



NMUN • EUROPE

LILLE, FRANCE 2012

SECURITY COUNCIL  
BACKGROUND GUIDE 2012

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## Official Welcome to NMUN-Europe 2012

Dear Delegates, Faculty Members, Head Delegates and Friends,

It is with great pleasure and enthusiasm that we welcome you to the 2012 NMUN-Europe conference in Lille, France. We are delighted to host the second international NMUN conference in Europe from 31 January to 6 February 2012.

The NMUN-Europe conference is directed towards giving delegates a chance for a deeply rewarding educational experience. It will challenge them with interesting and current topics, and give them the chance to interact with participating students from more than ten different countries. We have selected committees and topics to reflect recent developments and challenges facing the international community; ranging, for example, from the protection of armed civilians in conflict to international cooperation on drugs, to one of the main events in the UN calendar for 2012: the Conference on Sustainable Development. To ensure the quality of our educational mission, each committee is staffed with directors that have held or currently hold senior staff positions at NMUN-NY, working with talented new volunteer staffers from our host university, Sciences Po Lille.

The conference will take place in the center of Lille in the modern building of the Conseil de Région, the local administration where elected representatives from the region meet every month. The conference site, offers an insight into the Nord Pas de Calais region in northern France. Lille is famous for its architecture, its local dishes and beverages, and as the birthplace of General Charles de Gaulle. The city and its region are very well connected, situated at the crossroads of major European cities. Delegates are invited to participate in an excursion to Brussels, the centre of political decision-making in the European Union.

Please do not hesitate to contact us with any questions you're facing in the preparation for the conference.

Best regards, safe travels and see you in Lille in January 2012!



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## **Message from the Directors-General Regarding Position Papers for the 2012 NMUN-Europe Conference**

At the 2012 NMUN-Europe Conference, each delegation submits one position paper for each committee it is assigned to. Delegates should be aware that their role in each committee impacts the way a position paper should be written. While most delegates will serve as representatives of Member States, some may also serve as observers, NGOs or judicial experts. To understand these fine differences, please refer to the Delegate Preparation Guide.

Position papers should provide a concise review of each delegation's policy regarding the topic areas under discussion and establish precise policies and recommendations in regard to the topics before the committee. International and regional conventions, treaties, declarations, resolutions, and programs of action of relevance to the policy of your State should be identified and addressed. Making recommendations for action by your committee should also be considered. Position papers also serve as a blueprint for individual delegates to remember their country's position throughout the course of the Conference. NGO position papers should be constructed in the same fashion as position papers of countries. Each topic should be addressed briefly in a succinct policy statement representing the relevant views of your assigned NGO. You should also include recommendations for action to be taken by your committee. It will be judged using the same criteria as all country position papers, and is held to the same standard of timeliness.

Please be forewarned, delegates must turn in material that is entirely original. ***The NMUN Conference will not tolerate the occurrence of plagiarism.*** In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim re-creation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the Committee Background Guides. Violation of this policy will be immediately reported to faculty advisors and may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

Delegation's position papers can be awarded as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below. Please refer to the sample paper on the following page for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single spaced pages (one double sided paper, if printed)
- Font **must** be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at 1 inch for whole paper
- Country/NGO name, School name and committee name clearly labeled on the first page; the use of national symbols is highly discouraged
- Agenda topics clearly labeled in separate sections

Positions paper for NMUN-Europe need to be submitted via e-mail, unless other arrangements are made with the Director-General. To be considered timely for awards, please read and follow these directions:

1. A file of the position paper (**.doc or .pdf**) for each assigned committee should be sent to [dirgen.europe@nmun.org](mailto:dirgen.europe@nmun.org). Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each of the above listed tasks need to be completed no later than midnight on **January 1, 2012** (Eastern Standard Time).
3. Please title each e-mail and document with the name of the committee, assignment, and delegation name (for example: SC\_Namibia\_University of Caprivi). If you prefer to send a complete set of positions per country please note this in the subject line (Delegation\_Namibia\_University of Caprivi).

Once the formal requirements outlined above are met, Conference staff use the following criteria to evaluate Position Papers:

- Overall quality of writing, proper style, grammar, etc.
- Citation of relevant resolutions/documents
- General consistency with bloc/geopolitical constraints
- Consistency with the constraints of the United Nations
- Analysis of issues, rather than reiteration of the Committee Background Guide
- Outline of (official) policy aims within the committee's mandate

Finally, please consider that a considerable number of position papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and is greatly appreciated. Should you have any questions please feel free to contact the Director-General, though as we do not operate out of a central office or location your consideration for time zone differences is appreciated.

Sincerely yours,

Holger Bär  
Director-General  
[dirgen.europe@nmun.org](mailto:dirgen.europe@nmun.org)

### **Sample Position Paper**

The following position paper is designed to be a sample of the standard format that an NMUN position paper should follow. While delegates are encouraged to use the front and back of a single page in order to fully address all topics before the committee, please remember that only a maximum of one double-sided page (or two pages total in an electronic file) will be accepted. Only the first double-sided page of any submissions (or two pages of an electronic file) will be considered for awards.

***Position Paper for the General Assembly Plenary***

The issues before the General Assembly Plenary are: The Use of Economic Sanctions for Political and Economic Compulsion; Democracy and Human Rights in Post-Conflict Regions; as well as The Promotion of Durable Peace and Sustainable Development in Africa. The Mexican Delegation first would like to convey its gratitude being elected and pride to serve as vice-president of the current General Assembly Plenary session.

**I. The Use of Economic Sanctions for Political and Economic Compulsion**

The principles of equal sovereignty of states and non-interference, as laid down in the Charter of the United Nations, have always been cornerstones of Mexican foreign policy. The legitimate right to interfere by the use of coercive measures, such as economic sanctions, is laid down in Article 41 of the UN-charter and reserves the right to the Security Council.

Concerning the violation of this principle by the application of unilateral measures outside the framework of the United Nations, H.E. Ambassador to the United Nations Enrique Berruga Filloy underlined in 2005 that the Mexico strongly rejects “the application of unilateral laws and measures of economic blockade against any State, as well as the implementation of coercive measures without the authorization enshrined in the Charter of the United Nations.” That is the reason, why the United Mexican States supported – for the 14th consecutive time – Resolution (A/RES/60/12) of 2006 regarding the *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*.

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest. An example is the case of negative spill-over effects of economic sanctions on neighboring countries, in which affected countries additionally need to be enabled to voice their problems more effectively, as addressed in the resolution *Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions* (A/RES/54/107). Non-state actors have in the last years tremendously grown in their political importance, especially with regard to the international fight against terrorism. Their position and the possibilities of the application of economic sanction on non-state actors is another topic that urgently needs to be considered.

**II. Democracy and Human Rights in Post-Conflict Regions**

As a founding member of the United Nations, Mexico is highly engaged in the Promotion of Democracy and Human Rights all over the world, as laid down in the *Universal Declaration on Human Rights (UDHR)* in 1948. Especially since the democratic transition of Mexico in 2000 it is one of the most urgent topics to stand for Democratization and Human Rights, and Mexico implements this vision on many different fronts.

In the Convoking Group of the intergovernmental Community of Democracies (GC), the United Mexican States uphold an approach that fosters international cooperation to promote democratic values and institution-building at the national and international level. To emphasize the strong interrelation between human rights and the building of democracy and to fortify democratic developments are further challenges Mexico deals with in this committee. A key-factor for the sustainable development of a post-conflict-region is to hold free and fair election and thus creating a democratic system. Being aware of the need of post-conflict countries for support in the preparation of democratic elections, the United Mexican States contribute since 2001 to the work of the International Institute for Democracy

and Electoral Assistance (IDEA), an intergovernmental organization operating at international, regional and national level in partnership with a range of institutions. Mexico's foreign policy regarding human rights is substantially based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

The objectives Mexico pursues are to improve human rights in the country through structural changes and to fortify the legal and institutional frame for the protection of human rights on the international level. Underlining the connection between democracy, development and Human Rights, stresses the importance of cooperation with and the role of the High Commissioner on Human Rights and the reform of the Human Rights Commission to a Human rights Council.

Having in mind the diversity of challenges in enforcing democracy and Human Rights, Mexico considers regional and national approaches vital for their endorsement, as Mexico exemplifies with its *National Program for Human Rights* or the *Plan Puebla Panama*. On the global level, Mexico is encouraged in working on a greater coordination and interoperability among the United Nations and regional organizations, as well as the development of common strategies and operational policies and the sharing of best practices in civilian crisis management should be encouraged, including clear frameworks for joint operations, when applicable.

### **III. The Promotion of Durable Peace and Sustainable Development in Africa**

The United Mexican States welcome the leadership role the African Union has taken regarding the security problems of the continent. Our delegation is furthermore convinced that The New Partnership for Africa's Development (NEPAD) can become the foundation for Africa's economic, social and democratic development as the basis for sustainable peace. Therefore it deserves the full support of the international community.

The development of the United Mexican States in the last two decades is characterized by the transition to a full democracy, the national and regional promotion of human rights and sustainable, economic growth. Mexico's development is characterized by free trade and its regional integration in the North American Free Trade Agreement. Having in mind that sustainable development is based not only on economic, but as well on social and environmental development, President Vicente Fox has made sustainable development a guiding principle in the Mexican Development Plan that includes sustainability targets for all major policy areas.

The United Nations Security Council has established not less than seven peacekeeping missions on the African continent, underlining the need for full support by the international community. In post-conflict situations, we regard national reconciliation as a precondition for a peaceful development, which is the reason why Mexico supported such committees, i.e. in the case of Sierra Leone. The United Mexican States are convinced that an other to enhance durable peace in Africa is the institutional reform of the United Nations. We therefore want to reaffirm our full support to both the establishment of the peace-building commission and the Human Rights Council. Both topics are highly interrelated and, having in mind that the breach of peace is most often linked with severest human rights' abuses, thus need to be seen as two sides of one problem and be approached in this understanding.

As most conflicts have their roots in conflicts about economic resources and development chances, human development and the eradication of poverty must be at the heart of a successful, preventive approach. Lifting people out of poverty must be seen as a precondition not only for peace, but for social development and environmental sustainability.

The United Mexican States want to express their esteem for the decision taken by the G-8 countries for a complete debt-relief for many African Highly-Indebted-Poor-Countries. Nevertheless, many commitments made by the international community that are crucial for Africa's sustainable development are unfulfilled. The developed countries agreed in the *Monterrey Consensus of the International Conference on Financing for Development* (A/CONF.198/11) to increase their Official Development Aid (ODA) "towards the target of 0,7 per cent of gross national product (GNP) as ODA to developing countries and 0,15 to 0,20 per cent of GNP of developed countries to least developed countries". Furthermore, the United Mexican States are disappointed by the result of the Hong Kong Ministerial conference of the World Trade Organization, which once more failed to meet the needs of those, to whom the round was devoted: developing countries and especially African countries, who today, more than ever, are cut off from global trade and prosperity by protectionism.

With regard to the African Peer Review Mechanism, the United Mexican States want to underline that good governance is an integral part of sustainable development. Therefore, we support all efforts by African countries to make the mechanism obligatory to increase transparency and accountability in all African countries.

# Security Council Committee History

## Introduction

The Security Council was created in 1945 by the *Charter of the United Nations* as one of the six primary organs of the United Nations (UN). It is responsible for maintaining international peace and security, and is mandated under Article 24 of the Charter to “[maintain] international peace and security.”<sup>1</sup> This body is unique due to its authority: all the Member States of the UN, and even non-member states, are bound by its decisions.<sup>2</sup>

The general missions of the Security Council are organized on two levels: first, determining “the existence of any threat to the peace, breach of the peace, or act of aggression,” and second, making recommendations or deciding “what measures shall be taken [...] to maintain or restore international peace and security.”<sup>3</sup> Although its mandate originally concerned geographically defined conflict and crisis situations, its field of intervention has been broadened and diversified. Terrorism is now a preeminent issue addressed by the Council, and other thematic topics have also been added to the agenda, such as children and armed conflict, and women, peace and security.<sup>4</sup>

## Membership

The Security Council meets continuously throughout the year and all members are required to have at least one representative at the UN at all times.<sup>5</sup> While States are usually represented by their Permanent Representatives at the UN, government officials such as Foreign Ministers and Heads of State or Heads of Government may also represent their State within the Security Council.<sup>6</sup>

The membership of the Council includes both permanent and non-permanent members. The five permanent members are China, France, the Russian Federation, the United Kingdom and the United States of America. There were initially six non-permanent members, but an expansion of the Security Council was implemented through an amendment to the Charter in 1965, creating four additional non-permanent seats.<sup>7</sup> These non-permanent members are elected for a non-renewable period of two years, on a regional basis. Five members are elected from Africa and Asia, one from Eastern Europe, two from Latin America and two for Western Europe and other States.<sup>8</sup> The presidency is rotated between the Member States on a monthly basis according to English alphabetical order. The current membership of the Security Council is:

Bosnia & Herzegovina	Gabon	Portugal
Brazil	Germany	Russian Federation
China	India	South Africa
Colombia	Lebanon	United Kingdom
France	Nigeria	United States

Any Member of the United Nations, which is not a Member of the Security Council, is allowed to participate in the debate and discussions of the Council “whenever the latter considers that the interests of that Member are specially affected” or “if it is a party to a dispute under consideration by the Security Council.”<sup>9</sup> This option also exists for

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<sup>1</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Chapter V.

<sup>2</sup> Kuziemko and Werker, *How Much Is a Seat on the Security Council Worth? Foreign Aid and Bribery at the United Nations*, 2006, p. 909.

<sup>3</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 39.

<sup>4</sup> United Nations Security Council, *Report of the Security Council, 1 August 2009-31 July 2010*, New York, 2010.

<sup>5</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 28.

<sup>6</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 28.

<sup>7</sup> United Nations General Assembly, *Resolution 1991*, 1963.

<sup>8</sup> United Nations General Assembly, *Resolution 1991*, 1963.

<sup>9</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 31; United Nations General Assembly, *Charter of the United Nations*, 1945, Article 32.

non-state actors as well as states which are not members of the United Nations.<sup>10</sup> Their right to speak and participate in debate does not, however, grant them any voting powers within the Security Council.<sup>11</sup>

### ***Voting procedures***

The Security Council makes decisions in the form of resolutions and presidential statements. The first resolution was adopted in 1946, and to date more than 2000 resolutions have been passed.<sup>12</sup> Decisions need the approval of at least nine out of the 15 members.<sup>13</sup> For decisions on substantive matters nine votes are required, “including the concurring votes of all five permanent members.”<sup>14</sup> By this rule, the five permanent members have a veto power, allowing them to prevent a resolution from being adopted.<sup>15</sup> This rule is also known as the “great Power unanimity,” but is more commonly known as “the veto power.”<sup>16</sup> When a resolution is adopted, it is binding upon all the Member States of the United Nations.<sup>17</sup>

Another option available to the Council is to pass a Presidential Statement, which is issued by the President of the Council to give the opinion or position of the Council on an issue.<sup>18</sup> A Presidential Statement, unlike a resolution, is not legally binding, but it requires unanimous approval by the Council.<sup>19</sup> When issued instead of a resolution or as a complement to a resolution, Presidential Statements generally reflect “the mood of the Council on a given issue and they outline the Council’s future intentions and course of action.”<sup>20</sup> For example, Germany made a statement on behalf of the Council during their July 2011 Presidency concerning the “Admission of new Members,” and more specifically the recognition of the Republic of South Sudan as a new member of the United Nations.<sup>21</sup>

### ***Powers and functions***

Under Chapter VI of the UN Charter, the Security Council is given the responsibility to help and facilitate “pacific settlements of dispute.”<sup>22</sup> Thus, in the case of “any dispute, or any situation which might lead to international friction or give rise to a dispute,” the Security Council “may investigate [...] in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.”<sup>23</sup> It may then recommend “appropriate procedures or methods of adjustment,” and if the dispute actually represents a threat to international peace and security, it should decide to take action or “to recommend terms of settlement as it may consider appropriate.”<sup>24</sup>

Chapter VII of the Charter presents the range of enforcement measures the Security Council can decide to implement to “give effects to its decisions.”<sup>25</sup> It is empowered to “determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken [...] to maintain or restore international peace and security.”<sup>26</sup> Among those measures, the Committee can first decide to employ peaceful ones, without any use of armed force.<sup>27</sup> The Council is empowered to implement economic sanctions, under the form of “complete or partial interruption of economic relations.”<sup>28</sup> Recently, the Council has

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<sup>10</sup> Soltau, *The Right to Participate in the Debates of the Security Council*, 2000.

<sup>11</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Chapter V.

<sup>12</sup> United Nations Security Council, *Resolutions in 2011*, 2011.

<sup>13</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 27.

<sup>14</sup> United Nations Security Council, *Membership in 2011*, 2011.

<sup>15</sup> Sarooshi, *Security Council*, Global Policy Forum, n. d.

<sup>16</sup> United Nations Security Council, *Membership in 2011*, 2011.

<sup>17</sup> United Nations Security Council, *Membership in 2011*, 2011.

<sup>18</sup> Kirgis, *The Security Council First Fifty Years*, 1995, p. 519.

<sup>19</sup> Talmon, *The statements by the President of the Security Council*, 2003, p. 1.

<sup>20</sup> PeaceWomen Project, *Presidential Statements*, n. d.

<sup>21</sup> United Nations Security Council, *Statement by the President of the Security Council, S/PRST/2011/14*, 2011.

<sup>22</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Chapter VI.

<sup>23</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 34.

<sup>24</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 36; United Nations General Assembly, *Charter of the United Nations*, 1945, Article 37.

<sup>25</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 41.

<sup>26</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 39.

<sup>27</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 41.

<sup>28</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 41.



increasingly used specific “targeted sanctions such as arms embargoes, travel bans, financial or diplomatic sanctions.”<sup>29</sup>

Chapter VII also allows the Security Council to authorize the use of force if the preceding measures are inadequate or inefficient.<sup>30</sup> The Council is authorized to take military action “by air, sea, or land forces as may be necessary to maintain or restore international peace and security.”<sup>31</sup> Although “the Charter does not expressly provide powers to the Council for peace-keeping forces,” the Committee generally employs military measures for peacekeeping operations.<sup>32</sup> They can be implemented “after ceasefires have been agreed upon,” and they can “include soldiers but also civilian police, election monitors, de-mining and demobilization experts, and civilian administrative personnel.”<sup>33</sup> There are currently 16 peacekeeping operations deployed around the world.<sup>34</sup>

Security Council sessions take the form of public and private meetings. A private session can be held occasionally; one example of a private session is when the Council recommends a new Secretary-General to the General Assembly.<sup>35</sup> However, “since 1990, the Council has conducted most of its business in private ‘consultations’ (informal and off-the-record meetings).”<sup>36</sup> The action of the Council is organized between several subsidiary bodies, with specific areas and fields of work: the Sanctions Committees, the Counter-Terrorism Committee, five Working Groups on Peacekeeping Operations, on Children and Armed Conflicts, and the International Tribunals for the Former Yugoslavia and Rwanda.<sup>37</sup>

### ***Current Challenges and Conclusion***

For the Security Council, the end of the Cold War was the beginning of a new legitimacy and a new effectiveness in its actions, with an “increased consensus in its decision making and a greater emphasis on becoming more operational.”<sup>38</sup> However, the way “the Council does its work has become under increased scrutiny from within and outside its ranks as it has taken on a more active role.”<sup>39</sup> It is thus facing more and more critics concerning its working methods and procedures. The difficulties it faced standing up to some of its permanent members was revealed by the issue of the Iraq War in 2003, when the United States bypassed the Security Council and put into question its authority for Operation Iraqi Freedom, confirming thus the view that the Council “can now be regarded as an optional extra in global security.”<sup>40</sup> Several UN Member States are currently calling for major changes in the organization of the Security Council, most of them concerning the transparency of the procedures, their efficiency and the participation and membership of the Council.<sup>41</sup> Two coalitions of countries have been developing initiatives to propose models of reform for membership: the Group of Four (G4) and the Uniting for Consensus Group (the “Coffee Club”).

## **Annotated Bibliography**

### ***Security Council Committee History***

Hulton, S. (2004). Council Working Methods and Procedure. In: D. M. Malone. *The UN Security Council: From the Cold War to the 21st Century* (pp. 237-252). Boulder, CO: Lynne Rienner.

*This paper is part of complete book edited by David Malone on the recent history of the Security Council, from 1990 to the 21<sup>st</sup> century. In her essay, Susan Hulton presents the recent changes in the working method and procedures of the Security Council. The main changes developed by the*

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<sup>29</sup> United Nations, *Security Council Sanctions Committee: An Overview*, n. d.

<sup>30</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 42.

<sup>31</sup> United Nations General Assembly, *Charter of the United Nations*, 1945, Article 42.

<sup>32</sup> Sarooshi, *Security Council*, Global Policy Forum, n. d.

<sup>33</sup> Sarooshi, *Security Council*, Global Policy Forum, n. d.

<sup>34</sup> United Nations, *United Nations Peacekeeping*, n. d.

<sup>35</sup> Sarooshi, *Security Council*, Global Policy Forum, n. d.

<sup>36</sup> Sarooshi, *Security Council*, Global Policy Forum, n. d.

<sup>37</sup> United Nations, *Structure of the Security Council*, n. d.

<sup>38</sup> Hulton, *Council Working Method and Procedure*, 2004, p. 237.

<sup>39</sup> Hulton, *Council Working Method and Procedure*, 2004, p. 237.

<sup>40</sup> Chesterman and Malone, *The fate of the Security Council*, 2003.

<sup>41</sup> Security Council Report, *Security Council Transparency, Legitimacy and Effectiveness*, 2007.

*author concern the improved transparency of the Committee, its better efficiency and its more focused and practical approach.*

Kirgis, Frederic L., Jr. (1995). The Security Council's First Fifty Years. *The American Journal of International Law*, 89 (3): 506-539.

*This article presents a report of the Security Council's actions and issues in the occasion of its fiftieth birthday. It provides an interesting background of the creation of the United Nations and its organ. If some chapters tend to be too technical, others dedicated to working methods and missions of the Security Council present a good source of information to anyone wanting a complete understanding of the Council organization.*

Sarooshi, D. (n. d.). *Security Council*, Global Policy Forum. Retrieved August 19, 2011 from <http://www.globalpolicy.org/security-council/32932.html>

*This article provides a general overview and analysis of the Security Council. It is dealing with its rules and procedures, its membership and composition and the powers and functions of the organ. Along with an explanation of the Articles and Chapters of the UN Charter that concern the Council, it is offering complementary information concerning in particular the peacekeeping operations.*

United Nations (1945). *Charter of the United Nations and Statute of the International Court of Justice*. Retrieved August 19, 2011 from <http://www.un.org/en/documents/charter/index.shtml>

*The Charter of the UN is the constituent treaty of the Organization. It allows anyone to understand the organization of its different organs. The Chapters V, VI and VII are dedicated to the Security Council and provide all the information about its working methods, its powers and functions, etc.*

United Nations (2010). *Report of the Security Council, 1 August 2009-31 July 2010*. Retrieved August 19, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/65/2>

*The annual reports of the Security Council are available from the home page of the Council's web site. They present all the issues and topics addressed by the Committee during one year. One can thus find the lists of the activities and questions considered under the responsibility for the maintenance of international peace and security, the other matters, the works of the subsidiary bodies, etc.*

## **I. Protection of civilians in armed conflict**

*In the past, civilian populations were chiefly indirect victims of fighting between hostile armies. Today, they are often the main targets, with women suffering in disproportionate numbers while often also being subjected to atrocities that include organized rape and sexual exploitation. Increasingly, relief workers, including United Nations staff, have also been directly targeted. Such attacks are unconscionable and undermine the basic conditions of humanitarian assistance.*

- Secretary-General Kofi Annan, 1998

### **Overview**

The evolving nature of armed conflict has led to an increasing proportion of civilian casualties from these conflicts. It is only in recent decades that civilian deaths have surpassed military deaths during armed conflict.<sup>42</sup> Although these deaths are caused by a myriad of factors, including "not only direct violence but also malnutrition and disease," according to Security Council Report, even these indirect causes are "precipitated by war."<sup>43</sup> In the past century, the ratio of civilian casualties to military casualties as a result of conflict rose steadily until civilian deaths surpassed those of combatants. Causes included not only direct violence but also malnutrition and disease precipitated by war. In the early 1990s, protection of civilians (POC) was discussed by the Council in numerous country-specific agenda

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<sup>42</sup> Security Council Report, *Cross-Cutting Report No. 2: Protection of Civilians, 14 October 2008*, 2008.

<sup>43</sup> Security Council Report, *Cross-Cutting Report No. 2: Protection of Civilians, 14 October 2008*, 2008.

items, but “following the failure of UN protection efforts in the early 1990s,” a thematic agenda item became prominent in the last years of the decade.<sup>44</sup>

Secretary-General Kofi Annan made the first major reference to the need for the United Nations to focus thematically on the protection of civilians in a “Report of the Secretary-General on the Situation in Africa” in April 1998, from which the quote above is derived.<sup>45</sup> Protection of civilians was the first item listed under the “humanitarian imperatives” section of the document, and Annan called for an increased focus on human rights during conflicts, as well as a restructuring of the United Nations funding structure for human rights missions to ensure “international pressure [will] be brought to bear on all warring parties.”<sup>46</sup>

Following Security Council meetings on the issue beginning in February 1999, Secretary-General Annan released a report devoted entirely to protection of civilians in armed conflict in September of that year.<sup>47</sup> The report very clearly expressed the problem facing the international community with regards to the protection of civilians:

*Despite the adoption of the various conventions on international humanitarian and human rights law over the past 50 years, hardly a day goes by where we are not presented with evidence of the intimidation, brutalization, torture and killing of helpless civilians in situations of armed conflict [...]*

*International humanitarian and human rights law set out the rights of civilians and the obligations of combatants during time of conflict. Yet, belligerents throughout the world refuse to respect these statutes, relying instead on terror as a means of control over populations. Terrible hardships are borne by those who are targeted and tremendous stresses are placed on those who attempt to cope with each crisis.*<sup>48</sup>

With the intent “to spare civilians the agony of war,” Annan’s report contained recommendations which aimed to create a “culture of compliance,” even in periods of conflict, with international human rights and international humanitarian law and norms.<sup>49</sup> These recommendations and those which evolved from them are still being discussed at the Council at present.

### ***Summary of International Humanitarian Law and International Human Rights Law Instruments***

#### *International Humanitarian Law*

The Geneva Conventions of 1949 provide legal protection during conflicts for “people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war).”<sup>50</sup> The essence of all four Geneva Conventions is summarized in Article 3, which is common to all of the Conventions.<sup>51</sup> Article 3 “requires humane treatment [...] It specifically prohibits murder, mutilation, torture, cruel, humiliating and degrading treatment, the taking of hostages and unfair trial.” Article 3 is also unique in that it for the first time applies the protections of the Geneva Conventions to non-international armed conflict.<sup>52</sup>

In 1977, two additional protocols to the Conventions were adopted, with Protocol I applying to international conflicts and Protocol II to non-international conflicts; both aimed to strengthen the protections of civilians in their particular contexts of conflict.<sup>53</sup> The Protocols ensure that “combatants must not pose as civilians,” protect communities by prohibiting destruction of needed infrastructure, and prevent “indiscriminate attacks” by any parties to an inter-state

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<sup>44</sup> Security Council Report, *Cross-Cutting Report No. 2: Protection of Civilians, 14 October 2008*, 2008.

<sup>45</sup> Annan, *Report of the Secretary-General on the work of the Organization: The causes of conflict and the promotion of durable peace and sustainable development in Africa*, 1998.

<sup>46</sup> Annan, *Report of the Secretary-General on the work of the Organization: The causes of conflict and the promotion of durable peace and sustainable development in Africa*, 1998.

<sup>47</sup> Annan, *Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict*, 1999.

<sup>48</sup> Annan, *Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict*, 1999.

<sup>49</sup> Annan, *Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict*, 1999.

<sup>50</sup> International Committee of the Red Cross, *The Geneva Conventions of 1949 and their Additional Protocols*, 2010.

<sup>51</sup> International Committee of the Red Cross, *The Geneva Conventions of 1949 and their Additional Protocols*, 2010.

<sup>52</sup> International Committee of the Red Cross, *Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949*, 1949, Article 3.

<sup>53</sup> International Committee of the Red Cross, *The Geneva Conventions of 1949 and their Additional Protocols*, 2010.

or intra-state conflict.<sup>54</sup> They also protect medical personnel and their freedom of movement, as well as wounded and sick civilians.<sup>55</sup> 171 States have ratified Protocol I, and 166 States have ratified Protocol II, with four states having signed but not ratified each.<sup>56</sup>

### *International Human Rights Law*

The applicability of human rights to the protection of civilians in armed conflict was reaffirmed on September 18, 2008 by the Human Rights Council in its resolution 9/9.<sup>57</sup> The resolution noted that violations of international humanitarian law may also be violations of international human rights law; urged an end to impunity and use of judicial systems to prosecute violators; and began studies and consultations to develop recommendations to improve the international, regional and state-level approaches to protection of civilians during conflict.<sup>58</sup> Under the foundational *Universal Declaration of Human Rights*, numerous specific protections are particularly applicable in armed conflict. These protections include, *inter alia*, the prohibition against torture; the prevention of “arbitrary arrest, detention or exile”; the freedom to move about and live anywhere within one’s own country; the right to a nationality and prohibition of stripping one of their nationality; freedom from discrimination; the right to “food, clothing, housing and medical care”; and perhaps most notably, “the right to life, liberty and security of person.”<sup>59</sup> This final protection prevents arbitrary execution or murder, as well as other offenses such as sexual assault or rape, arbitrary imprisonment, and maiming or dismembering.

On July 7, 2010, High Commissioner for Human Rights Navi Pillay addressed the Security Council during its open debate on the Protection of Civilians in Armed Conflict.<sup>60</sup> In her speech, Pillay welcomed “the Council’s initiative in developing a solid framework to protect civilians in many countries [...] However, protection still remains a dream for victims and the gulf between policy and practice is still vast.”<sup>61</sup> Pillay called for increased action on accountability for perpetrators of human rights violations, and the creation of “national inquiry mechanisms [which] are credible, independent and impartial” to facilitate a State exercising its “primary responsibility for carrying out investigations and prosecutions regarding genocide, war crimes, crimes against humanity and gross human rights violations.”<sup>62</sup> Finally, she advocated for tying “UN and bilateral support to military operations and security sector reform [...] to promoting respect for human rights.”<sup>63</sup>

### *Regional Human Rights Law*

There are numerous region-specific human rights bodies and covenants established to codify protections either prior or in addition to international documents. The American Declaration on the Rights and Duties of Man was adopted in 1948, months prior to the Universal Declaration of Human Rights, and contains numerous similar provisions to the latter document.<sup>64</sup> In 1969, the Organization of American States (OAS) followed this with the American Convention on Human Rights, and its related bodies, the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights.<sup>65</sup> This document is significantly more expansive, to the point of being controversial; two often-debated portions of the text prevent most peacetime uses of the death penalty and prohibit abortions.<sup>66</sup>

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<sup>54</sup> International Committee of the Red Cross, *Protocols I and II additional to the Geneva Conventions*, 2009.

<sup>55</sup> International Committee of the Red Cross, *Protocols I and II additional to the Geneva Conventions*, 2009.

<sup>56</sup> International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, 1977.

<sup>57</sup> Human Rights Council, *Human Rights Documents*, 2008.

<sup>58</sup> Human Rights Council, *Resolution 9/9: Protection of the human rights of civilians in armed conflict*, 2008.

<sup>59</sup> United Nations General Assembly, *Universal Declaration of Human Rights*, 1948.

<sup>60</sup> Pillay, *Open Debate on Protection of Civilians in Armed Conflict: Statement by Ms. Navi Pillay at the United Nations Security Council*, 2010.

<sup>61</sup> Pillay, *Open Debate on Protection of Civilians in Armed Conflict: Statement by Ms. Navi Pillay at the United Nations Security Council*, 2010.

<sup>62</sup> Pillay, *Open Debate on Protection of Civilians in Armed Conflict: Statement by Ms. Navi Pillay at the United Nations Security Council*, 2010.

<sup>63</sup> Pillay, *Open Debate on Protection of Civilians in Armed Conflict: Statement by Ms. Navi Pillay at the United Nations Security Council*, 2010.

<sup>64</sup> Ninth International Conference of American States, *American Declaration on the Rights and Duties of Man*, 1948.

<sup>65</sup> Organization of American States, *American Convention on Human Rights*, 1969.

<sup>66</sup> Organization of American States, *American Convention on Human Rights*, 1969.

In 1981, the African Union adopted the African Charter on Human and Peoples' Rights, which has now been ratified by 53 African States.<sup>67</sup> The document contains similar provisions to UDHR, but with a specific African context; it addresses "colonialism, neo-colonialism, apartheid, [and] Zionism" as what it is "undertaking to eliminate," and creates the African Commission on Human and Peoples' Rights to address accountability and promote universality.<sup>68</sup>

Europe, and the various Inter-Governmental Organizations (IGOs) in which European states interact, has perhaps the most developed regional human rights regime. The Council of Europe in 1950 created The Convention for the Protection of Human Rights and Fundamental Freedoms with its European Court for Human Rights.<sup>69</sup> It went into force in 1953. The unique provisions of this document include the prevention of most uses of the death penalty, and the ability of *individuals* to initiate the Court's investigations of state violations of human rights.<sup>70</sup> Social and economic rights are protected by the Council of Europe's European Social Charter.<sup>71</sup>

#### *When Law Is Universal – Customary International Law, and Norm Creation*

While some of the documents establishing the protections civilians are entitled to during armed conflict have universal ratification, others do not. The Geneva Conventions of 1949 have been ratified by 194 States, "making the Geneva Conventions universally applicable."<sup>72</sup> 170 States have ratified Protocol I, and 165 have ratified Protocol II.<sup>73</sup> While the Universal Declaration of Human Rights is essentially universal, other human rights documents such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC) have yet to achieve this standard, with large majorities in support but notable States not yet having ratified each document.<sup>74</sup>

However, ratification is not the only measure by which a state may be bound to the provisions of a document. Should the legal structures be accepted globally at a level sufficient to be considered "customs" or norms, the protections within these documents are considered "customary international law," binding on all states; this interpretation has been upheld by the International Court of Justice as derived from Article 38 of that Court's statute.<sup>75</sup> Once a document or norm has achieved the status of custom, it is legally binding; "Customary international law, unlike treaty law, must be obeyed by states, their wishes notwithstanding."<sup>76</sup> It is widely accepted that most of human rights treaty law is binding on all states regardless of ratification status because these rights are customary; the UDHR, for example, is universal not due to its name or current universality in ratification, but because of this legal concept.<sup>77</sup>

#### *Protection of Civilians at the Security Council and the Responsibility to Protect*

Responsibility to Protect (R2P) is a norm that was developed and defined at the 2005 United Nations World Summit.<sup>78</sup> R2P "seeks to ensure that the international community never again fails to act in the face of genocide and other mass atrocity crimes."<sup>79</sup> The norm is defined as follows:

1. *The State carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.*
2. *The international community has a responsibility to assist States in fulfilling this responsibility.*
3. *The international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a State fails to protect its populations*

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<sup>67</sup> African Union, *Ratification Status: African Charter on Human and Peoples' Rights*, 2007.

<sup>68</sup> African Union, *African Charter on Human and Peoples' Rights*, 1981.

<sup>69</sup> Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.

<sup>70</sup> Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.

<sup>71</sup> Council of Europe, *European Social Charter*, 1961.

<sup>72</sup> International Committee of the Red Cross, *The Geneva Conventions of 1949 and their Additional Protocols*, 2010.

<sup>73</sup> International Committee of the Red Cross, *Status of the Protocols additional to the Geneva Conventions: ICRC Statement to the United Nations*, 2010, 2010.

<sup>74</sup> United Nations Treaty Collection, *International Covenant on Civil and Political Rights*, 2011;

United Nations Treaty Collection, *International Covenant on Economic, Social and Cultural Rights*, 2011;

United Nations Treaty Collection, *Convention on the Rights of the Child*, 2011.

<sup>75</sup> International Court of Justice, *Statute of the International Court of Justice*, 1945.

<sup>76</sup> Howse, *Protecting Human Rights in a Global Economy: Challenges for the World Trade Organization*, 2000, p. 5.

<sup>77</sup> Howse, *Protecting Human Rights in a Global Economy: Challenges for the World Trade Organization*, 2000, p. 5.

<sup>78</sup> International Coalition for the Responsibility to Protect, *An Introduction to the Responsibility to Protect*, n.d.

<sup>79</sup> Global Centre for the Responsibility to Protect, *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, 2009.

*or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council.*<sup>80</sup>

While "Protection of Civilians in Armed Conflict" has a broad range of application in the broader United Nations context, in the Security Council, as a thematic topic, its reach is narrower.<sup>81</sup> While there are numerous country-specific resolutions that address POC, and thematic resolutions that relate POC to specific groups such as women or children, there are four broad thematic resolutions that define the Council's role in protection of civilians: resolutions 1265, 1296, 1674, and 1738.<sup>82</sup>

As the Global Centre for the Responsibility to Protect notes, "both the protection of civilians' agenda and R2P share the same normative foundation: the protection of individuals [...] R2P has advanced the 'normative framework' of the protection of civilians."<sup>83</sup> Additionally, both R2P and the POC agenda item have the Security Council as the central actor of international response.<sup>84</sup>

### ***United Nations Actions and Framework***

In response to Secretary-General Annan's first report on civilians in armed conflict, the Security Council adopted resolution 1265 unanimously on September 17, 1999.<sup>85</sup> The Council firmly supported the rights of civilians in conflict zones, including United Nations personnel and members of "international humanitarian organizations" operating in these areas.<sup>86</sup> The Council also "highlighted the importance of implementing preventive measures to resolve conflicts, including the use of dispute settlement mechanisms."<sup>87</sup> In April 2000, the Council expanded protections afforded to civilians with the adoption of resolution 1296, which declared that abuse of civilians by any party was itself a "threat to international peace and security" worthy of the Council's attention and action.<sup>88</sup> Resolution 1296 also "reaffirmed the importance of addressing [the] special protection and assistance needs in drafting the mandates of peacemaking, peacekeeping and peace-building operations [of] women, children and other vulnerable groups."<sup>89</sup> Resolution 1674, adopted in April 2006, increased the Council's focus on sexual violence in conflict zones, as well as on forced displacement.<sup>90</sup> Resolution 1674 also created a standard by which to measure the strength of "peace agreements and post-conflict recovery and reconstruction planning":

- (i) the cessation of attacks on civilians,*
- (ii) the facilitation of the provision of humanitarian assistance,*
- (iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons,*
- (iv) the facilitation of early access to education and training,*
- (v) the re-establishment of the rule of law, and*
- (vi) the ending of impunity.*<sup>91</sup>

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<sup>80</sup> International Coalition for the Responsibility to Protect, *An Introduction to the Responsibility to Protect*, n.d.

<sup>81</sup> Global Centre for the Responsibility to Protect, *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, 2009, p. 2.

<sup>82</sup> Global Centre for the Responsibility to Protect, *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, 2009, p. 2.

<sup>83</sup> Global Centre for the Responsibility to Protect, *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, 2009.

<sup>84</sup> Global Centre for the Responsibility to Protect, *The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict*, 2009.

<sup>85</sup> United Nations, *Press Release: SC concludes two-day meeting on Protection of Civilians in Armed Conflict*, 1999.

<sup>86</sup> United Nations, *Press Release: SC concludes two-day meeting on Protection of Civilians in Armed Conflict*, 1999.

<sup>87</sup> United Nations, *Press Release: SC concludes two-day meeting on Protection of Civilians in Armed Conflict*, 1999.

<sup>88</sup> United Nations, *Press Release: SC concludes two-day meeting on Protection of Civilians in Armed Conflict*, 1999.

<sup>89</sup> United Nations, *Press Release: SC concludes two-day meeting on Protection of Civilians in Armed Conflict*, 1999.

<sup>90</sup> United Nations, *Press Release: Importance of Preventing Conflict through Development, Democracy Stressed, as Security Council unanimously adopts Resolution 1674*, 2006.

<sup>91</sup> United Nations, *Press Release: Importance of Preventing Conflict through Development, Democracy Stressed, as Security Council unanimously adopts Resolution 1674*, 2006.

In resolution 1738, adopted in December 2006, the Council paid specific attention to the protection of media professionals, including journalists.<sup>92</sup> Resolution 1738 also included the first explicit statement by the Council that incitement to violence against civilians was itself prohibited as a “threat to international peace and security.”<sup>93</sup>

Outside of the Security Council, the broader United Nations system has affirmed the importance of protection of civilians in armed conflict through adoption of resolutions and reports, as well as programmatic action. The 2000 Millennium Declaration, adopted by the General Assembly, contains under the “protecting the vulnerable” section a reference to the “the consequences of natural disasters, genocide, armed conflicts and other humanitarian emergencies” that are “disproportionately suffer[ed]” by civilians, and “resolve[d] therefore to expand and strengthen the protection of civilians in complex emergencies, in conformity with international humanitarian law.”<sup>94</sup>

The Security Council requests a biennial report from the Secretary-General on the topic of protection of civilians.<sup>95</sup> The 2009 report identified “five key challenges,” which the UN Office for the Coordination of Humanitarian Affairs (OCHA) aims to address through the Office of the Emergency Relief Coordinator (ERC).<sup>96</sup> Specifically, OCHA prepares the Secretary-General’s reports and briefings to the Council on the issue thematically, “provid[es] periodic country-specific POC briefings to the SC’s informal POC Expert Group;” authors the *Aide Memoire* to give “normative guidance” to the Council, and facilitates studies such as “the joint OCHA/DPKO study on ‘POC in the context of peacekeeping operations’.”<sup>97</sup> OCHA also holds regional workshops, aiming to broaden the knowledge base of States with regards to their responsibilities to civilians during armed conflict; these workshops are aimed at countries in regions with current or recent conflicts, and countries which contribute personnel to missions that operate in those regions.<sup>98</sup>

The UN Department of Peacekeeping Operations (DPKO) has attempted to mainstream protection of civilians into all of its operations; protection of civilians is summarized bluntly by DPKO as “the yardstick by which the international community, and those whom we endeavor to protect, judge our worth as peacekeepers.”<sup>99</sup> DPKO is currently “developing protection of civilians training courses,” and developing strategies in conjunction with OCHA, the Security Council, host States and troop contributing countries (TCCs) to ensure protection in each situation.<sup>100</sup>

Finally, UNDP works on protection of civilians issues in both conflict and post-conflict settings.<sup>101</sup> UNDP’s efforts are primarily focused on bolstering the rule of law and nascent judicial systems, which relates to protection of civilians through the ending of impunity for violations of civilians’ rights.<sup>102</sup> UNDP’s work in this regard is based on the idea that “bringing perpetrators to justice sends a clear message that the rule of law can and will ultimately replace the rule by force.”<sup>103</sup> As previously stated, both the Human Rights Council and the Security Council have included ending impunity as one of the central missions of any protection of civilians mandate.

### ***Case Study - The Gaza Strip, 2008-Present***

Security Council Report, an NGO which monitors the Security Council’s actions on both regional and thematic topics, the latter of which includes POC, noted in October 2009 that while “the Council was fairly consistent in including protection language in its decisions” on agenda items, “the Council’s action on the DRC, Gaza and Sri Lanka (which were among the situations on the Council’s agenda with the most serious impact on civilians in 2008 and 2009) demonstrated some of the key challenges that continue to hamper more effective Council action at the country-specific level [...] In the case of Gaza, political concerns among Council members seemed to override

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<sup>92</sup> United Nations, *SC condemns attacks against journalists in conflict situations, unanimously adopting resolution 1738*, 2006.

<sup>93</sup> United Nations, *SC condemns attacks against journalists in conflict situations, unanimously adopting resolution 1738*, 2006.

<sup>94</sup> United Nations General Assembly, *United Nations Millennium Declaration*, 2000.

<sup>95</sup> Office for the Coordination of Humanitarian Affairs, *Thematic Areas: Protection*, n.d.

<sup>96</sup> Office for the Coordination of Humanitarian Affairs, *Thematic Areas: Protection*, n.d.

<sup>97</sup> Office for the Coordination of Humanitarian Affairs, *Thematic Areas: Protection*, n.d.

<sup>98</sup> Office for the Coordination of Humanitarian Affairs, *Institutional History of Protection of Civilians*, n.d.

<sup>99</sup> United Nations Peacekeeping, *Protection of Civilians*, n.d.

<sup>100</sup> United Nations Peacekeeping, *Protection of Civilians*, n.d.

<sup>101</sup> Barends, *Fighting Impunity: addressing sexual violence in Eastern Democratic Republic of the Congo*, 2009.

<sup>102</sup> Barends, *Fighting Impunity: addressing sexual violence in Eastern Democratic Republic of the Congo*, 2009.

<sup>103</sup> Barends, *Fighting Impunity: addressing sexual violence in Eastern Democratic Republic of the Congo*, 2009.

protection commitments.”<sup>104</sup> Additionally, the lack of action on protection has come despite the ongoing lobbying of non-Council states as well as civil society, which has been lobbying for protection of civilians in Gaza since even before the 2008-2009 conflict.<sup>105</sup>

The Council met in January 2009 to discuss Protection of Civilians “with the conflicts in the DRC and Gaza as an important backdrop.”<sup>106</sup> John Holmes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, gave a briefing which “focused on the [...] need for strict compliance with international humanitarian law,” with Gaza one of the specific situations referenced.<sup>107</sup> Holmes also “pointed to the need to engage with all parties to a conflict (including non-state actors),” as well as to the need for “a more consistent and comprehensive” approach to protection challenges.<sup>108</sup>

The Israeli Defense Forces (IDF) began attacking Gaza on 27 December 2008 “in response to Hamas’s firing rockets against civilian targets on Israeli territory.”<sup>109</sup> The following day, the Security Council responded with a press statement, in which “the members of the Council called for all parties to address the serious humanitarian and economic needs in Gaza,” but did not explicitly make mention of, or propose solutions to, “the obvious risks to civilians.”<sup>110</sup> The P5 worked with Libya over the period from 31 December 2008 to 3 January 2009 to adapt a draft resolution that was rejected due to allegations of being one-sided into a draft Presidential Statement, which all six countries agreed to initially.<sup>111</sup> Allegedly, the American delegation changed positions and blocked the statement, and as a result the Council made another, informal, press statement, this time addressing “the need [...] for the parties to protect civilians.”<sup>112</sup> Yet the lack of a resolution meant that additional non-Council members continued to lobby the Council, and argument broke out between Arab foreign ministers and France, the United Kingdom and the United States over whether or not a resolution or Presidential Statement was the right way to respond.<sup>113</sup>

Meanwhile, OCHA released a report on the 1-8 January period in which they noted that 758 Palestinians, including 317 women and children, had been killed; OCHA stated regarding the situation for Palestinian civilians, that “there is no safe space in the Gaza Strip – no safe haven, no bomb shelters, and the borders are closed and civilians have no place to flee.”<sup>114</sup> Additionally, OCHA noted that Palestinian protests in the West Bank had led to Israeli responses “with live ammunition, rubber-coated bullets, teargas and physical assault,” which had led to dozens more injured, and two Palestinians dead.<sup>115</sup> Finally, Israel approved a demolition of the home of a building of a suicide bomber, which was currently occupied by the attacker’s extended family; OCHA labeled this a “punitive demolition order against the family.”<sup>116</sup> Israel, which under the Hague Regulations of 1907 and the Fourth Geneva Convention is an occupying power, is obligated to follow international humanitarian law, which explicitly prevents such acts.<sup>117</sup> OCHA continues to publish weekly reports on Protection of Civilians in the occupied Palestinian territory, including the West Bank and East Jerusalem as well as in Gaza, documenting continuing lack of access to humanitarian aid, indiscriminate attacks, disproportionate responses, and restrictions of freedom of movement incompatible with international humanitarian law.<sup>118</sup>

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<sup>104</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>105</sup> Lutheran World Federation, *International NGOs Call for Urgent Protection of Civilians in Gaza*, 2006.

<sup>106</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>107</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>108</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>109</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>110</sup> United Nations Security Council, *Security Council Press Statement on Situation in Gaza*, 2008.

Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>111</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>112</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>113</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>114</sup> Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *Protection of Civilians Weekly Report*, 1-8 January 2009, 2009.

<sup>115</sup> Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *Protection of Civilians Weekly Report*, 1-8 January 2009, 2009.

<sup>116</sup> Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *Protection of Civilians Weekly Report*, 1-8 January 2009, 2009.

<sup>117</sup> Canadians for Justice and Peace in the Middle East, *Factsheet: Israel’s Ongoing Status as a Military Occupant of Gaza*, 2008.

<sup>118</sup> Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *Protection of Civilians (Weekly)*, n.d.



At the open debate on 6 and 7 January 2009, Secretary-General Ban Ki-moon noted that Israeli attacks had “caused damage and destruction both to Hamas militants’ facilities and to public infrastructure, mosques, schools and homes.”<sup>119</sup> Secretary-General Ban noted that he had “repeatedly condemned [both] indiscriminate rocket attacks by Hamas and the excessive use of force by Israel,” continuing:

*“These attacks by Israeli military forces, which endanger United Nations facilities serving as places of refuge, are totally unacceptable and should not be repeated. Equally unacceptable are any actions by Hamas militants that endanger the Palestinian civilian population [...] In the midst of this fighting, the civilian population of Gaza faces a humanitarian crisis. Entire families, including women and children, have perished in the violence, as have United Nations staff and medical workers. There are no shelters for the vast majority of the civilian population. Food and fuel supplies are insufficient. A million people have no electricity. A quarter of a million have no running water.”*<sup>120</sup>

As is the case with the broader Israeli-Palestinian conflict, each party blamed the other for endangering civilians, with President Mahmoud Abbas stating that “The Israeli machine of destruction continues to kill and to commit the most heinous of crimes. It continues to do so despite unprecedented international unanimity in calling for an end to this massacre of innocent civilians, who do not deserve such brutality or such blind aggression.”<sup>121</sup> Israeli Permanent Representative Gabriela Shalev, by contrast, alleged that “for eight years, the citizens of southern Israel have suffered the trauma of daily missile attacks from Gaza [...] Hamas rejects every core humanitarian principle. Instead of waging in battle openly against combatants, it directs its attacks against civilians.”<sup>122</sup> As a result, Israel called upon the Council to “place responsibility for the humanitarian situation in Gaza where it lies: on the shoulders of the terrorists,” while the Palestinians called “on this Security Council to take the necessary first step to save our people in Gaza. The Council must adopt a resolution calling for an immediate and full cessation of Israeli aggression.”<sup>123</sup> Resolution 1860, adopted on 8 January, was adopted with fourteen votes in favor, and the United States’ abstention; the US was praised for the simple act of not vetoing.<sup>124</sup> The resolution, however, did not affirm international humanitarian law’s application to the conflict, nor did it call for accountability for perpetrators of abuses against civilians.<sup>125</sup>

Despite the late January 2009 withdrawal of Israeli troops, the humanitarian situation in Gaza remains ongoing.<sup>126</sup> The immediate period after the withdrawal was focused on “the importance of accountability and the need to investigate violations of international humanitarian law,” as well as to reopen Gaza to the outside world after Israeli and Egyptian closures by air, land and sea.<sup>127</sup> On the first point, despite the death of 1300 Palestinians, as well as the injury of 5300 others and yet another 40,000 Palestinians becoming internally displaced, as well as the death of 3 Israeli civilians and ten soldiers, no universally accepted actions have been taken.<sup>128</sup> Reports of inquiry were drafted by a UN commission headed by former UN prosecutor Richard Goldstone, and were immediately rejected by Israel after the report labeled both Israel and Hamas as having committed war crimes and crimes against humanity.<sup>129</sup> Meanwhile, the Council took no binding action; Libya’s attempt to get the Council to even meet following the Goldstone report’s release in September 2009 was unsuccessful, and as a result it was the Human Rights Council which adopted a resolution welcoming the report.<sup>130</sup>

After the immediate post-conflict period, the primary political issues have focused on the Palestinian statehood bid and issues between Israel and both Turkey and Egypt; the most relevant issue with regards to Protection of Civilians

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<sup>119</sup> United Nations Security Council, *6061<sup>st</sup> Meeting*, 2009.

<sup>120</sup> United Nations Security Council, *6061<sup>st</sup> Meeting*, 2009.

<sup>121</sup> United Nations Security Council, *6061<sup>st</sup> Meeting*, 2009.

<sup>122</sup> United Nations Security Council, *6061<sup>st</sup> Meeting*, 2009.

<sup>123</sup> United Nations Security Council, *6061<sup>st</sup> Meeting*, 2009.

<sup>124</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>125</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>126</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>127</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>128</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

<sup>129</sup> McCarthy, *Israel rejects UN council backing for Gaza war crimes report*, 2009.

<sup>130</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict*, 30 October 2009, 2009.

have been the flotillas attempting to break the Israeli blockade of Gaza and Turkish support for this endeavor.<sup>131</sup> Though in light of the Israeli killings of nine passengers on board the Mavi Marmara during the first flotilla and the ensuing partial opening of Gaza to more aid, international support for the flotillas remains high, and the quality of life in Gaza, as well as the strength of the economy there, remain incredibly low due to ongoing restrictions.<sup>132</sup> Most of the recommendations are purely political, however, with Palestinian unity, ceasefires, and reformation of infrastructure and bureaucracies being consistently recommended as “solutions” to protection issues.<sup>133</sup> Israel, in particular, has focused on the issue from a political or security standpoint, arguing that while protection of civilians in armed conflict is important, it is nearly impossible for Israel to fulfill their commitments due to the nature of asymmetrical warfare, and the emergence of “military activity from within the fabric of civilian life.”<sup>134</sup>

The common thread throughout this history is that political concerns have obstructed actions on protection of civilians issues, with the “peace process” – a negotiation process designed to lead to cessation of violence generally – being the primary concern of notable Council members.<sup>135</sup> Council members have “been very cautious on the issue of accountability.”<sup>136</sup> France and the United Kingdom, among other Council members, “seem to believe that, while accountability is important, it might not be timely to address this issue as it might hamper the peace process.” Most notably, “the US clearly does not want the Council to get further involved” at all.<sup>137</sup> Despite the overall divisiveness in the Council’s debates over the conflict, the issue of civilian protection has been “more limited and focused” at the Council level, and thus “it is less clear why more agreement could not have been pursued.”<sup>138</sup> Security Council Report notes that “the Council clearly missed an opportunity to send a strong signal about the importance of international humanitarian law and protection of civilians,” and asked if the Council could create “a less politicized track involving decisions on protection of civilians in imminent danger at a much earlier stage, and separate these elements from its discussion of the other, more controversial dimensions of a conflict.”<sup>139</sup>

### ***Current Challenges and Ongoing Actions***

OCHA has identified “five key challenges” that face the international community in achieving protection of civilians in armed conflict.<sup>140</sup> These five challenges include “Enhancing compliance of parties to the conflict with their obligations under international law, in particular the conduct of hostilities; engagement with non-State armed groups (NSAGs); protecting civilians through UN peacekeeping and other relevant missions; humanitarian access; and enhancing accountability for violations.”<sup>141</sup>

OCHA has also created an *Aide Memoire*, which is “a diagnostic tool or framework to assist the Security Council and associated departments, such as DPA and DPKO, in defining threats that arise to the protection of civilians in country situations, in drafting resolutions that better safeguard civilians and in reviewing peacekeeping operations and threats to international peace and security.”<sup>142</sup> The document is both a framework and a set of best practices for use by missions, Member States, and the Security Council.<sup>143</sup>

### ***Conclusion***

The current situation regarding Protection of Civilians’ consideration at the Security Council level is marked by increased politicization of the debates, with China, Russia and the United States, most notably, unable or unwilling to

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<sup>131</sup> International Crisis Group, *Gaza: The Next Israeli-Palestinian War?*, 2009.

<sup>132</sup> International Crisis Group, *Gaza: The Next Israeli-Palestinian War?*, 2009.

<sup>133</sup> International Crisis Group, *Gaza: The Next Israeli-Palestinian War?*, 2009.

<sup>134</sup> Permanent Mission of Israel to the United Nations, *Debate on “Protection of civilians in armed conflict”*, 2010.

<sup>135</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009*, 2009.

<sup>136</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009*, 2009.

<sup>137</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009*, 2009.

<sup>138</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009*, 2009.

<sup>139</sup> Security Council Report, *Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009*, 2009.

<sup>140</sup> Office for the Coordination of Humanitarian Affairs, *Thematic Areas: Protection*, n.d.

<sup>141</sup> Office for the Coordination of Humanitarian Affairs, *Thematic Areas: Protection*, n.d.

<sup>142</sup> Office for the Coordination of Humanitarian Affairs, *Institutional History of Protection of Civilians*, n.d.

<sup>143</sup> Office for the Coordination of Humanitarian Affairs, *Aide Memoire for the consideration of issues pertaining to the protection of civilians in armed conflict, 4<sup>th</sup> Edition*, 2011.

separate their positions on the POC questions in a conflict from their broader opinions on the conflict. This has manifested in terms of very limited Council actions under their protection mandate in countries where a permanent member of the Council has vested political, economic or diplomatic interests. The Council has shown limited ability to successfully engage in both the short-term, immediate-response aspects of their mandate, which include accountability measures, transparency in investigation and reporting, and most notably prevention and cessation of abuses, and their long-term mandate, which includes strengthening the rule of law, assisting in development of judicial and economic systems, and increased guidelines and training for international responders. In order for the Council to achieve success in their agenda, member states will need to address both the ongoing and the conflict-specific elements of the issue.

## Annotated Bibliography

### *I. Protection of civilians in armed conflict*

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*This document outlines the fundamental differences between responsibility to protect and protection of civilians. Using both the broader United Nations definition of protection of civilians, which responsibility to protect can be considered a part of, and the narrower Security Council definition, which can be considered a part of responsibility to protect, the document indicates the reasons that they are considered separate topics and actions by the UN. Delegates will find this source most useful for differentiating the norm of R2P from the protection mandate of the Council.*

International Coalition for the Responsibility to Protect. (n.d.). An Introduction to the Responsibility to Protect. Retrieved September 16, 2011 from <http://responsibilitytoprotect.org/index.php/about-rtop>

*The International Coalition for the Responsibility to Protect put together this source to explain the norm of R2P and its developmental context. This site provides a history of how R2P came to be, and dictates the three primary parts of the norm: State responsibility for the protection of their own populations, the international community's responsibility to assist states, and international community required actions in the case when the State fails to protect, or in fact is themselves the cause of the abuses.*

Security Council Report. (2008). Cross-Cutting Report No. 2, Protection of Civilians, 14 October 2008. Retrieved September 15, 2011 from [http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.4664099/k.1776/CrossCutting\\_Report\\_No\\_2brProtection\\_of\\_Civiliansbr14\\_October\\_2008.htm](http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.4664099/k.1776/CrossCutting_Report_No_2brProtection_of_Civiliansbr14_October_2008.htm)

*Security Council Report is an NGO which monitors the Security Council and creates short reports on the Council on a monthly basis and on an agenda-item basis. This report is one of the latter, focusing on the protection of civilians mandate across other thematic topics and country-specific agenda items. This report's particular strength is in showing how often within agenda items the Council has included "protection language" in its final documents, including resolutions, press statements, and presidential statements. Delegates can use this source to see both the chronological progression of importance the Council has attached to protection of civilians, and also which country-specific situations have the most protection elements in the Council's actions.*

Security Council Report. (2009). Cross-Cutting Report No. 4: Protection of Civilians in Armed Conflict, 30 October 2009. Retrieved September 18, 2011 from [http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.5556213/k.BED2/CrossCutting\\_Report\\_No\\_4brProtection\\_of\\_Civilians\\_in\\_Armed\\_Conflictbr30\\_October\\_2009.htm](http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.5556213/k.BED2/CrossCutting_Report_No_4brProtection_of_Civilians_in_Armed_Conflictbr30_October_2009.htm)

*This source is another of Security Council Report's "cross-cutting" reports on protection of civilians in armed conflict, from 2009. This particular report looked at three case studies, and was used in the development of this background guide primarily to provide information on Council consideration of the Gaza conflict of 2008-2009. Using Gaza as a case study, the source provides a*

*broader look at the political considerations and challenges facing the Council, and why often protection elements are not included in Council output, or at the very least postponed until after the most prudent time. Delegates will find this useful for both Gaza-specific information, and a look at the Council's inner dynamics which can be extrapolated to other agenda items.*

United Nations Department for Peacekeeping Operations. (n.d.). Protection of civilians. Retrieved September 18, 2011 from <http://www.un.org/en/peacekeeping/issues/civilian.shtml>

*The United Nations Department for Peacekeeping Operations (DPKO) maintains a page on protection of civilians from the perspective of the UN Secretariat. This source not only talks about the responsibilities between states, populations and the international community, but also addresses peacekeepers' direct role in protection of civilians, as well as offers information about the prevention of abuses by peacekeepers themselves. This source was used primarily to highlight the challenges facing the international community once a protection mandate has been approved.*

United Nations Office for the Coordination of Humanitarian Affairs. (2011). Aide Memoire: For the consideration of issues pertaining to the protection of civilians in armed conflict. Retrieved September 20, 2011 from <http://ochanet.unocha.org/p/Documents/Aide%20Memoire%20on%20the%20Protection%20of%20Civilians%202010.pdf>

*The UN Office for the Coordination of Humanitarian Affairs (OCHA) has put together this document, called an "Aide Memoire," to provide good practice and a framework of discussion for the Security Council and other international actors when discussing protection of civilians. This source is perhaps the single most useful source available to policymakers and representatives to the Security Council in addressing what the concerns are that may trigger a protection mandate, and the particular things that civilians must be protected from. The document also addresses two particularly vulnerable populations, women and children, in sections detailing these populations' "specific protection concerns."*

United Nations Office for the Coordination of Humanitarian Affairs. (n.d.). Institutional History of Protection of Civilians. Retrieved September 18, 2011 from <http://ochaonline.un.org/HumanitarianIssues/ProtectionofCiviliansinArmedConflict/InstitutionalHistoryofProtectionofCivilians/tabid/1197/language/en-US/Default.aspx>

*OCHA also provides historical information on the protection of civilians, and how it developed. Delegates may use this to understand the system and context in which the protection of civilians mandate of the UN broadly, and the Security Council in particular, developed. They may also find this source useful to compare POC with R2P in terms of their respective developmental contexts.*

United Nations Office for the Coordination of Humanitarian Affairs. (n.d.). Thematic Areas: Protection. Retrieved September 17, 2011 from <http://www.unocha.org/what-we-do/policy/thematic-areas/protection>

*This source is an overview of the Office for the Coordination of Humanitarian Affairs' activities related to protection of civilians. It provides an overview of the executive aspects of the UN's activities in protection of civilians; in other words, it gives information as to what occurs after a Council resolution is adopted. Delegates will find this useful both in terms of the information it provides about broader UN system protection work, and in terms of the relationship between protection of civilians in armed conflict and protection of civilians in humanitarian emergencies such as in the wake of a natural disaster.*

United Nations Office of the High Commissioner for Human Rights. (2010). Open Debate on Protection of Civilians in Armed Conflict: Statement by Ms. Navi Pillay at the United Nations Security Council. Retrieved September 13, 2011 from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10197&LangID=e>

*This source is a statement given by the High Commissioner for Human Rights, Navi Pillay, to the Security Council on July 7, 2010. Given the same day, during a thematic debate at the Council level, as other sources used in this guide (such as the Israeli statement), Ms. Pillay's statement is a broader statement on the protection concerns facing the United Nations and the Council's ability to act to protect civilians. This statement will be useful in developing an understanding of specific actions beyond sending in peacekeepers that are available to delegates, including actions to strengthen the rule of law and end impunity for individual perpetrators, as well as accountability for states broadly when they fail to fulfil their responsibilities under international human rights and humanitarian law.*

United Nations Security Council. (1999). Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict. Retrieved September 15, 2011 from <http://www.un.org/Docs/sc/committees/sanctions/s99957.pdf>

*This document is the foundational report of Secretary-General Kofi Annan to the Security Council, in which the thematic topic of protection of civilians in armed conflict was first considered thematic and cross-contextual. In the document, Annan attempted to give “clear recommendations on what must be done to protect civilians” to the Council. The report remains one of the broadest, clearest overviews of the Council’s role in protecting civilians, and will be useful as an early read to delegates seeking to understand the topic who may not have any familiarity with POC issues.*

## II. Reform of the Security Council

### **Background**

The current organization and composition of the Security Council (SC) still reflect the balance of power of the post-World War II period in which the Council was created. The five permanent members – China, France, the Russian Federation, the United Kingdom and the United States – were the five victors of the war. For more than sixty years, the issue of Council reform has been “high on the international political agenda,” and is an overwhelming necessity today.<sup>144</sup> The economic and political realities of the 21<sup>st</sup> century’s international community have changed, and the Council does not actually reflect the power dynamics of today, but rather those of 1945.<sup>145</sup> Reform of the Security Council is now widely supported among the Member States of the United Nations (UN), but “there is no convergence of views on the modality of [a] reform package, yet.”<sup>146</sup>

### **Previous Attempts at Reform**

The issue has been debated since the creation of the United Nations, and several reforms have been attempted, most of which have failed. The only successful reform occurred in 1963.<sup>147</sup> During the two previous decades, the UN had seen its number of Member States grow rapidly, from 50 in 1945 to 115 in 1963; most of the new members were African and Asian States and this “drastically changed the Organization.”<sup>148</sup> The composition and the membership of the Security Council, however, remained unchanged, and the obligation to reform the Council was undeniable. In 1963, the adoption of resolution 1991 at the General Assembly increased the number of non-permanent members of the Security Council from six to ten.<sup>149</sup> The enlargement came into legal effect in 1965, when the Permanent Members of the Council approved the reform.<sup>150</sup> The ten rotating seats are divided among different geographical areas: five seats are allocated to Africa and Asia, one is allocated to Eastern Europe, two are allocated to Latin America and the Caribbean, and two are to the Western European and Other States.<sup>151</sup>

With the end of the Cold War, several member States raised their voices again to demand a new reform of the Council.<sup>152</sup> Since then, several draft resolutions have been proposed for debate at the General Assembly (GA) of the UN.<sup>153</sup> In 1993, the General Assembly passed resolution 48/26 on the “Question of equitable representation on and increase in the membership of the Security Council,” establishing an Open-Ended Working Group to consider the question.<sup>154</sup> The Working Group began its work in January 1994 and was asked to issue a report at the end of the

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<sup>144</sup> Wouters and Ruys, *Security Council Reform: A New Veto for a New Century?*, 2005, p.3.

<sup>145</sup> The Economist, *A chance for a safer world*, 2007.

<sup>146</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.1.

Martini, *UN Security Council Reform, Current Developments*, 2009, p.2.

<sup>147</sup> Ronzitti, *The Reform of the UN Security Council*, 2010, p.4.

<sup>148</sup> Ronzitti, *The Reform of the UN Security Council*, 2010, p.4.

Von Freiesleben, *Reform of the Security Council*, 2008, p.2.

<sup>149</sup> United Nations General Assembly, *Resolution 1991*, 1963.

<sup>150</sup> Daws, *Security Council Reform: the Dual Risks*, 2005.

<sup>151</sup> Ronzitti, *The Reform of the UN Security Council*, 2010, p.5.

<sup>152</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.2.

<sup>153</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.3.

<sup>154</sup> United Nations General Assembly, *Resolution A/RES/48/26*, 1993.

forty-eighth session of the General Assembly.<sup>155</sup> Its work was focused on several aspects of the issue: the working methods of the Council, the transparency of its work, its decision-making processes, and the expansion of its membership.<sup>156</sup>

### ***New Models of Reform – The Term of Secretary-General Kofi Annan (1996-2006)***

However, the momentum of the debate was given a new impetus ten years later by Secretary-General Kofi Annan. Annan expressed in 2003 his concerns about the question of reform of the Security Council: “If you want the Council’s decisions to command greater respect, particularly in the developing world, you need to address the issue of its composition with greater urgency.”<sup>157</sup> Later that year, the Secretary-General appointed a High-Level Panel on Threats, Challenges and Changes to “analyze and assess threats to peace and security and to evaluate existing approaches, instruments and mechanisms, including Security Council reforms.”<sup>158</sup> In 2004, the Panel proposed two different models of reform for the Council in its report, *A More Secure World: Our Shared Responsibility*.<sup>159</sup>

#### *Model A: For a Permanent Membership expansion*

The first model, known as Model A, proposes the expansion of membership to 24 members, all seats being equally distributed between four regional areas selected by the Panel: Africa, Asia and Pacific, Europe and the Americas.<sup>160</sup> Three seats would be added to the rotating two-year group of members, and six new permanent members would be added without veto power.<sup>161</sup> Africa would have two permanent seats and four non-permanent seats. The Asia-Pacific area would have three permanent seats and three non-permanent seats. Europe would have four permanent and two non-permanent seats, and the Americas would have two permanent members and four non-permanent members.<sup>162</sup>

#### *Model B: For a Non-Permanent Membership expansion*

The second model, known as Model B, does not include a permanent membership expansion. It also provides for a composition of 24 members (again equally distributed among the four regional areas) but creates a new category of eight seats, renewable every four years.<sup>163</sup> Africa would have two seats with four-year terms and four seats with two-year terms. Asia would have one permanent member, two four-year term elected members and three two-year term elected members. Europe would have three permanent members, two members with four-year terms and one member with two-year term. Finally, the Americas would have one permanent member, two members with four-year elected terms and three members with two-year elected terms.<sup>164</sup>

In 2005, following the Panel’s report, Secretary-General Kofi Annan published the report *In larger freedom: towards development, security and human rights for all*, in which he addressed a wide range of issues such as terrorism and Security Council reform.<sup>165</sup> Annan asked Member States to adopt all the proposals as a package, before the 2005 World Summit and the sixtieth birthday of the United Nations in September 2005.<sup>166</sup> However, the attempt at consensus for reform of the Council was a failure; after months of negotiation, the initial text was finally reduced to “a set of vague generalities” and no clear reform was enacted.<sup>167</sup>

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<sup>155</sup> Fassbender, *Pressure for Security Council Reform*, 2004.

United Nations General Assembly, *Resolution A/RES/48/26*, 1993.

<sup>156</sup> United Nations General Assembly, *Report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council*, A/55/47, 2001.

<sup>157</sup> United Nations General Assembly, *Plenary Meeting of the 58th session*, 2003.

<sup>158</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.5.

<sup>159</sup> United Nations General Assembly, *A More Secure World: Our Shared Responsibility; Report of the High-level Panel on Threats, Challenges and Changes*, 2004.

<sup>160</sup> United Nations General Assembly, *A More Secure World: Our Shared Responsibility; Report of the High-level Panel on Threats, Challenges and Changes*, 2004, p.67.

<sup>161</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.5.

<sup>162</sup> Von Freiesleben, *Reform of the Security Council*, 2008.

<sup>163</sup> United Nations General Assembly, *A More Secure World: Our Shared Responsibility; Report of the High-level Panel on Threats, Challenges and Changes*, 2004, p.68.

<sup>164</sup> United Nations General Assembly, *A More Secure World: Our Shared Responsibility; Report of the High-level Panel on Threats, Challenges and Changes*, 2004.

<sup>165</sup> United Nations General Assembly, *In larger freedom: towards development, security and human rights for all*, 2005.

<sup>166</sup> Global Policy Forum, *Secretary-General Kofi Annan’s Reform Agenda, 1997-2006*.

<sup>167</sup> Global Policy Forum, *Secretary-General Kofi Annan’s Reform Agenda, 1997-2006*.

## *Current initiatives and proposals*

### *The Group of Four: a reform for permanent membership*

The Group of Four (G4) is a coalition including Brazil, Germany, India and Japan, which introduced in 2006 a draft resolution on the subject of Security Council reform.<sup>168</sup> They call for an enlargement of the Security Council membership from 15 to 25 members.<sup>169</sup> Six new permanent members would be added: two for Africa, two for Asia, one for Latin American and Caribbean States and one for Western European and Other States.<sup>170</sup> The new permanent members also “would be assigned by choosing among the economically strongest and most influential countries of the international community.”<sup>171</sup> Additionally, four new non-permanent members would be elected: one for Africa, one for Asia, one for Eastern Europe and one for Latin American and Caribbean countries.<sup>172</sup>

However, the new permanent members would not be granted with the power of veto, “until the question of the extension of the right of veto to new permanent members has been decided upon,” with this decision to be made fifteen years after the reform package enters into force.<sup>173</sup>

That Germany would be a candidate for a permanent member seat raises the question of the representation of the European Union inside the Security Council. Two members of the EU, France and the UK, already sit as permanent members, but they have been reluctant to allow the Union to use their seat as European ones.<sup>174</sup> One solution could be the enlargement of the permanent members to Germany under the condition that its seat be considered as the European one.<sup>175</sup> However, the official German position appears quite ambiguous: while supporting a reform to create a joint European seat at the Council, its lobby within the G4 coalition is following its national aspirations.<sup>176</sup> Even with its strengthened status at the General Assembly since May 2011, the European Union, which is not a State, can still only count on Member States to see its positions supported and defended at the Security Council, unless “a non-permanent seat attributed on a rotating basis to an EU member” is created, thus allowing a direct representation of the EU at the SC.<sup>177</sup>

### *The Uniting for Consensus Group: towards a regionally based reform*

In 2005, a group of States led by Italy, Pakistan, South Korea and Colombia, adopted a text titled *Uniting for Consensus*.<sup>178</sup> The Uniting for Consensus Group (UfC), also known as the “Coffee Club,” proposed a reform of the Council in a draft resolution in 2005.<sup>179</sup> Under this proposal, the composition of the Council would be enlarged to 20 non-permanent members, elected for two-year terms and with a possibility of immediate re-election.<sup>180</sup> The proposed non-permanent seats are distributed among several regional areas, with the reformed Security Council containing six for Africa, five for Asia, four for Latin America, three for Western European and Other States and two for Eastern Europe.<sup>181</sup>

In 2009, a new proposal was issued by Colombia and Italy, acting as representatives of the UfC.<sup>182</sup> This new model presented the UfC proposal as a more regionally based reform, portraying it as the counter-model to the G4 initiative. Indeed, they suggest the creation of a new category of membership: new non-permanent seats, elected for a three-to-five-year term with no immediate re-election possible, are attributed to “regional groups on a rotational basis” and not to individual States.<sup>183</sup>

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<sup>168</sup> The Group of Four, *Draft resolution A/60/L.46*, 2006.

<sup>169</sup> The Group of Four, *Draft resolution A/60/L.46*, 2006, p.2.

<sup>170</sup> The Group of Four, *Draft resolution A/60/L.46*, 2006, p.2.

<sup>171</sup> Martini, *UN Security Council Reform, Current Developments*, 2009, p.4.

<sup>172</sup> United Nations General Assembly, *Draft resolution A/60/L.46*, 2006, p.3.

<sup>173</sup> United Nations General Assembly, *Draft resolution A/60/L.46*, 2006, p.3.

<sup>174</sup> Pirozzi, *Towards a more effective Security Council? The EU's role in the post-Lisbon era*, 2011; Hill, *The European Dimension of the Debate on UN Security Council Membership*, 2005, p.37.

<sup>175</sup> Pirozzi, *Towards a more effective Security Council? The EU's role in the post-Lisbon era*, 2011.

<sup>176</sup> Pirozzi, *Towards a more effective Security Council? The EU's role in the post-Lisbon era*, 2011.

<sup>177</sup> United Nations General Assembly, *Resolution A/RES/65/276*, 2011.

Ronzitti, *The Reform of the UN Security Council*, 2010, p.16.

<sup>178</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.5.

<sup>179</sup> United for Consensus Group, *Draft resolution on the reform of the Security Council*, 2005.

<sup>180</sup> United for Consensus Group, *Draft resolution on the reform of the Security Council*, 2005.

<sup>181</sup> United for Consensus Group, *Draft resolution on the reform of the Security Council*, 2005.

<sup>182</sup> Martini, *UN Security Council Reform, Current Developments*, 2009, p.6.

<sup>183</sup> Martini, *UN Security Council Reform, Current Developments*, 2009, p.6.

### *The African Union: expansion of the permanent membership and larger regional representation*

For the African Union, the reform of the Security Council is of high importance, notably because of their lack of representation within it and the Council's "crucial role in peace and security on the African continent."<sup>184</sup> In 2005, four States representing the African Union (AU) issued a draft resolution on the reform of the Security Council.<sup>185</sup> Ghana, Nigeria, Senegal and South Africa proposed to add eleven members to the Council: two permanent and two non-permanent seats for Africa (selected among African countries by the AU), two permanent and one non-permanent seats for Asia, one non-permanent seat for Eastern Europe, one permanent and one non-permanent seat for Latin America and Caribbean States and one permanent seat for Western Europe and Other States.<sup>186</sup> Under this proposal, the right of veto would be accorded to the new permanent members.<sup>187</sup>

### *The Small Five: transparency and coordination*

The Small Five (S5), composed of Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland, have been working for several years on different elements of Security Council reform. While the three other groups have focused on the expansion of the Council's membership, the S5 have been calling for greater transparency in the work of the Council and improved coordination between the Council, the General Assembly, and the Economic and Social Council.<sup>188</sup> In 2006, the S5 issued a draft resolution to improve the working methods of the Security Council: they encouraged the Security Council to address reports of its actions to the General Assembly and to organize "more substantive exchanges of views" between these three organs.<sup>189</sup> To achieve a more transparent and accountable Security Council, the S5 request a consultation with all Member States on resolutions and an explanation to the GA by the permanent members of every veto they use.<sup>190</sup> The enhancement of the Council's relations with the Assembly would thus be a way for the non-members of the SC to accept their status.<sup>191</sup>

Concerning the Security Council itself, the S5 believe that regular consultations between its permanent and non-permanent members should be organized, and a greater consideration of the UN Member States by the Council in its decisions and actions is required.<sup>192</sup> The also S5 seek a greater transparency from the permanent members: if one of them is using its veto power, an explanation of the reason for doing so should be addressed to the members of the Council and to all of the Member States of the UN.<sup>193</sup> The views and suggestions of the Small Five have been reiterated recently in a new draft resolution they presented to the Assembly in April 2011.<sup>194</sup>

### **Recent developments**

In 2008, the General Assembly decided to shift the discussions concerning the reform of the Security Council from the Open-Ending Working Group on Security Council Reform (OEWG) to intergovernmental negotiations in the General Assembly Plenary.<sup>195</sup> These negotiations started in February 2009.<sup>196</sup> In 2010, the Chair of the intergovernmental negotiations, Zahir Tanin, launched a series of text-based negotiations.<sup>197</sup> Since then, the Member States have conducted several series of negotiations, and since April 2011, the "negotiation/compilation text" proposed by Ambassador Tanin has been modified three times.<sup>198</sup>

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<sup>184</sup> Martini, *UN Security Council Reform, Current Developments*, 2009, p.5.

<sup>185</sup> African Union, *Draft resolution on the question of equitable representation on and increase in the membership of the Security Council and related matters*, 2005.

<sup>186</sup> Ronzitti, *The Reform of the UN Security Council*, 2010, p.11.

<sup>187</sup> African Union, *Draft resolution on the question of equitable representation on and increase in the membership of the Security Council and related matters*, 2005.

<sup>188</sup> Global Policy Forum, *Background on Security Council Reform*.

<sup>189</sup> The Small Five, *Draft resolution on improving the working methods of the Security Council*, 2006.

The Small Five, *Draft resolution on improving the working methods of the Security Council*, 2006.

<sup>190</sup> Von Freiesleben, *Reform of the Security Council*, 2008, p.8.

<sup>191</sup> Ronzitti, *The Reform of the UN Security Council*, 2010, p.14.

<sup>192</sup> The Small Five, *Draft resolution on improving the working methods of the Security Council*, 2006.

<sup>193</sup> The Small Five, *Draft resolution on improving the working methods of the Security Council*, 2006.

<sup>194</sup> Hansen, *S5 Presents draft resolution on Improving Working Methods of the Security Council*, 2011.

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<sup>195</sup> Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.12.

<sup>196</sup> Evans, *Security Council Reform – An Overview of Member States' Positions*, 2008.

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<sup>198</sup> Hansen, *Update on Security Council Reform*, 2011.



The five permanent members of the Security Council (P5) are usually the most reluctant to a reform of the Council, especially concerning the addition of new permanent members with the power of veto.<sup>199</sup> However, in the last few years, facing the overwhelming obligation to enlarge the membership and representation of the Council, the P5 have shown their support for new permanent membership to several States. France and the United Kingdom appear to be the “most enthusiastic about enlargement.”<sup>200</sup> In 2008, they proposed the creation of an “‘interim’ category of longer term, renewable seats,” elected for a term of five to fifteen years.<sup>201</sup> These two States also support the G4 in their demand for new permanent members.<sup>202</sup> Russia has been traditionally opposed to any enlargement of the permanent membership of the Council, but also affirms that “the reform of the UN Security Council is an essential component of its revitalization.”<sup>203</sup> China is primarily opposed to the inclusion as permanent members of Japan and India, but supports a wider representation of Africa and of developing countries within the Council.<sup>204</sup> The United States has been supporting a modest expansion of permanent and non-permanent membership for some time. Traditionally supporting the candidacy of Japan for a permanent seat, the United States has recently shown its strong support for a reform of the Security Council and to India as a potential permanent member of the Security Council.<sup>205</sup>

### ***Indications for the work and the negotiations in the committee***

In 2012, four important States are sitting at the table of the Security Council: India and Germany, representative of the G4, Colombia, representative of the UfC, and South Africa, current leader of the AU. With their election, “a platform of exertion of serious diplomatic pressure by these countries and other major powers (such as Brazil and Japan) on the current P-5 over SC expansion may have opened up.”<sup>206</sup> It is important for Security Council delegates to realize that this issue is a high priority for the Council. The presence of States like India, Germany, Colombia and South Africa, along with the five permanent members, should make the negotiations at the Council level easier and allow Member States to reach a general consensus for reform of the Security Council.

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*The Global Policy Forum provides background information and analysis on several topics related to the United Nations. Each presentation page is composed of one text of general information and of a series of links and documents concerning the topic. The page dedicated to the reform of the Security Council provides an historical presentation of the topic and a short sum-up of the different propositions of the main coalitions among the Member States of the General Assembly.*

Martini, E. (2009). *UN Security Council Reform. Current Developments*. Roma: Istituto Affari Internazionali. *This paper was published in 2009 by the Italian think-tank Istituto Affari Internazionali. The author Elisabetta Martini focuses on the current developments concerning the reform of the Security Council, especially on the very recent years. This article provides a well-furnished presentation of the three main coalitions of States demanding a reform of the Council: the Group of Four, the Uniting for Consensus Group and the African Union.*

Ronzitti, N. (2010). *The Reform of the UN Security Council*. Roma: Istituto Affari Internazionali. *This article was published in 2010 by the Italian think-tank Istituto Affari Internazionali. The author Natalino Ronzitti presents a review of the several proposals for reform of the Security*

<sup>199</sup> Kugel, *Reform of the Security Council – A New Approach?*, 2009.

<sup>200</sup> Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.12.

<sup>201</sup> Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.12.

<sup>202</sup> Evans, *Security Council Reform – An Overview of Member States’ Positions*, 2008.

<sup>203</sup> Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.13.

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<sup>204</sup> Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.13.

Evans, *Security Council Reform – An Overview of Member States’ Positions*, 2008.

<sup>205</sup> The Economist, *Thinking the UNthinkable*, 2010.

Mac Donald and Patrick, *UN Security Council Enlargement and U.S. Interests*, 2010, p.14.

<sup>206</sup> Center for UN Reform, *Security Council Reform*.

*Council in the second half of the XX<sup>o</sup> century. Along with the key aspects, stakes and issues of the problem, the article provides also a concise explanation of the role the European Union has or will have to play in the debate.*

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*The High-level Panel on Threats, Challenges and Change was appointed by Secretary General Kofi Annan in 2003. In 2004 they issued their report A more secured world. The Panel presents in the part dedicated to "A more effective United Nations for the twenty-first century" two different models for the reform of the Security Council: Model A and Model B.*

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*In 2005, the Secretary general Kofi Annan presented its report In larger freedom and called all Member States to adopt its proposals on the occasion of the 2005 Millennium Summit. Concerning the Security Council, he reiterates, in his report, the necessity for a reform of the organ and takes up the proposals (the Models A and B) made by the Report of the High-level Panel on Threats, Challenges and Change. However, neither the Panel's report nor M. Annan's report expresses a preference for one of the two models.*

Von Freiesleben, J. (2008). Reform of the Security Council. In Center for UN Reform Education. *Managing Change at the United Nations* (pp. 1-21). New York: Center for UN Reform Education.

*This article comes from a book published in 2008 by the Center for UN Reform Education concerning the challenges and changes of the UN in the 21<sup>st</sup> century. Jonas von Freiesleben presents a very complete sum-up of the history of the reform of the Security Council. The article covers the period from 2003 to 2008 and the author analyses in the last part the future process and challenges concerning this issue.*

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