



Security Council

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Report of the Secretary-General on the protection of civilians in armed conflict

I. Introduction

1. The present report, submitted pursuant to the request contained in the statement by the President of the Security Council dated 12 February 2013 (S/PRST/2013/2), is my tenth report on the protection of civilians in armed conflict.

2. The 18 months since my previous report on this topic (S/2012/376) have borne witness to further tragic and brutal reminders of the fundamental importance of the protection of civilians in armed conflict. This is not simply as a thematic item on the agenda of the Security Council but also as a fundamental objective that we must all — parties to conflict, States, the United Nations and other partners — work tirelessly to achieve. Ensuring the protection of civilians requires uncompromising respect for international humanitarian and human rights law and serious efforts to ensure such respect.

3. The need to strengthen efforts to prevent and respond to violations of international humanitarian and human rights law in situations of conflict and violence has been at the forefront of discussions within the United Nations and its agencies, funds and programmes as we have considered our own response to the situation in the Syrian Arab Republic and the recommendations made by the Internal Review Panel on United Nations Action in Sri Lanka. We are strongly committed to learning from past failures and have agreed upon an action plan, entitled “Rights up front”, which contains important proposals to strengthen the role of the United Nations. The plan is based on recognition that the United Nations can meet its core responsibilities only when it operates with the firm, unified and vocal support of Member States, both within and outside the Security Council. Equally important, the plan recognizes that protecting people from atrocities is an overarching responsibility that must bring together all the critical functions of the United Nations: human rights, humanitarian, political and peacekeeping. This requires close coordination, better information sharing and advocacy, more robust preparedness, greater efforts in prevention work and a coherent and effective strategy owned and delivered by the Organization as a whole.

4. We must not forget that, whatever the United Nations can do to strengthen its own efforts to protect civilians, the ultimate responsibility rests with parties to conflict. Combined with efforts to strengthen the operational response to protection further, the Organization is doing what it can with the resources that it has. As we



look towards the twentieth anniversary of the Rwandan genocide, parties to conflict, the Security Council and Member States must play their part and be accountable when it comes to fulfilling their responsibilities.

5. For the Security Council, the informal Expert Group on the Protection of Civilians remains a valuable forum for ensuring that the Council is informed of protection concerns in situations on its agenda. I encourage Council members to make more systematic use of the Group as a forum for presenting information, analysis and options and for monitoring progress on situations of serious protection concern. I also encourage the Council to more consistently implement the commitments contained in resolutions [1265 \(1999\)](#), [1296 \(2000\)](#), [1674 \(2006\)](#), [1738 \(2006\)](#) and [1894 \(2009\)](#) on the protection of civilians. This includes making greater use of such tools as targeted measures, establishing fact-finding missions and commissions of inquiry and referring situations to the International Criminal Court.

6. The Security Council has taken such actions in the past. The need to act consistently across all relevant situations is clear, given that, without such consistency, there will be a significant gap between the commitments undertaken by the Council in the abstract and the actual performance of the Council in responding to violence against civilians when it matters most. Notwithstanding the agreement to destroy the chemical weapons of the Syrian Arab Republic and the welcome statement by the President of the Council of 2 October 2013 addressing humanitarian concerns ([S/PRST/2013/15](#)), the continued political differences in the Council have resulted in paralysis and an inability to secure a ceasefire in hostilities and use the tools at its disposal to strengthen the protection of civilians.

7. The present report covers the period since May 2012. I take stock herein of the current state of the protection of civilians and highlight some continuing and emerging concerns. I also provide an update on progress made in responding to the five core challenges to the protection of civilians, namely, enhancing compliance by parties to conflict with international law; enhancing compliance by non-State armed groups; enhancing protection by United Nations peacekeeping missions; improving humanitarian access; and enhancing accountability.

II. State of the protection of civilians

8. The current state of the protection of civilians leaves little room for optimism. Civilians continue to account for the vast majority of casualties in current conflicts. They are regularly targeted and subject to indiscriminate attacks and other violations by parties to conflict.

9. In Afghanistan, the first six months of 2013 saw a significant increase in civilian casualties compared with the same period in 2012, a steady decline over the previous six years notwithstanding. The number of deaths increased by 14 per cent (1,319 deaths) and the number of injuries by 28 per cent (2,533 injuries) owing to the more extensive use of improvised explosive devices by anti-Government elements and increased casualties caused by ground engagements. The first half of 2013 saw the number of women killed and injured increase by 61 per cent compared with the same period in 2012. Child casualties increased by 30 per cent compared with 2012. There has been an increase of 72 per cent in the killing and maiming of children resulting from improvised explosive devices and an alarming increase in the number of civilian casualties from explosive remnants of war in and around

closed bases and firing ranges of the International Security Assistance Force, with 31 casualties reported in the first eight months of 2013, compared with 14 casualties in 2012. Conflict-induced displacement continues, with 142,000 people newly displaced in the past 18 months. There has also been a sharp rise in incidents affecting health-care facilities and personnel, most of which are attributed to pro-Government forces. They include the arrest, detention and interrogation of medical workers and patients.

10. In the Central African Republic, the human rights and humanitarian situation has deteriorated since the Séléka offensive in December 2012. As at October 2013, some 400,000 people had been internally displaced and 63,000 had fled to neighbouring countries. Since the unconstitutional change of government on 24 March 2013, violations have continued, including summary executions, extrajudicial killings, enforced disappearances, torture, sexual violence and the recruitment and use of children. The United Nations has expressed particular concern about growing tensions between communities, with increasing attacks and indiscriminate retaliation, which have created a climate of deep suspicion between Christians and Muslims. Attacks against humanitarian personnel and the looting of assets constrain the delivery of assistance and are of grave concern.

11. The security situation in Côte d'Ivoire remains fragile, in particular along the border with Liberia, although it has improved over recent months. As at October 2013, some 45,000 people remained internally displaced. Most are awaiting conditions conducive for their return to their communities of origin, which continue to be affected by conflict and where humanitarian needs remain. Some 77,000 Ivorian refugees remain in the subregion. Rumours of attacks continue, especially in the west, but no major incidents have occurred along the border since March 2013. The United Nations Operation in Côte d'Ivoire continues to document instances of summary executions, forced disappearances, arbitrary arrests and detention, ill-treatment and torture, including by elements of the national armed forces. Violence against children and sexual and gender-based violence remain serious concerns. Human rights violations by the Ivorian national armed forces, including the targeting of people on the basis of their ethnicity and perceived political preference, risk fuelling communal divisions. Confrontations between communities, often around land tenure issues, are also reported.

12. In the eastern Democratic Republic of the Congo, the humanitarian situation has deteriorated in the past 18 months following confrontations between the Mouvement du 23 mars and the Congolese armed forces. Other armed groups increased their attacks in areas vacated by the Congolese armed forces as they focused their resources on the Mouvement du 23 mars. At the beginning of 2013, the number of internally displaced persons stood at 2.6 million, having increased from 1.8 million in 2012. North and South Kivu remained the worst-affected provinces. Some 416,000 people are displaced in areas affected by the Lord's Resistance Army. Sexual violence continues unabated and is attributed to all parties. Insecurity, the lack of roads and bureaucratic impediments continue to have a negative impact on the ability of human rights and humanitarian actors to reach those in need of protection and assistance.

13. The security environment in Iraq has remained volatile and unpredictable, fuelled by political and sectarian tensions. There has been an increase in suicide attacks and the use of indirect-fire weapons such as mortars and surface-to-surface

artillery rockets. While deliberate targeting of Iraqi security forces and individuals continues, there also appears to be a recurrence of mass-casualty attacks in populated areas. According to the United Nations Assistance Mission in Iraq, more than 5,700 civilians were killed and 13,801 injured in violent attacks from January to September 2013. At the end of 2012, there were more than 1.1 million registered internally displaced persons, many living in protracted displacement.

14. Serious violations continue in Mali, including reports of summary executions and forced disappearances, torture, use of children by armed groups, sexual violence, forced marriages and destruction and looting of property. There are reports of human rights violations perpetrated by elements of the national security forces against Tuareg and Arab communities, in addition to other groups perceived to be associated, or to have cooperated, with armed groups. As at October 2013, there were some 311,000 internally displaced persons and an additional 167,000 people had sought refuge in neighbouring States.

15. In Myanmar, fighting in Kachin State between government forces and the Kachin Independence Organization/Kachin Independence Army intensified at the end of December 2012, leading to increased displacement. More than 91,000 people had been displaced in Kachin and Northern Shan States as at August 2013. Women and children are at particular risk of sexual violence and forced recruitment, while landmines pose a threat to all civilians. While humanitarian access was initially severely constrained, it has since improved. It is vital that unimpeded access to the vulnerable and the needy be sustained. Communal violence, which first flared up in Rakhine State and also spread to other parts of the country, has further compounded the humanitarian challenges facing the authorities and local and international aid actors.

16. The occupied Palestinian territory witnessed a significant increase in civilian casualties from January 2012 to August 2013, with 265 people killed, including 46 children, and more than 6,500 injured during hostilities and law-enforcement operations. Most fatalities occurred during hostilities between Israel and Palestinian armed groups in Gaza from 14 to 21 November 2012. During those hostilities, 101 Palestinian civilians were reportedly killed and more than 1,000 injured. Four Israeli civilians were also reportedly killed and 219 injured. At least 14,000 Palestinians have been displaced since my previous report, most during the hostilities of November 2012. While some 12,000 of those have now returned to their homes, tens of thousands of Palestinians are at risk of displacement as a result of multiple factors, including policies and practices relating to the continuing occupation, recurrent hostilities, violence and abuse. Recent relaxations notwithstanding, prolonged restrictions imposed primarily by Israel on the free movement of people and goods to, from and within Gaza continue to impose hardship on the civilian population.

17. In Pakistan, 143,000 people have been displaced from Khyber and Kurram agencies in the Federally Administered Tribal Areas since January 2013 as a result of violence between the Pakistani military and non-State armed groups. Overall, 1 million people remain displaced throughout Khyber Pakhtunkhwa and the Federally Administered Tribal Areas. Security operations and intertribal and sectarian violence continue to hamper access to people in need of assistance in north-west Pakistan, Balochistan, Karachi and parts of inner Sindh and southern Punjab.

18. Some 1.1 million people remain internally displaced in Somalia. Protection concerns are widespread, including more than 800 cases of sexual and gender-based violence reported in Mogadishu in 2013. Humanitarian access is decreasing owing to the fluid and complex security situation. In August 2013, Médecins sans frontières announced the closure of all its programmes in Somalia after 22 years owing to continued attacks on its staff, as a consequence of which an estimated 700,000 people may lose access to health care.

19. Sporadic fighting in the Darfur region of the Sudan continues to take its toll on civilians. At the same time, intertribal conflict over natural resources has increased significantly, leading to the displacement of more than 460,000 people in 2013. Government-affiliated forces have been accused of targeting civilians. Movement restrictions and attacks and intimidation against personnel of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) have undermined the mission's delivery of its protection mandate. Fighting has also continued in Southern Kordofan and Blue Nile States, marked by indiscriminate attacks by all parties and aerial bombings of populated areas by the Sudanese armed forces.

20. In South Sudan, fighting between the national armed forces and non-State armed groups has affected more than 100,000 people from Pibor County, with reports of violations committed by all parties. Soldiers from the national armed forces have been accused of killing civilians, of failing to allow and facilitate the access of humanitarian actors to people in need and of engaging in widespread looting of homes, clinics, schools and churches.

21. The conflict in the Syrian Arab Republic continues to have a devastating impact on civilians. Since March 2011, more than 100,000 people have been killed and 8.7 million displaced, including 6.5 million internally displaced persons and 2.2 million refugees. An estimated 9.3 million people need humanitarian assistance within the country. Humanitarian actors are unable to provide assistance to an estimated 2.5 million people trapped in hard-to-reach and besieged areas, many of which have not been reached for almost a year. Thousands of civilians have been subject to direct and indiscriminate attacks, including the widespread use of explosive weapons in populated areas and the illegal use of chemical weapons in the Ghouta area of Damascus on 21 August. Hospitals, schools, places of worship and other public buildings have been damaged, destroyed or taken over by combatants. More than 1.2 million houses — one third of the country's housing stock — have been destroyed. There are increasing reports of summary and extrajudicial executions, enforced disappearances and sexual violence by all parties. Women and children remain at particular risk of violations, including forced recruitment of children by non-State armed groups and killing and maiming. Almost 2.3 million children have limited or no access to education.

22. In Yemen, recent fighting in Al-Bayda and Amran governorates has led to further civilian casualties and displacement. Access to conflict-affected areas is extremely limited as a result of the security situation and the lack of governmental authority in some areas. As at July 2013, more than 306,000 internally displaced persons were unable to return to their homes because of insecurity and lack of adequate shelter. The conflict and ensuing displacement have increased the exposure of women and girls to sexual and domestic violence. Children are also at risk of forced recruitment by non-State armed groups and of killing and maiming by landmines and explosive remnants of war.

23. In my previous report, I focused on the serious problem of attacks against, and other interference with, health-care facilities, personnel and transport. In 2012, the International Committee of the Red Cross (ICRC) collected information on 921 violent incidents affecting health care during armed conflict and other emergencies in 22 countries.¹ Local health-care providers were affected in 91 per cent of all cases. The analysis also drew attention to two disturbing trends, namely, follow-up attacks affecting first responders and violent disruption of vaccination campaigns. Parties to conflict must immediately cease attacks against, or other forms of interference with, health-care facilities, transport and providers in violation of international law.

24. Attacks against journalists also continue. The independent international commission of inquiry on the Syrian Arab Republic reports that 84 journalists have been killed since March 2011. In Afghanistan and Iraq, 108 journalists have been killed since 2006. Most of the victims are local journalists and media staff. Journalists are also subject to abduction, harassment, intimidation and arbitrary arrest. Female journalists are increasingly victims of sexual harassment and rape. Accountability for the perpetrators of such acts is virtually non-existent. I welcome the attention paid by the Security Council to this problem, as manifested in resolution 1738 (2006) and, more recently, in the open debate of July 2013. This concern must, however, be reflected in relevant resolutions through the inclusion of actions to strengthen the protection of journalists.

III. Continuing and emerging concerns: new weapons technologies

25. Full respect for the law is essential in all conflicts. Just as we must be concerned with the reality of today, we must also consider the future, including the implications of emerging weapons technologies for the protection of civilians.

26. One such weapons technology is the remotely piloted aircraft, or drone. I remain concerned by reports of civilian casualties resulting from armed drone attacks in Afghanistan, the occupied Palestinian territory and Pakistan, for example, which raise questions over compliance with international human rights law and with the international humanitarian law rules of distinction, proportionality and precaution, in addition to the obligation to investigate grave violations resulting from drone attacks. I am also concerned by the continuing lack of transparency surrounding attacks involving armed drones and the consequences thereof for, among other things, accountability and the ability of victims to seek redress. That the surveillance capabilities of drones are said to significantly improve overall situational awareness before an attack, coupled with the use of precision weapons and the strict application of international humanitarian law, should reduce the risk of civilian casualties resulting from an attack. The lack of transparency concerning the use of such weapons, however, renders it extremely difficult to verify the extent to which this is the case.

27. Concerns, including important human rights concerns, have also been raised regarding the broader impact of drones on individuals, children, families and

¹ ICRC, "Health care in danger: violent incidents affecting health care, January-December 2012" (Geneva, 2013).

communities in areas of Pakistan (and potentially elsewhere). They include the interruption of education as families keep children home from school out of fear of attacks, the undermining of religious and cultural practices as community members avoid gathering in groups and a reluctance to assist the victims of drone strikes for fear of being caught in secondary strikes.² As more States and, potentially, non-State armed groups possess armed drone technology, these issues will become increasingly acute.

28. The proliferation of drone technology and the increasing resort to such weapons systems will also further sharpen the asymmetry that exists in many conflicts between State and non-State parties. As technology allows one party to become increasingly removed from the battlefield, and the opportunities to fight against it are reduced, we may see technologically inferior parties increasingly resort to strategies intended to harm civilians as the most accessible targets. Moreover, drone technology increases opportunities to conduct attacks that might otherwise be considered unrealistic or undesirable through other forms of air power or the deployment of ground troops. As the ability to conduct attacks increases, so too does the threat posed to civilians.

29. In the future, these concerns, and others, may apply also to the use of autonomous weapons systems, or what are known as “killer robots”, which, once activated, can select and engage targets and operate in dynamic and changing environments without further human intervention. Important concerns have been raised as to the ability of such systems to operate in accordance with international humanitarian and human rights law. Their potential use provokes other questions of great importance: is it morally acceptable to delegate decisions about the use of lethal force to such systems? If their use results in a war crime or serious human rights violation, who would be legally responsible? If responsibility cannot be determined as required by international law, is it legal or ethical to deploy such systems? Although autonomous weapons systems as described herein have not yet been deployed and the extent of their development as a military technology remains unclear, discussion of such questions must begin immediately and not once the technology has been developed and proliferated. It must also be inclusive and allow for full engagement by United Nations actors, ICRC and civil society.

IV. Five core challenges

30. The five core challenges to enhancing the protection of civilians remain relevant.

A. Enhancing compliance

31. Initiatives are being pursued to enhance compliance with the law. Pursuant to a resolution adopted at the Thirty-first International Conference of the Red Cross and Red Crescent, Switzerland and ICRC launched a joint initiative in 2012 to consult States and other relevant actors on possible ways to strengthen compliance with

² International Human Rights and Conflict Resolution Clinic at Stanford Law School and Global Justice Clinic at New York University School of Law, “Living under drones: death, injury, and trauma to civilians from US drone practices in Pakistan” (2012).

international humanitarian law through the establishment of more effective international mechanisms. At a second meeting, in June 2013, States voiced strong support for the idea of establishing a forum for regular dialogue on international humanitarian law and for further discussion of the modalities of a compliance system, both of which would constitute important progress in the implementation of international humanitarian law.

32. In May 2013, the Norwegian-led process on reclaiming the protection of civilians under international humanitarian law concluded with a global conference in Oslo, the culmination of regional conferences in Argentina, Austria, Indonesia and Uganda. The Co-Chairs issued a set of recommendations addressing such issues as reducing harm to civilians in military operations, strengthening the protection provided by humanitarian actors, promoting compliance with international humanitarian law, enhancing documentation of the conduct of military operations and strengthening accountability. Member States are encouraged to consider the recommendations and implement them accordingly.

33. Efforts to enhance compliance were further reinforced by the adoption in April 2013 of the Arms Trade Treaty. The Treaty is of crucial importance for the prevention of serious violations of international humanitarian and human rights law, in particular its prohibition of arms transfers where the transferring State has knowledge that the arms would be used in the commission of serious crimes. Member States are strongly encouraged to ratify the Treaty and, in the meantime, to put this prohibition into immediate effect.

34. I have consistently drawn attention to the mounting concern on the part of the United Nations, ICRC, civil society and an increasing number of Member States at the need to further strengthen the protection of civilians from the use of explosive weapons in populated areas. In my previous report, I recommended that parties to conflict should refrain from using explosive weapons with wide-area effect in such areas and that Member States and other relevant actors should intensify their consideration of the issue.

35. In response to the latter recommendation, the Office for the Coordination of Humanitarian Affairs, in partnership with Chatham House, convened a meeting of governmental and other experts in September 2013 to discuss options for strengthening the protection of civilians from the use of explosive weapons in populated areas. The participants noted that reducing harm to civilians from explosive weapons could be divided into the following three separate but mutually reinforcing areas: a presumption against the use of explosive weapons in law enforcement; the development of a presumption against the use of explosive weapons with wide-area effects in populated areas in situations of armed conflict; and a focus on improvised explosive devices from the perspective of the harm that they cause civilians. Those in turn could be approached through the following three work streams: further research into different aspects of the problem; the collection of operational good practice to form the basis for guidance to parties to conflict; and formal recognition of the problem by Member States and a commitment to addressing it, including through the adoption of operational guidance.

36. The participants underlined the importance of civilian casualty tracking mechanisms as a means of understanding the impact of military operations on civilians and identifying the changes in military tactics required to reduce harm to civilians. In my previous report, I referred to such mechanisms in Afghanistan and

Somalia. With regard to Afghanistan, as responsibility for security moves from the International Security Assistance Force to the Afghan national security forces, casualty tracking mechanisms should be institutionalized within the Afghan national security forces and commanders should ensure that the information and analysis generated are used to inform the conduct of future operations. With regard to Somalia, I welcome the approval by the African Union Mission in Somalia of the implementation of the civilian casualty tracking, analysis and response cell and urge that it become operational as soon as possible.

37. In addition to casualty tracking, I would stress the continuing importance of casualty recording. Unlike tracking, which is undertaken by a party to conflict with a view to informing tactics and mitigating harm to civilians, casualty recording is undertaken by States, civil society and other actors, including the United Nations, to systematically maintain a record of deaths and injuries from armed violence in order to inform advocacy with parties to conflict. An inter-agency task force will review current United Nations monitoring and reporting mechanisms on humanitarian and human rights law violations and make recommendations for the establishment of a common United Nations system to gather and analyse such information in a timely and coherent manner. Consideration will be given to the role of casualty recording in such a system.

B. Enhancing compliance by non-State armed groups

38. The participants in the meeting organized by the Office for the Coordination of Humanitarian Affairs and Chatham House noted the significant use by non-State armed groups of explosive weapons, in particular improvised explosive devices. Research shows that, of the more than 34,700 people killed and injured by explosive weapons in 2012, 60 per cent of the casualties were caused by improvised explosive devices.³ A total of 81 per cent of casualties were civilians. Such findings underscore the continuing importance of enhancing compliance with international humanitarian law by non-State armed groups and the corresponding need for humanitarian actors to engage with such groups to that end and to gain safe access to people in need of assistance.

39. I am encouraged by the recognition by the Security Council earlier in 2013 of the need for consistent engagement by humanitarian agencies with all parties to armed conflict for humanitarian purposes, including activities aimed at ensuring respect for international humanitarian law.

40. In my previous report, I expressed concern at counter-terrorism legislation and other measures introduced by donor States that might criminalize engagement by humanitarian actors with non-State armed groups designated as terrorist or otherwise inhibit principled humanitarian action. There is no inherent contradiction between the legitimate security aims of counter-terrorism measures and the aims of principled humanitarian action. At the most basic level, both seek to protect civilians from harm. Earlier in 2013, an independent study commissioned by the Office for the Coordination of Humanitarian Affairs and the Norwegian Refugee Council on the impact on humanitarian action of the counter-terrorism laws and

³ Action on Armed Violence, "IEDs and suicide bombers: AOAV's projected policy directions" (London, 2013).

policies of 15 donors found that none of the laws examined prohibited contact with non-State armed groups designated as terrorist for humanitarian purposes.⁴ It also found examples of good State practices in this area. The study did find, however, some policies that dictated that government and intergovernmental representatives should limit contact with designated groups or refrain from providing any assistance, even of a life-saving nature, to individuals or entities associated with designated groups. Moreover, the bestowing of grants might transfer those requirements to implementing partners. Such practices erode the humanitarian principles of humanity, neutrality and impartiality. It was recommended that donor States and intergovernmental bodies should avoid promulgating policies that inhibited engagement with non-State armed groups, including those designated as terrorist, which controlled territory or access to the civilian population. It was also recommended that donor States should ensure that counter-terrorism laws and measures included appropriate exemptions for humanitarian action. Both recommendations are consistent with the recognition by the Security Council of the need for engagement and apply more broadly to all Member States.

41. The United Nations has been criticized for failing to provide adequate leadership in humanitarian negotiations with non-State armed groups. A study of United Nations missions in Afghanistan, the Democratic Republic of the Congo and Somalia found that engagement with non-State armed groups was limited, in particular at the senior level. That was found to have undermined efforts to obtain the security guarantees necessary for access to people in need and limited opportunities to undertake advocacy regarding the protection of civilians.⁵ The United Nations is not, however, necessarily seen by some humanitarian actors as an appropriate body to coordinate or lead engagement with non-State armed groups as a result of concerns in some situations over its perceived neutrality.⁶ In Somalia, for example, non-governmental organizations argued that the United Nations support for the Transitional Federal Government undermined its ability to negotiate access with non-State armed groups.

42. These developments must be addressed. Individual humanitarian organizations have their own modes of operation for engaging with non-State armed groups. Discussions among these organizations are, however, necessary to ensure that individual engagement with such groups will not adversely affect humanitarian operations more broadly. Further research is needed to better understand how humanitarian actors are engaging with non-State armed groups at different levels, in different places, at different times and for different purposes. More work must also be done to understand the role that the United Nations, donors and other actors can play in providing leadership and support for effective and sustained engagement.

⁴ Kate Mackintosh and Patrick Duplat, "Study of the impact of donor counter-terrorism measures on principled humanitarian action" (July 2013).

⁵ Victoria Metcalfe, Alison Giffen and Samir Elhawary, "UN integration and humanitarian space: an independent study commissioned by the UN Integration Steering Group" (London/Washington, D.C., 2011), p. 1.

⁶ Ashley Jackson, "Talking to the other side: humanitarian engagement with armed non-State actors", HPG Policy Brief, No. 47 (London, 2012), p. 4.

C. Enhancing the role of peacekeeping and other missions

43. Mandating peacekeeping missions to protect civilians under imminent threat of physical violence remains among the most significant actions taken by the Security Council to enhance protection. Pursuant to resolution 1894 (2009), I continue to direct peacekeeping missions to accord priority to the protection of civilians and to support continuing efforts to strengthen missions' capabilities in this regard. Since my previous report, the Council has established one new mission, the United Nations Multidimensional Integrated Stabilization Mission in Mali, with a mandate to protect civilians. Mali is a complex and challenging environment for peacekeeping, with non-United Nations forces engaged in counter-terrorism operations. Maintaining the distinction between these counter-terrorism operations and the Mission's stabilization activities is important, including for the effective protection of civilians and humanitarian action.

44. The Security Council also substantially reconfigured the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) in its resolution 2098 (2013). On an exceptional basis and without creating a precedent, the Council authorized targeted offensive operations against armed groups through an intervention brigade as one element of a comprehensive approach to addressing the root causes of the conflict and ending the recurring cycles of violence in the eastern Democratic Republic of the Congo. MONUSCO will take all steps feasible to mitigate risks to civilians before, during and after offensive operations. MONUSCO will also strengthen, as needed, mechanisms to ensure compliance by its forces with international humanitarian and human rights law and promote accountability. MONUSCO and the United Nations country team will review their respective protection mechanisms and strengthen civil-military coordination. They will also take steps to mitigate any negative impact on the perception of humanitarian and human rights actors by parties to the conflict.

45. In the statement by the President of the Security Council of 12 February 2013 (S/PRST/2013/2), I was requested to include an assessment of specific measures taken by peacekeeping missions to implement their mandates to protect civilians and the impact of those measures. The range of measures employed by missions varies greatly but generally encompasses political dialogue, physical protection and the promotion of a protective environment.

46. The United Nations missions in Côte d'Ivoire and Liberia have implemented their mandates to protect civilians in great part by supporting their host Governments. Although violence has decreased along the border between Côte d'Ivoire and Liberia, the threat of insecurity in the area remains. The missions supported the respective Governments in their discussions on border security and stabilization and engaged in concurrent patrols with the respective national authorities to improve security in the border areas. In the Democratic Republic of the Congo, MONUSCO formed police units engaged in joint patrols with the Congolese police to restore security following attacks on internally displaced persons near Goma in December 2012. The United Nations Mission in South Sudan (UNMISS) has engaged in political dialogue to support the protection of civilians. For example, in May 2012, it supported the All Jonglei Peace Conference, at which resolutions were agreed upon to help to reduce intercommunal violence in Jonglei for several months. UNAMID also supported reconciliation efforts between ethnic groups.

47. The past 18 months have witnessed action by several missions to protect civilians physically. For example, from October 2012 to May 2013, more than 12,000 people sought refuge at UNMISS bases on 11 separate occasions. In April 2013, 17,000 civilians fleeing fighting took refuge around UNAMID bases in East Darfur. Before this, in February 2013, UNAMID troops in North Darfur deployed to El Sireaf to protect civilians affected by fighting between armed groups and evacuated 100 vulnerable civilians. United Nations police in Haiti have patrolled camps for displaced persons, including three locations secured by a 24-hour security presence.

48. MONUSCO engaged in robust physical protection during the reporting period, including 71 rapid reaction deployments and 324 investigative patrols in response to specific threat alerts. It also carried out more than 2,500 night patrols. In May 2012, in response to violence by armed groups in Masisi, North Kivu, the Mission dispatched two standing combat deployments and a temporary operating base a month later to reinforce the physical protection of local communities and internally displaced persons. Such interventions have underlined the importance of sharing information and coordination between the civilian and military components of missions.

49. Mission protection of civilian activities focus largely on building a protective environment. Against a backdrop of increasing inter-ethnic clashes, the deployment of mobile human rights teams by the United Nations Multidimensional Integrated Stabilization Mission in Mali has helped to prevent a further escalation of violence. Efforts have also been made to build host State capacity, such as the work of United Nations police in Haiti to assist their national counterparts in establishing community policing programmes and training Haitian officers to conduct professional and effective investigations into sexual violence. Similarly, the United Nations Operation in Côte d'Ivoire has collaborated with partners from the United Nations country team to provide human rights training to 494 members of the national security forces. Efforts have also been made to ensure accountability, such as the investigation by MONUSCO of conflict-related sexual violence committed by the Congolese armed forces in Minova in November 2012. While the investigation is continuing, 12 Congolese armed forces officers have been suspended and 29 Congolese armed forces personnel arrested to date. It is regrettable, however, that there are still no convictions for these crimes. The United Nations human rights due diligence policy is an important tool for peacekeeping missions to promote the adherence of security forces to international humanitarian and human rights law. I welcome the reference by the Security Council to the policy in peacekeeping mandates.

50. Peacekeeping remains an important tool in protecting civilians. All the missions reviewed herein have saved lives, but also face considerable operational challenges, including logistical constraints and, in the case of UNMISS and UNAMID, Government-imposed access restrictions and attacks by armed groups. Sustained efforts to provide missions with sufficient resources and capabilities are essential to enable this vital mandated task to be conducted consistently.

D. Enhancing humanitarian access

51. In the past 18 months, constraints on access have undermined the ability of humanitarian actors to reach people in need of assistance and protection in a safe and timely manner and the ability of people in need to reach essential services and assistance. Access constraints are broad and varied in nature and, while all constraints have a significant impact on civilians, not all are deliberate and not all constitute violations of international law. Nonetheless, the need for the continued and urgent attention of the Security Council to this issue remains. It is also critically important for national and international humanitarian actors to ensure a more coordinated approach to negotiating, securing and maintaining access. The initiative of Switzerland to produce legal and operational guidance and training materials is a welcome step forward.

52. According to data collected through the access monitoring and reporting framework of the Office for the Coordination of Humanitarian Affairs, the constraints that have the most severe consequences for those affected are violence against humanitarian workers, active hostilities and restrictions on movement.

53. Violence against humanitarian workers and assets, or risk thereof, continues to constrain humanitarian operations in such contexts as Afghanistan, the Central African Republic, the Democratic Republic of the Congo, Iraq, Pakistan, Somalia, South Sudan, the Sudan, the Syrian Arab Republic and Yemen. From May 2012 to August 2013, according to figures currently available, 134 humanitarian workers were killed, 172 wounded and 149 abducted. While most victims are national staff, the number of international staff killed in 2013 has doubled compared with 2012. Kidnappings of humanitarian workers are reported to have quadrupled over the past 10 years.

54. Active hostilities pose a major challenge to the humanitarian response in a number of situations. In the midst of hostilities, humanitarian operations can be severely constrained as a result of the risk of humanitarian workers being caught in crossfire; the absence of agreed mechanisms between and with parties to the conflict for the delivery of assistance; and challenges in engaging with all parties to the conflict to negotiate safe access. In the Syrian Arab Republic, for example, at least 2.5 million people are trapped in hard-to-reach and besieged areas, some of which have not been reached for almost a year, because the parties to the conflict have failed to consent to humanitarian pauses.

55. In many situations, humanitarian operations are severely constrained by restrictions on movement, both of humanitarian workers and people in need of assistance. With regard to the latter, in the occupied Palestinian territory, for example, Palestinians' access to essential services in the Gaza Strip is undermined by long-standing restrictions imposed by the Israeli authorities on the movement of people and goods. Israel continues to impose wide-ranging restrictions on the movement of Palestinians from Gaza to the West Bank, including East Jerusalem, which in turn restricts access to specialized health and other services unavailable in the Gaza Strip. In recent months, Egypt has imposed restrictions on movement of people from Gaza to Egypt through the Rafah crossing. Although intended to counter illegal activities and insecurity in the Sinai, the restrictions have also affected access to medical referrals.

56. The timely deployment of humanitarian workers, relief goods and equipment from the outset and for the duration of an emergency is crucial for an effective humanitarian response. While States are entitled to regulate the entry and movement of relief personnel, goods and equipment, they must also comply with their obligation to allow and facilitate the rapid and unimpeded passage of humanitarian relief and to allow the freedom of movement of authorized humanitarian relief personnel necessary to the exercise of their functions. Freedom of movement may be temporarily restricted only in case of imperative military necessity. To meet these obligations, relevant States must put in place simple and expeditious procedures for administrative and logistical arrangements pertaining to customs, visas and travel authorizations.

57. In Yemen, while restrictions on the movement of humanitarian workers have significantly decreased in 2013, restrictions remain on the entry of essential security and communications equipment. In the Syrian Arab Republic, access to specific locations has been denied, in some cases for more than 10 months, by both government forces and non-State armed groups. In addition, humanitarian actors have reported the selective removal of medical equipment from relief consignments. In the Sudan, an estimated 800,000 people in areas controlled by non-State armed groups in Southern Kordofan and Blue Nile States cannot receive assistance from within the Sudan owing to the continued failure of the parties to implement the tripartite agreement and the refusal of the Government to allow cross-line access for humanitarian operations in territories held by non-State armed groups.

58. While under international humanitarian law the consent of the affected State is required for relief operations to be undertaken, it is generally accepted that such consent must not be arbitrarily withheld. The continued failure of many parties to comply with the obligations outlined above raises some important questions, however. What are valid or arbitrary reasons for withholding consent to relief operations? Where consent can be regarded as having been withheld arbitrarily, what are the legal and other consequences for the affected State and for humanitarian actors offering their services? Where a State impedes operations to the degree that humanitarian actors are unable to operate meaningfully or in a principled manner, can consent be said to have been implicitly withdrawn? This area requires further analysis and development in order to ensure that the law has meaning for those who suffer beyond the reach of assistance.

59. Irrespective of whether consent is arbitrarily withheld, parties to conflict should ensure that the most efficient means are available for reaching people in need of assistance, including through cross-line and cross-border operations, if necessary.

E. Enhancing accountability

60. The prevalence of impunity in many States experiencing, or that have experienced, conflict allows war crimes and serious human rights violations to thrive, undermines the fabric of societies and prevents the development of lasting solutions, which contributes to instability. In my previous reports, I focused on the importance of fact-finding missions and commissions of inquiry as a response to violations and the fundamental role of the International Criminal Court in dispensing justice to victims of the most serious crimes.

61. Important as international mechanisms are, they do not negate the fundamental responsibility of States, as the General Assembly recently emphasized, to adopt appropriate measures within their national legal systems for those crimes for which they are required under international law to exercise their responsibility to investigate and prosecute (see resolution 67/295). These crimes include genocide, war crimes, crimes against humanity and other serious violations of international human rights law. Both international humanitarian law and international human rights law oblige States to investigate and prosecute allegations of serious violations by military personnel, whether during military operations or not.

62. Member States must do more to implement this obligation or support its implementation by providing technical and financial resources to those States requiring such support. There are examples of positive State practice. In the Democratic Republic of the Congo, the national authorities, with the support of the international community, have strengthened the criminal justice system, in particular regarding efforts to combat impunity for sexual violence. The deployment of mobile courts has resulted in 234 cases being heard and 54 judgements being handed down. In Côte d'Ivoire, national investigations and prosecutions of alleged perpetrators of crimes committed during the post-election crisis have continued, although only perpetrators affiliated with the former regime have been brought to justice. In Mali, the transitional Government has launched investigations into alleged violations committed by troops. United Nations entities have carried out a wide spectrum of projects supporting national processes of investigation and prosecution in several countries, including Burundi, Cambodia and Colombia.

63. A further challenge to ensuring accountability is related to the lack of the capacity and technical ability necessary to investigate and prosecute crimes and adopt specialized approaches where needed. The capacity challenge may be exacerbated in the absence of a strong commitment to due process, including fair trial guarantees, and by inadequate or inexistent procedures to ensure the protection of witnesses and victims. The protection of witnesses and victims has been addressed through United Nations assistance in Bosnia and Herzegovina, Burundi, Colombia, Croatia, the Democratic Republic of the Congo, Nepal, Rwanda and Uganda, among others. Targeted technical assistance requires parallel efforts to promote the transfer of knowledge and skills to the national authorities. In Cambodia and Sierra Leone, the Office of the United Nations High Commissioner for Human Rights has supported legacy programmes of the respective courts. Projects that support archiving of evidence are also a useful tool for future trials or other efforts to ensure accountability.

64. Accountability should also be understood more broadly as encompassing the political, legal and moral responsibility of individuals and institutions for past violations. One important aspect of institutional reform efforts in countries in transition is vetting processes to exclude from public institutions, such as the military and police, individuals involved in the commission of human rights and humanitarian law violations.

V. Recommendations

65. The present report is my tenth on the protection of civilians in armed conflict. While, in comparison to my previous reports, some of the situations and parties

referred to may have changed, the nature of the problems in current conflicts remains largely the same. So do the actions needed to respond, chief among which is the need for far greater respect for and protection of civilians. The protection of civilians is a fundamental — and, for parties to conflict, legal — responsibility that must be honoured by all.

66. My previous reports contain important recommendations to this end, many of which remain relevant. The Security Council and Member States are strongly encouraged to revisit them and to consider the additional recommendations set out below aimed at tackling the issues raised herein.

New weapons technologies

67. Relevant Member States must ensure that attacks launched by armed drones comply with international law. Furthermore, they should be more transparent about the circumstances in which drones are used, including the legal basis for specific attacks, and detail measures taken:

- (a) To ensure the protection of civilians in specific drone attacks;
- (b) To track and assess civilian casualties resulting from attacks in order to identify all measures feasible to avoid civilian casualties;
- (c) To investigate serious violations of international humanitarian law and international human rights law that are alleged to have occurred during such attacks.

68. I also urge relevant Member States to reflect on the precedent-setting nature of their use of armed drones and the future implications thereof as the technology proliferates.

Use of explosive weapons in populated areas

69. There is increased understanding of the disastrous short-term and long-term impact on civilians of the use of explosive weapons in populated areas. I have instructed the Office for the Coordination of Humanitarian Affairs to continue to engage with interested Member States, United Nations actors, ICRC, civil society and other actors to increase awareness of the issue and the need to address it, and to develop practical measures, including a political commitment by Member States to addressing the problem and producing operational guidance. Such guidance should draw on existing good practice and existing and future research, including that identified at the Office for the Coordination of Humanitarian Affairs-Chatham House expert meeting and at future consultations. In addition:

- (a) Member States are strongly encouraged to engage proactively in these efforts, including by supporting organizations undertaking research in this area and engaging in a process aimed at developing a political commitment and guidance with regard to reducing the short-term and longer-term impact on civilians of explosive weapons in populated areas;
- (b) More immediately, parties to conflict should refrain from the use in populated areas of explosive weapons with wide-area effect and the Security Council, whenever relevant, should call upon parties to conflict to refrain from such use.

Civilian casualty tracking and recording

70. In recognition of the proven utility of civilian casualty tracking as a means of informing military strategy to reduce harm to civilians, parties to conflict, including in the context of multinational operations and United Nations peacekeeping missions involved in offensive operations, should establish and implement such mechanisms.

71. United Nations actors should work together to establish a common United Nations system to systematically record civilian casualties as part of broader efforts to monitor and report on violations of international humanitarian and human rights law, drawing on good practice and expertise from within the United Nations, Member States and civil society.

Engagement with non-State armed groups

72. In line with the recognition by the Security Council of the need for consistent engagement by humanitarian agencies with all parties to armed conflict for humanitarian purposes, I urge Member States to avoid promulgating policies that inhibit engagement with such groups that control territory or access to the civilian population in areas controlled by non-State armed groups.

73. I also urge Member States to ensure that counter-terrorism laws and measures include appropriate exemptions for humanitarian action.

Role of peacekeeping operations

74. Protecting civilians remains one of the most important, but also one of the most challenging, tasks of United Nations peacekeeping operations. Peacekeepers are asked to carry out increasingly complex missions in increasingly dangerous environments. The success of these endeavours will depend upon a supportive relationship with the host Government and well-trained personnel with access to appropriate resources and modern technology. To this end:

(a) I urge Member States hosting peacekeeping operations to work closely with the mission to protect civilians, recognizing that protection is always the primary responsibility of the host State;

(b) I urge Member States to ensure that the military and police personnel that they contribute receive predeployment training on the protection of civilians according to United Nations standards and to provide important resources such as air mobility assets and early warning.

Humanitarian access

75. Given that safe, timely and unimpeded access is a fundamental prerequisite for humanitarian action, Member States are strongly urged to ensure the timely issuance of visas for international humanitarian personnel and simplified, expedited systems for exempting humanitarian goods and workers from fees, duties or taxes.

76. The Security Council and Member States should consistently condemn attacks against humanitarian workers and promote accountability for such attacks, including by encouraging, instigating and supporting investigations and prosecutions at the national level.

77. Parties to conflict should take all steps necessary to ensure accountability for grave instances of deliberate delays or denials of access for humanitarian operations, in addition to attacks on humanitarian workers, including through referrals to the International Criminal Court or national prosecutions.

78. The Security Council should expand its practice of imposing targeted measures on individuals obstructing access to, or the delivery of, humanitarian assistance, where relevant.

79. Parties to conflict should ensure that the most efficient means are available for reaching people in need with humanitarian assistance and protection, including in situations where this involves humanitarian operations that cross lines of conflict or international borders.

80. Further analysis is required on the issue of arbitrary withholding of consent to relief operations and the consequences thereof. I have instructed the Office for the Coordination of Humanitarian Affairs to engage with relevant legal experts, Member States, ICRC, humanitarian actors, civil society and others to examine the relevant rules and consider options for providing guidance. Member States are encouraged to engage in these efforts proactively.

Accountability

81. Important measures have been taken by some Member States to ensure accountability for war crimes and serious violations of human rights. We must, however, ensure far broader respect for the obligation to investigate and prosecute these and other crimes at the national level.

82. Member States that have not already done so should:

(a) Adopt national legislation for the prosecution of persons suspected of genocide, crimes against humanity, war crimes and other serious violations of human rights law;

(b) Search for and prosecute persons suspected of grave breaches of international humanitarian law and serious violations of human rights law, or extradite them;

(c) Establish programmes to protect witnesses, victims and individuals who cooperate with national and international judicial and quasi-judicial bodies, or provide financial or technical support for the establishment of such programmes in other Member States;

(d) Ratify the Rome Statute of the International Criminal Court without delay;

(e) Cooperate fully with the International Criminal Court and similar mechanisms.

83. For its part, the Security Council is urged:

(a) To insist that Member States cooperate fully with the International Criminal Court and similar mechanisms;

(b) To enforce such cooperation, as necessary, through targeted measures.