian assistance were a challenge to the

State itself and its institutions. Sri Lanka highlighted a unique situation where successive Governments continued to maintain the supply of essential food and services, including educational and health services to LTTE controlled areas, unimpeded during the entire period of its protracted conflict. The Consultative Committee on Humanitarian Assistance (CCHA), which had as its members the key UN agencies and the donor community, meticulously monitored the flow of essential food and medicine to the LTTE controlled areas. The Lessons Learnt and Reconciliation Commission (LLRC) Report of Sri Lanka in paras 4.143 - 4.213 comprehensively details the supply of essential services to these areas.

Sri Lanka adopted a zero civilian casualty policy, despite the use of hundreds of thousands of civilians as a human shield by the terrorists. It was a primary goal for the security forces, which paid a high price as a consequence. We continue to emphasize that the nature of contemporary conflicts has posed new challenges to the legal framework for the protection of civilians in conflict situations. The terrorist and the non-combatant civilian are often indistinguishable. The terrorist often uses the civilian as a camouflage. The LTTE terrorist group, for example, made the Tamil civilian population under its control a part of their military strategy. During almost three decades of combating LTTE terrorism in our country, we took utmost care to draw a clear distinction between civilians and terrorists while the terrorists callously used the civilians as a human shield. Their objective was Machiavellian. The coerced presence of the civilians around the retreating terrorists was designed to slow the advance of the Security Forces and as a means of formulating an escape strategy for the leadership. If all else failed, it was a useful foundation to develop allegations of breaches of global humanitarian standards. Yet, our troops were provided training to distinguish between combatants and civilians. Assistance was obtained from the ICRC in the training of troops in human rights law.

The results of the access given to humanitarian agencies in the post-conflict stage, is reflected in the measurable overall wellbeing of the displaced and affected populations. The former UN Resident and Humanitarian Coordinator, Mr. Neil Buhne, in a letter addressed to the Government of Sri Lanka on April 8, 2010, said (I quote), "Under the leadership of the Government and in close partnership with UN agencies and other partners including NGOs, the 'humanitarian catastrophe' predicted by some quarters when almost 300,000 people escaped from the Vanni between January and May 2009 was averted... Two statistics reflect well the basic effectiveness of this government led effort to assist them, a nutrition survey of children in the Menik Farm camps in May 2009 found levels of acute malnutrition of 35%, By December the level was 13.5% which is comparable to the national average. Another is the increasing progress and strong partnership on demining, spurred by the Government's own commitment of resources to purchase specialized demining equipment ..." (Letter dated April 8, 2010)

While Sri Lanka welcomes the recognition in the Secretary-General's report that Sri Lanka has done away with security clearances for "humanitarian actors" in the North, we reiterate that at the end of the conflict access was given to NGO's and INGO's, who had well designed/funded projects that were in the priority areas identified by the Government on the basis of a needs assessment. There were 89 NGOs, INGOs and UN agencies operating in the North after the conflict. Sri Lanka appreciates the assistance provided by those NGOs and INGOs. The ICRC, which operated even in the conflict affected areas, was used to evacuate the injured almost up to the end of the fighting.

An inevitable consequence of armed conflict is internal displacement. There are over 27 Million IDP's worldwide according to UN reports. The State has the primary responsibility not only to provide for the welfare of displaced civilians in terms of food, clothing, medical care and shelter, but also to ensure their safety, in keeping with the provisions of the Guiding Principles on Internal Displacement. In Sri Lanka, in the post conflict phase, unprecedented progress has been made in the areas of resettlement of IDPs, restoration of schools and health facilities, rehabilitation and reintegration of former child soldiers and adult combatants, infrastructure development and restoration of livelihoods, through a multi-faceted reconstruction and development programme. More than 95% of the displaced have now been successfully returned to their towns and villages. The balance will be so returned this year. It is estimated that the LTTE terrorists laid around 1.5 million landmines. The Government has also allocated approximately US\$300 million for infrastructure and economic development programmes in the Jaffna district in the North while US\$250 million and US\$150 million have been injected to projects in the Killinochchi and Batticaloa districts. Since the end of the conflict, the North has recorded a 22% economic growth last year, while Sri Lanka's GDP recorded an 8.0% growth in 2010 (UNDP Country Report).

Sri Lanka also set up special Women's Protection Units with female Police officers and Women's Centres in the former IDP camps and is continuing to provide psycho-social counseling services in the North and the East. The Government has given special consideration to uplifting the social and economic status of war widows. Bilateral assistance has been obtained to initiate a self-employment programme for war widows in Batticaloa in collaboration with the Self Employed Women's Association (SEWA) based in India. The protection and care of war affected women and children is a priority

for the Government and every effort is being made to ensure that their lives are returned to normalcy as soon as possible.

Through sustained political will and proactive efforts, the rehabilitation and re-integration of former child combatants under its campaign of “Bring back the Child” was achieved. In the conflict’s aftermath, 594 child combatants (231 girls and 363 boys between 12-18 years) were taken into custody by the security forces. Adopting the principle of restorative justice and not retributive justice, these former child soldiers were placed in institutional rehabilitation centres and received access to education, vocational training, health care and psychosocial support. Following rehabilitation they have all been reunited with their immediate or extended families. These institutionally rehabilitated former child soldiers are now continuing community-based rehabilitation. Recognizing Sri Lanka’s success on this issue, the country has been delisted from the Annexes to the Secretary-General’s Report on Children and Armed Conflict.

Recognizing that it is first and foremost the responsibility of States to investigate and address infractions of humanitarian standards, the Government established the Lessons Learnt and Reconciliation Commission (LLRC) in May 2010 to address reconciliation and confidence building issues, including accountability. It was tabled in the Parliament, on 16th December 2011. Sri Lanka has done much more and faster than other countries in similar circumstances. In this context, Sri Lanka considers the HRC resolution 19/2 referred to in the Secretary-General’s report, politically motivated, ill-conceived and counter-productive. The LLRC Report offers detailed observations and recommendations based on international humanitarian law principles, in particular, relating to the final phase of the conflict. The Government has, on its own continued to implement social, economic and security measures to advance reconciliation, consistent also with the LLRC’s findings. Mechanisms for this purpose have been put in place. Sri Lanka will, with or without outside interventions, continue to take all necessary measures to heal its wounds. Outside interventions, even if they are well intentioned, will cause internal resentment, re-open wounds and complicate reconciliation efforts.

The Government has developed a National Action Plan for the Promotion and Protection of Human Rights, which has been approved by the Cabinet of Ministers. Currently the National Action Plan, which is time bound, is at the implementation phase.

Sri Lanka would also be submitting itself to the Universal Periodic Review of the HRC in October 2012 and looks forward to discussing questions relating to all pertinent issues at that time. It would also give us the time and space to implement the recommendations of the LLRC.

Mr. President,

My delegation hopes that the Council discussion on the Protection of Civilians will facilitate practical outcomes based on ground realities - realities that differ from situation to situation. It is for this reason that my delegation has sought to share our experience. We must invest greater efforts in preventing conflicts and their recurrence and respond practically and proportionately to situations affecting civilian populations. Allow me to share the observations of the head of the UNICEF Executive Board delegation following a field visit to Sri Lanka in March 2012. Ambassador Macharia Kamau, the Permanent Representative of Kenya to the United Nations said, “[a] lot of times we find that countries that have a middle income status tend to drop off the priority list of UNICEF. In fact Sri Lanka illustrates why UNICEF needs to remain engaged...It is in these countries that lessons can be learnt in ways in which [they] can be transferred to other, less developed, countries much more rapidly.”

Thank you, Mr. President