



SECURITY COUNCIL AND HUMAN RIGHTS IN 2008

INTRODUCTION

Over the course of 2008, the Security Council continued with its pattern of failing to protect civilians in many parts of the world.¹ This was due in part to the financial constraints faced by the UN as a whole, coupled with the limited political will of its member States to contribute sufficient funds, personnel, and other resources to its peacekeeping missions. This meant that even when it took action, the Security Council often failed to respond adequately to the gravity of the human rights situation. In Darfur for instance, despite the grave and well-documented violations of human rights, 12 months since it became operational, the African Union-UN hybrid force (UNAMID) had only reached about 60% of the uniformed personnel authorised by the Security Council.² This failure to ensure a comprehensive and consistent response to the call to protect civilians, whether in Afghanistan, the occupied Palestinian territories (OPT), the Democratic Republic of the Congo (DRC), Somalia or elsewhere, came at considerable cost to the Security Council's international reputation and standing. At the same time, the Security Council also tolerated consistent violations of its own sanctions, most notably the UN arms embargos on Darfur, the DRC, and Somalia.

The Security Council's inability to protect civilians also fuelled a general climate of impunity that seems to have taken root in many of the world's conflict zones. This included impunity for violations of international humanitarian law and human rights law, particularly the use of child soldiers and sexual and gender-based violence. One of the most serious consequences of this entrenched impunity over the course of the year was the increasing disregard for, and grave threats faced by, humanitarian aid workers. For instance, the UN Under-Secretary-General for Humanitarian Affairs, Mr John Holmes, reported that 112 humanitarian workers had been kidnapped in Afghanistan in 2008, and five of them killed by their captors. In North Kivu in the DRC, 104 security incidents involving humanitarian workers were reported in the month of September 2008 alone.³

Regrettably, the Security Council also continued to fail to establish formal communication links with the UN's early-warning mechanisms on human rights concerns, the special procedures of the Human Rights Council, or even with the most senior UN official on human rights matters, the High Commissioner for Human Rights (the High Commissioner).⁴ Not only did this deprive the Security Council of critical, expert information on a range of country and

¹ See International Service for Human Rights (ISHR), *Human Rights Monitor 2007* 'The Security Council's failure to protect: the gap between rhetoric and reality grows', (Geneva, 2008), available at www.ishr.ch/hrm07.

² John Holmes, UN Under-Secretary-General for Humanitarian Affairs, 'Protection of civilians elusive for Security Council', UN radio interview, 14 January 2009, available at www.unmultimedia.org/radio/english/detail/67459.html.

³ Statement to the Security Council by the Under-Secretary-General for Humanitarian Affairs, 14 January 2009.

⁴ Since taking office in September 2008, the new High Commissioner, Ms Navanethem Pillay, is yet to be invited to address the Security Council. Her predecessor, Ms Louise Arbour, last addressed the Council in May 2007 following her mission to the Great Lakes region in Africa, and was rebuked by South Africa for doing so.

thematic developments relevant to its agenda, it also undermined the goal of mainstreaming human rights throughout the work of the UN, as was envisaged in 2005 when all member States committed to restore human rights as the 'third pillar' of the organisation at the World Summit. Further, the creation of the Human Rights Council in 2006 provided some Security Council members a convenient opportunity to relegate responsibility for human rights matters to this subsidiary organ of the General Assembly.⁵

However, the most critical factor underscoring the Security Council's failure to ensure the protection of civilians over the course of the last year was the continuing political divisions amongst its members, principally the five permanent members. China and the Russian Federation, along with some Security Council members belonging to the Non-Aligned Movement (NAM)⁶ preferred 'quiet diplomacy' and frequently sought to avoid any perception of the Security Council's interference in matters of State sovereignty, as shown by their responses to the deepening crises in Darfur, the DRC, Somalia, and Zimbabwe. These States also showed a preference for deferring to regional and sub-regional organisations, such as the African Union (the AU) and the Southern African Development Community (SADC), as demonstrated by the Security Council's response to the crises in Kenya and Zimbabwe. The obvious exception here was the Russian Federation's response to the situation in Georgia, where it invoked the principle of responsibility to protect to legitimise its troop deployment to South Ossetia.

In contrast, France, the United Kingdom (the UK), the United States (the US), and some Latin American members⁷ of the Security Council were stronger advocates of the Security Council fulfilling its responsibilities to protect civilians. They were less willing to stand by as governments flagrantly flouted their responsibility to protect civilians or sought to evade international justice and accountability mechanisms such as the International Criminal Court (ICC). They were also generally more willing to consider or advocate for sanctions and push for other benchmarks of cooperation.

The Security Council's record in 2008 was mixed due to these divisions and the lack of political will. Sometimes this meant it settled for the

lowest common denominator of no action,⁸ or just adopting a presidential statement. Other times it meant more decisive action that helped protect civilians or further the principles of justice and accountability.

It is therefore important to recognise that the Security Council did take some notable steps in the right direction during 2008 in relation to addressing impunity and ensuring the protection of civilians. These included its adoption of Security Council *Resolution 1820* on sexual violence during armed conflict; strengthening language relating to sexual violence and protection of civilians in the resolution renewing the mandate of the UN peacekeeping mission in the DRC (MONUC); as well as its preparedness to support the independence of the ICC by not undermining its decision to consider issuing an arrest warrant for the current President of the Sudan for genocide, war crimes, and crimes against humanity.

THE SECURITY COUNCIL, UN PEACEKEEPING OPERATIONS, AND THE FAILURE TO PROTECT CIVILIANS

At the close of 2008, the UN's annual peacekeeping budget was at an all-time high of over \$ 7 billion and a total of 16 operations on the ground were staffed by 110,000 uniformed and civilian personnel.⁹ Yet at the same time, the UN Under Secretary-General for Humanitarian Affairs was the first to admit that the peacekeeping operations were failing to protect civilians, despite the fact that it was one of its main purposes.¹⁰

The complex reasons underpinning this failure are well documented.¹¹ In addition to the political divisions and other reasons mentioned above, they include the following:

- UN peacekeeping missions have evolved from simple military operations into multi-dimensional integrated operations, involving a diverse range of partners and regional players
- The nature of the conflicts is also different, as they increasingly involve non-State

⁵ During the Council's thematic debate on 'working methods' on 27 August 2008, South Africa commented that the Security Council had been criticised on a number of occasions for its 'tendency to encroach upon areas of responsibility' of the General Assembly and the Human Rights Council. It argued this not only weakened the UN as a whole, but also 'opened the Security Council's agenda to manipulation and the promotion of bilateral agendas'. See S/PV.5968, available at www.un.org/Depts/dhl/resguide/scact2008.htm.

⁶ South Africa, Indonesia, Libya, Vietnam.

⁷ Costa Rica and Panama.

⁸ For instance on 21 August 2008, a US airstrike on Afghanistan was reported to have killed 90 civilians, the majority of whom were women and children. For two weeks the US military insisted that only five to seven civilians and 30 to 35 militants were killed in what it said was a successful operation against the Taliban. However, due to objections from the US immediately following the airstrikes, the Security Council failed to reach consensus on the wording of a press statement to offer condolences to the victims and call for an investigation, which is considered standard Security Council practice when significant civilian casualties have occurred. As a result, the Security Council took no action. On 26 August 2008, the UN Assistance Mission in Afghanistan (UNAMA) reported that an investigation by its human rights team found that some 90 civilians were killed, including 60 children, during operations carried out by international and Afghan military forces on 21 August in Herat's Shindand district.

⁹ The UN had an estimated \$ 7.4 billion as the peacekeeping budget for the 2008-09 fiscal year, which was a 10% increase over the previous budget and a nearly threefold increase in budget and personnel since 2003. It was three-times the size of the UN regular budget for the rest of the Secretariat. In 1999-2000, the peacekeeping budget was \$ 1.5 billion. See Security Council Report, 'UN Peacekeeping Operations: Update Report No.2', 16 January 2009, p.2 and 4, available at www.securitycouncilreport.org/site/c.giKWLeMTIsG/b.2400833/k.D0E4/Publications_on_Peacekeeping.htm.

¹⁰ UN Under-Secretary-General for Humanitarian Affairs, John Holmes, 'Protection of civilians elusive for Security Council - USG Holmes', UN radio interview, 14 January 2009, available at www.unmultimedia.org/radio/news/detail/67462.html.

actors who do not respect international humanitarian law and other established norms, and employ weapons of war including the use of child soldiers, sexual violence, and the targeting of civilians and humanitarian workers

- While the inclusion of law enforcement and human rights monitoring components in the protection mandate of peacekeeping missions is increasingly needed, implementation is hindered by the lack of qualified personnel
- Communication channels between Security Council members, parts of the UN Secretariat with expertise relevant to peacekeeping, and the broader UN membership are not effective. In particular, troop-contributing countries have criticised their marginalisation or outright exclusion from the management and strategic decision-making processes of peacekeeping operations directly affecting their nationals

The following case studies elaborate on the dynamics and events that gave rise to the Security Council's mixed record on the protection of civilians in 2008.

Darfur

In 2008, the Government of the Sudan continued to disregard the Security Council's resolutions. In particular, it failed to: cooperate fully with the deployment of the UN-African Union hybrid peacekeeping mission in Darfur; comply with the resolutions of the Security Council and the rulings of the ICC;¹² reach diplomatic solutions to internal and regional conflicts; and ensure that its civilians were protected from violence and provided access to humanitarian aid.

On the 5th anniversary of the conflict in Darfur, Under Secretary-General for Humanitarian Affairs, John Holmes, reported to the Security Council that of the estimated 6 million people in Darfur, 4.27 million had been seriously affected by the conflict, 2.45 million were internally displaced, and 260,000 had fled to neighbouring countries.¹³

In 2008 the Security Council continued to fail to enforce the arms embargo it had imposed in 2004. The embargo has been frequently violated by all parties to the conflict in Darfur, including the Government.¹⁴ The Security Council renewed UNAMID's mandate for an additional year,¹⁵ but as demonstrated by reports of the Secretary-General and oral briefings throughout the year from Under Secretary-General, Mr Jean-Marie Guéhenno, troop and equipment shortages continued to compromise the mission's ability to protect itself and civilians.¹⁶ By the end of the year, UNAMID remained at just over half its mandated strength.

Moreover, three years after the Security Council adopted a resolution referring the situation in Darfur to the ICC,¹⁷ two persons under arrest warrants issued by the ICC were still at large and occupying government positions. In July 2008, the ICC Prosecutor, Mr Luis Moreno-Ocampo, requested an arrest warrant against President Omar Hassan al-Bashir for genocide, war crimes, and crimes against humanity. Since the request for the arrest warrant was issued, members of the Security Council were confronted with, and have since been in disagreement over, a request by South Africa, Libya, the Organization of the Islamic Conference (OIC), the AU Peace and Security Council, and the Government of the Sudan to suspend the ICC proceedings against President Bashir under Article 16 of the *Rome Statute of the International Criminal Court*.¹⁸ While the US, the UK, France, Costa Rica, and Italy supported the ICC's independence, China, South Africa, the Russian Federation, Indonesia, Libya, and Vietnam were in favour of a dialogue with the Government and of promoting the principle of complementarity.¹⁹ They considered that suspending the proceedings of the ICC against President Bashir would help avoid potential further violence. By the end of the year, the Security Council had not taken action on this request to suspend proceedings.²⁰

President Bashir warned that the execution of the ICC arrest warrant would further destabilise the region, leading to additional displacements, civilian casualties, and attacks on UN staff. However, the Government of the Sudan subsequently began stepping up its cooperation with the UN, including making commitments to a speedier deployment of UNAMID. It remains to be seen how the Government will react if and when an

11 See Security Council Report 'Cross-cutting report: Protection of civilians', 14 October 2008, available at www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.2400839/k.C518/Publications_on_Protection_of_Civilians_in_Armed_Conflict.htm.

12 The Government appointed Janjaweed Militia leader Musal Hilal as a government advisor, even though Hilal was included in the Security Council's targeted-sanctions list.

13 See Security Council Report available at www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.4065741/k.6046/May_2008brSudanDarfur.htm.

14 Report of the Panel of Experts established pursuant to Security Council Resolution 1591 (2005) concerning the Sudan, S/2008/647 (November 2008), available at <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1232OKS581033.6581&profile=bib&uri=full=3100001~1878381~10&ri=1&aspect=alpha&menu=search&source=~horizon>.

15 Security Council Resolution 1828.

16 The shortage of equipment and troops likely contributed to the killings of nine UNAMID peacekeepers.

17 Security Council Resolution 1593 (2005).

18 Article 16 allows the Security Council to suspend the ICC prosecutions in any case for a period of 12 months that can be renewed indefinitely.

19 The complementarity of the ICC is one of the fundamental principles of the *Rome Statute for the International Criminal Court*. The principle of complementarity is the parameter which defines the relationship between States and the ICC. It provides that cases are admissible before the ICC if a State remains wholly inactive or is 'unwilling' or 'unable' to investigate and prosecute genuine cases of genocide, crimes against humanity, and war crimes.

20 Before the prosecutor reported to the Security Council in July, the Security Council urged the Government of the Sudan and all other parties to the conflict to cooperate fully with the ICC in its 16 June 2008 presidential statement. S/PRST/2008/21, available at www.un.org/Depts/dhl/resguide/scact2008.htm.

arrest warrant is actually issued by the ICC, and whether the Security Council will take decisive action in 2009 to react to the continuing human rights violations in Darfur.

Democratic Republic of the Congo

Although the international community undertook several positive initiatives over the past year in regard to the situation in the DRC, the Security Council's delay in responding in a timely manner to escalating violence and human rights violations in the east of the country again called into question its credibility in ensuring the protection of civilians.

Despite a ceasefire signed between the Government of the DRC and rebel militias in January 2008, heavy clashes between army troops and rebel militias erupted in April, August, and October 2008, leaving thousands of people displaced and having suffered human rights violations.

In November 2008, an emergency summit in Nairobi concluded with the commitment of a new ceasefire agreement and the establishment of a humanitarian corridor in November. Another outcome of the emergency summit was the appointment of a Special Envoy for the Great Lakes region, former President Obasanjo of Nigeria, by the Secretary-General. Positive steps initiated by the Government of the DRC included the arrest and transfer to the ICC of Mathieu Ngudjolo Chui, a former rebel leader charged with war crimes and crimes against humanity, and the signing at the UN of the *Pact on Security, Stability and Development* to address the causes and results of conflict in the Great Lakes region of Africa.

The Security Council issued several presidential statements condemning the violence in the eastern region of the DRC and requested recommendations from the Secretary-General.²¹ It also adopted resolutions to renew the sanctions regime and the mandate of the Group of Experts²² until 30 November 2009, as well as to extend the deployment of MONUC until 31 December 2009.²³ Importantly, the resolution extending the mandate of MONUC included new strong language on the protection of civilians and on women and sexual violence, and on

the importance of MONUC to implement the mandate fully, through robust rules of engagement. The references to sexual violence echoed Security Council *Resolution 1820* on this topic adopted in June 2008, which defines rape and sexual violence as war crimes and crimes against humanity, and which was drafted in response to the persistent and escalating incidences of sexual violence against women and young girls, in particular in the DRC.²⁴

On the other hand, although the Security Council received information from the Group of Experts on the DRC as early as January 2008 regarding the transfer of weapons and on violations by every party to the conflict, it decided that diplomatic progress in other areas justified easing the arms embargo. This decision had dire consequences across the country, in particular in relation to human rights violations.²⁵

Further, more than two years after the Security Council adopted a resolution calling for sanctions against those responsible for the recruitment of child soldiers,²⁶ it had yet to list the names of individuals or entities that recruit children, while children continue to be kidnapped by rebel groups and to be deployed into conflict situations.

The Security Council also failed to respond in a timely manner to reports from the Secretary-General and the Special Representative to the Secretary-General and head of MONUC, Mr Alan Doss, in October highlighting that the situation in the DRC was unstable and additional troops were required quickly. The Secretary-General's request to many States for a rapid intervention force to support MONUC (possibly in the form of a temporary EU-led multinational force) was disregarded, and members of the Security Council did not, in their national capacities, encourage EU members to send troops either as part of the proposed multinational force or as additional temporary MONUC reinforcement forces. Despite the escalating violence and human rights violations in the latter part of the year,²⁷ the Security Council did not adopt a resolution increasing MONUC's troop size until 20 November 2008. The deployment of additional troops was not expected before the first quarter of 2009.²⁸

Despite some positive steps by the Security Council at the end of the year, the human rights

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S/PRST/2008/38 on 21 Oct 2008 and S/PRST/2008/40 on 29 Oct 2008 available at www.un.org/Docs/sc/unscc_pres_statements08.htm.

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Security Council *Resolution 1533* of March 2004 set up the most recent UN Group of Experts on the DRC to investigate violations of the embargo and networks of illegal trade, and to recommend remedies. The Group of Experts reports to the UN Sanctions Committee, a subsidiary body of the Security Council made up of representatives of member States on the Security Council.

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Security Council *Resolution 1799* (15 February 2008) and Security Council *Resolution 1857* (22 December 2008) renewed the sanctions regime and the mandate of the Group of Experts; Security Council *Resolution 1856* (22 December 2008) extended the deployment of MONUC. Security Council resolutions are available at www.un.org/Docs/sc/unscc_resolutions08.htm. As of 31 December 2008, the size of the UN peacekeeping force in the DRC consisted of 16,668 troops, commissioned to protect civilians from the threat of violence under a mandate from Chapter VII of the *UN Charter*.

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See the section below in this report for more details on Security Council *Resolution 1820*.

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Amnesty International, 'Crisis in DRC fuelled by access to weapons', 15 December 2008, available at www.amnesty.org/en/news-and-updates/news/crisis-drc-caused-access-weapons-20081215.

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Security Council *Resolutions 1698* (31 July 2006), *1649* (21 December 2005), and *1596* (18 April 2005) strengthened sanctions, including, in *Resolution 1698*, provisions against actors recruiting and using children in the armed conflict in the DRC.

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Due to the fighting in North Kivu, the number of internally displaced persons (IDPs) rose to over one million. There continues to be reports of violence against civilians by rebel groups as well as agents of the Government.

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Security Council *Resolution 1843* (20 November 2008) increased the troop size by 3,085, and is available at www.un.org/Docs/sc/unscc_resolutions08.htm. S/2008/43 is the report of the Group of Experts on the DRC noting its concern with the MONUC troop size, and is available at www.un.org/sc/committees/1533/egroup.shtml.

situation remained extremely severe, and the Security Council needs to move quickly to implement its decision to increase the size of MONUC, to utilise its influence to broker a lasting peace agreement, and to address the culture of impunity that currently exists for those that commit war crimes and crimes against humanity.

Somalia

In the absence of a politically stable Transitional Federal Government (TFG) in Somalia and of sound and consistent leadership on the Security Council, the humanitarian crisis in Somalia continued to spiral out of control in 2008. By year's end, violence, exacerbated by piracy and rising food prices, had resulted in over one million internally displaced Somalis, 450,000 Somali refugees, an estimated 2.6 million in need of humanitarian assistance, and thousands of women and girls who had fallen victim to sexual violence perpetrated by TFG forces, the Ethiopian military, and opposition groups.²⁹

In the wake of a growing threat to the commercial interests of several States, the Security Council responded by adopting resolutions to deal with piracy off the coast of Somalia and began to address the rampant arms trade in and around the country. With the support and cooperation of the international community and the TFG in Somalia, the Security Council adopted several resolutions granting States the authority to enter Somalia's territorial waters to combat piracy.³⁰ After years of being confronted with reports of widespread illegal arms trading, the Security Council finally adopted a resolution in November 2008 expanding the current sanctions regime to include targeted measures against individuals who breach the arms embargo or block the delivery of humanitarian aid to civilians.³¹

The Security Council's minor achievements were overshadowed by its failure to provide peace, security, and protection to Somali civilians. Although the mandate of the AU Mission in Somalia (AMISOM) was renewed by the Security Council for an additional six months in August 2008,³² AMISOM struggled during the year due to a lack of funds and the necessary provisions of troops. The Security Council's indecision over whether to authorise an interim

multinational force in Somalia (despite the urging of the Secretary-General)³³ to supplement AMISOM appeared to be grounded in a number of issues, including the lack of willingness by any State to lead such a force, and the preferred option of some States, including the US and South Africa, to establish a new peacekeeping operation in Somalia.

RESOLUTION 1820 ON WOMEN, PEACE AND SECURITY (COMBATING SEXUAL VIOLENCE IN CONFLICT)

The Security Council without a vote adopted *Resolution 1820* in June 2008 recognising rape as a weapon of war and a threat to international peace and security. Initiated by the US, the adoption of this resolution was a historic development as the Security Council had not previously taken up the issue of sexual violence as a major theme in its own right.³⁴ Importantly, the initiative built on the foundations of a previous resolution on women, peace and security, and complemented the Security Council's existing resolutions on the protection of civilians in country-specific situations.³⁵ This year's resolution demanded the 'immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians' and recognised that rape and other forms of sexual violence could constitute war crimes, crimes against humanity, or an act of genocide. Civil society organisations welcomed it as a clear statement to perpetrators that the international community intended to end the culture of impunity surrounding these crimes and categorically ruled out their relegation to amnesty provisions in conflict resolution processes. Further, the resolution affirmed the Security Council's intention to consider imposing targeted and graduated measures against parties to an armed conflict that use rape as a weapon of war when establishing or renewing State-specific sanctions.

The adoption of this resolution was the culmination of years of work by the Secretary-General, UN agencies,³⁶ NGOs (both grassroots and international), and Security Council members such as the US and the UK. All had sought to raise awareness about the systematic and widespread

²⁹ See www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.4278477/k.B5AB/July_2008brSomalia.htm. Also, see Human Rights Watch's article discussing female victims of the Somali crisis, available at www.hrw.org/en/news/2008/12/09/and-what-about-somali-women.

³⁰ Security Council *Resolutions 1816, 1838, 1846, and 1851*. Security Council resolutions are available at www.un.org/Docs/sc/unsc_resolutions08.htm.

³¹ Security Council *Resolution 1844*.

³² Security Council *Resolution 1831*.

³³ The Secretary-General has stated that this was the most appropriate response to the complex security challenges, rather than a peacekeeping operation. A multinational force would more likely have full military capabilities to support ending armed confrontation and help stabilise the capital.

³⁴ See Security Council Report, 'Women, Peace and Security: sexual violence in situations of armed conflict', Update Report No.3, 11 June 2008, p.6.

³⁵ Security Council *Resolutions 1265 (1999) and 1296 (2000)*.

³⁶ For example, United Nations Development Programme (UNDP) and the World Health Organisation (WHO).

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UN Action Against Sexual Violence in conflict was established in 2006 by ten UN agencies, chaired by UNDP and WHO, to improve the UN's response to sexual violence, and reinforce coordination efforts among UN agencies in relation to prevention, response services, and accountability.

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Security Council Report, 'Women, peace and security: Update report No.2', 21 October 2008, p.2. This analysis was limited to Security Council resolutions adopted in the period 29 June to 15 October 2008.

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Donald Steinberg, Deputy President, International Crisis Group, 'Using facts from the ground', speech to the UN Action Against Sexual Violence Conflict, Geneva, 17 December 2008, available at www.crisisgroup.org/home/index.cfm?id=5837&l=1. Similar observations were made by representatives of Amnesty International, Care International, and Human Rights Watch at the meeting on Women, Peace and Security hosted by the UK Mission to the UN in New York on 11 June 2008.

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The Russian Federation and China were among the opponents to the establishment of a Security Council thematic working group on the basis that conflicts that were not currently on the Security Council's agenda might be discussed. See Security Council Report, 'Women, Peace and Security: sexual violence in situations of armed conflict, Update Report No.3', 11 June 2008, p.7.

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Since the adoption of *Resolution 1325* (2000), the Security Council has held an open thematic debate on women, peace and security annually.

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S/PRST/2008/39. The presidential statement did not incorporate more ambitious options, such as the Secretary-General's recommendation that more meetings and Security Council missions would be useful. See S/2008/655.

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Although there is some overlap between the principle of responsibility to protect and the concept of 'protection of civilians', as both involve the concepts of 'protection' and 'conflict prevention', it is beyond the scope of this chapter to elaborate on the conceptual and legal differences between the two. However, it is important to note that the Security Council's evolving approach to the protection of civilians is grounded in international humanitarian law, whereas the responsibility to protect principle is grounded in conventional and customary law and built around the concept of 'State sovereignty as responsibility'. As a result, the 'responsibility to protect' norm, as defined in the 2005 *World Summit Outcome* (Paras 138 and 139) can only be applied to genocide, war crimes, crimes against humanity, and ethnic

use of sexual violence against women and children in specific conflict situations, such as the DRC and Darfur. They also impressed upon Security Council members that this was a subset of wider abuses against civilians in conflict situations that are contrary to international law. The final steps in this process included an international conference for key policy-makers organised by UN Action Against Sexual Violence in Conflict,³⁷ a meeting hosted by the UK to discuss the role of peacekeepers in addressing sexual violence, and an open thematic debate in the Security Council on women, peace and security initiated by the US.

The real test for Security Council *Resolution 1820* will be the extent to which its provisions are implemented, in particular through their incorporation into peacekeeping mandates in country-specific situations. Although a preliminary analysis has revealed that the Security Council referred to this resolution in seven subsequent country-specific resolutions, only one of these (on the Sudan) demanded that the parties to the conflict take immediate measures to protect women and children from all forms of sexual violence as per the resolution.³⁸ A range of factors are likely contributing to the lack of a consistent approach to implementation, including the lack of authoritative data from the ground needed to build political will within the Security Council to act decisively and make available the expertise and resources necessary to stop and prevent rape during conflict and care for the victims,³⁹ and the Security Council's unwillingness to establish an implementation or accountability mechanism or time-bound benchmarks, which could track progress on and advocate for the implementation of the resolution.⁴⁰

Nonetheless, fears that the Security Council's follow-up thematic debate on women, peace and security⁴¹ in October 2008 might have provided an opportunity for some degree of back-peddling on this issue proved unfounded. Instead the Security Council issued a presidential statement reaffirming its commitment to the full implementation of *Resolutions 1325* and *1820*.⁴² The Security Council requested the Secretary-General to 'systematically' report on and make recommendations to it on the protection of women and girls in conflict situations the Security Council is seized of, and to submit a report on the implementation of the resolution before

30 June 2009. It is hoped that the Secretary-General's report will address the inadequate mechanisms for implementation and accountability that were evident in *Resolution 1820*.

THE RESPONSIBILITY TO PROTECT⁴³

In 2008, the 'responsibility to protect' principle was invoked on a number of occasions by a range of States for very different reasons and with a variety of results. The following country-specific examples also underscore the fact that action on the responsibility to protect and the protection of civilians is not the exclusive responsibility of the Security Council. Rather, it is shared with the General Assembly, regional and sub-regional organisations, and States. Nonetheless, the Security Council bears a particular responsibility to protect civilians from genocide, ethnic cleansing, war crimes and crimes against humanity, and more importantly, to help prevent these crimes from happening in the first place.

In May 2008, the French Foreign Minister sought to invoke the responsibility to protect principle following the obstructive response of the Government of Myanmar to offers of international humanitarian assistance in the wake of Cyclone Nargis. France's very broad interpretation of the principle, which suggested that the international community should override the objections of the Government of Myanmar and begin aerial food drops and other measures to avert a worsening of the already dire humanitarian situation, was widely regarded as unhelpful and ill-conceived.⁴⁴ Quiet diplomacy on the part of the Secretary-General and Myanmar's ASEAN neighbours proved an effective means of eliciting the Government's cooperation with international humanitarian efforts and averting an even worse humanitarian catastrophe.

Initial hopes that Myanmar's increased cooperation with the UN and the international community in the wake of Cyclone Nargis would translate into Security Council re-engagement on the country's human rights situation had lapsed by the end of 2008. The origins of this disengagement can be traced back to the Government of Myanmar's complete disregard for

the Security Council's May presidential statement on Myanmar, which had called for a free and fair referendum on the draft constitution.⁴⁵ Even after strong criticism from the Secretary-General regarding the timing and manner in which the Government conducted the referendum,⁴⁶ the Security Council failed to take any further action on Myanmar. Key here was China, the Russian Federation, and South Africa's decision to revert to their policy of non-intervention in the 'domestic affairs' of the country, once the international spotlight shifted away from the Government's crackdown on protesters in 2007 and the effects of Cyclone Nargis.

Although the Secretary-General's good offices provided a veneer of some high-level attention on Myanmar, concerns began to mount towards the end of the year that this reliance on quiet diplomacy had played directly into the hands of the military Junta. For example, just days after the Secretary-General's historic visit to Myanmar in the immediate aftermath of the cyclone,⁴⁷ the Government extended Aung San Suu Kyi's house arrest by another year, defying recommendations from both the Secretary-General's Special Envoy on Myanmar, Mr Ibrahim Gambari, and the UN Special Rapporteur on Myanmar, Mr Vitit Muntarbhorn, who had called for the release of all political prisoners as the critical first step to facilitate inclusive political dialogue and national reconciliation.⁴⁸ This was followed in August 2008 by Aung San Suu Kyi's decision to decline to meet with the Special Envoy on Myanmar, during his official visit. On the same visit, Mr Gambari was also rebuffed in his fourth attempt since September 2007 to meet with General Than Shwe, the Head of State. The December 2008 sentencing of 270 political activists to long prison terms following their participation in demonstrations against the Junta in 2007 and their efforts to assist cyclone victims in 2008, only served to reinforce the Junta's message of defiance to the international community.

It now remains to be seen if the Security Council will take action and require Myanmar to demonstrate tangible results in the areas of democracy and respect for human rights, or whether it will continue to 'wait and see', preferring to delegate responsibility to ASEAN nations and the 'Group of Friends' of the Secretary-General on Myanmar.⁴⁹ Given that the next major step in Myanmar's 'roadmap to democracy' will be national

elections in 2010, the Security Council's actions in relation to Myanmar over the coming year will attract heightened international scrutiny.

One situation where the term 'responsibility to protect' was invoked outside the Security Council,⁵⁰ but was subsequently widely classified as a 'text book' application of the principle, was in **Kenya** following widespread post-election violence. Here, the mediation efforts of former Secretary-General Kofi Annan and a distinguished team of African leaders mandated by the AU were credited with averting the need for greater intervention by the country's neighbours or the Security Council. Nonetheless, the UN engaged at the highest political levels, the Security Council issued a statement deploring the violence, and the offices of the Secretary-General and the High Commissioner for Human Rights were mobilised. It was a prime example of how swift and effective high-level mediation, coupled with strong international pressure, could be mobilised to avert widespread human rights violations, without resorting to the use of military force.

The Security Council's presidential statement adopted in February 2008 expressed deep concern about the killing, use of sexual and gender-based violence, and displacement of civilians following the disputed national elections in December 2007.⁵¹ The statement also expressed concern regarding political, security, and economic repercussions of the crisis on the wider region; welcomed the regional mediation efforts; welcomed the Government of Kenya's acceptance of investigative missions by the High Commissioner for Human Rights and the Special Adviser for the prevention of genocide; and encouraged dialogue, compromise, and reconciliation between the two political parties. Further, it urged Kenya's leaders⁵² to take action to dismantle armed gangs and avoid impunity, improve the humanitarian situation, and restore human rights in the country.

The Security Council was able to take action in relation to Kenya thanks to strong regional cohesion, international pressure, and support for the Security Council's involvement.⁵³ The Security Council did not add Kenya to its formal agenda, instead preferring to consider it under its general agenda Item on 'Peace and security in Africa'.

The Security Council also chose to deal with the

cleansing. The Secretary-General has clarified that the responsibility to protect should be understood as a more nuanced concept than 'humanitarian law' or 'military intervention' because it embraces the whole suite of policy tools available under the *UN Charter* to prevent and address threats to international peace and security. These include peaceful measures under Chapter VI of the *UN Charter*, coercive measures under Chapter VII, and/or collaboration with regional and sub-regional arrangements under Chapter VIII. For more information, see *Report of the Secretary-General: Implementing the responsibility to protect*, 12 January 2009, (A/63/677).

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It remains a point of debate amongst States and others as to whether the responsibility to protect can be applied to humanitarian crises that arise when a State manifestly fails to protect its citizens following a natural disaster. Following France's invocation of the responsibility to protect in relation to Myanmar, the President of the International Crisis Group, Mr Gareth Evans, argued that calls for military intervention in Myanmar based on the responsibility to protect 'could only have been appropriate if the regime's life-threatening behaviour had been so deliberate, or recklessly negligent, as to itself have constituted a crime against humanity under international law. And the jury was still out on that, when under strong international pressure, the necessary international relief was allowed in.' Gareth Evans, 'The responsibility to protect: holding the line', in *OpenDemocracy*, 6 October 2008, available at www.opendemocracy.net/article/the-responsibility-to-protect-holding-the-line-0. Criticism was also levelled at France by the UK, the UN Under Secretary-General for Humanitarian Affairs, and humanitarian relief agencies for similar reasons.

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S/PRST/2008/13.

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The Government went ahead with the referendum on 10 May 2008 (a week after the cyclone), despite a public request from the Secretary-General to defer it. The Secretary-General also criticised: the lack of free and open debate, insufficient public information, instances of voter intimidation and harassment, and the criminalisation of any criticism of or opposition to the draft constitution. See p.12 of *Report of the Secretary-General on the situation of human rights in Myanmar* (A/63/356). The Secretary-General also publicly expressed his frustration at the Government's decision to ignore his request to postpone the referendum. See Reuters 'UN's Ban frustrated by Myanmar inaction', 20 October 2008, available at www.alertnet.org/thenews/newsdesk/N20526287.htm.

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The Secretary-General's visit was the first by this office in 44 years.

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For details, see ISHR's report on country situations (Myanmar) at the 63rd session of the General Assembly, available at www.ishr.ch/new_york_monitor_ga.

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The 'Group of Friends of the Secretary-General on Myanmar' was convened by the Secretary-General in December 2007 and is intended to be 'a consultative forum for developing a shared approach in support of the implementation of the Secretary-General's good offices mandate'. It consists of 14 States: Australia, Indonesia, Russian Federation, US, China, Japan, Singapore, Vietnam, France, Norway, Thailand, India, Portugal, and the UK.

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The UN Secretary-General did invoke the responsibility to protect in Kenya when he addressed the AU Summit on 31 January 2008. Statement available at www.reliefweb.int/rw/RWB.NSF/db900SID/THOU-7BE29U?OpenDocument. In addition the French Foreign Minister invoked the principle in a media statement the same day, available at www.diplomatie.gouv.fr/en/country-files_156/kenya_209/situation-in-kenya-2008_6019/situation-in-kenya-statement-by-bernard-kouchner-january-31-2008_10767.html. Archbishop Desmond Tutu followed up with a similar call in February 2008, available at www.spiegel.de/international/0,1518,536505,00.html.

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S/PRST/2008/4.

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President Mwai Kibaki and his challenger, Mr Raila Odinga.

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Security Council Report, 'Protection of Civilians: Cross-cutting Report No.2', 14 October 2008, p. 34, available at www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.2400839/k.C518/Publications_on_Protection_of_Civilians_in_Armed_Conflict.htm. Support for Security Council involvement came from France and the then President of the Council, Panama, among others. External support was expressed by African leaders, such as Archbishop Desmond Tutu.

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S/PRST/2008/23 (23 June 2008).

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Remarks by US Ambassador, Mr. Zalmay Khalilzad, on Zimbabwe at the Security Council media stakeout, 8 July 2008.

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Belgium, Burkina Faso, Costa Rica, Croatia, France, Italy, Panama, the UK, and the US voted in favour of the resolution. Five States voted against (China, Libya, the Russian Federation, South Africa, and Vietnam) and Indonesia abstained. Burkina Faso's support for the resolution indicated a break from the convention of African States on the Security Council deferring to SADC mediation efforts.

situation in Zimbabwe using its agenda Item on 'Peace and Security in Africa', rather than adding it as a country-specific agenda item. Although many world leaders eventually invoked the responsibility to protect to try to bring forth more decisive action by the Security Council and others (see below), it was not cited by Security Council members as a justification for their initial action in relation to Zimbabwe. Nonetheless, the Security Council's presidential statement in June 2008 on Zimbabwe showed many of the hallmarks of a responsibility to protect response.⁵⁴

The presidential statement was a strong, unified response to the deteriorating humanitarian situation, heightened political violence in the country following the disputed presidential elections in March 2008, and xenophobic attacks in May in neighbouring South Africa, which were primarily directed at Zimbabwean refugees. It condemned the Government's actions that had prevented free and fair elections, and called on it to stop the violence; cease political intimidation; end restrictions on the right of assembly; release all detained political leaders; and immediately allow humanitarian organisations to resume their services. The Security Council then closely monitored mediation efforts led by the Southern African Development Community, but having reached the conclusion by early July that President Robert Mugabe had chosen to ignore the presidential statement, the US drafted a strong resolution on Zimbabwe. It was intended as an incentive to prompt President Mugabe to cooperate with the Security Council, engage in the mediation process in good faith, and create the conditions for new, free and fair national elections.⁵⁵ The resolution proposed to achieve these outcomes by imposing a range of targeted sanctions, including an arms embargo, and a travel ban and financial freeze against President Mugabe and 13 senior government officials.

Nine Security Council members, including Burkina Faso, voted in favour of the resolution on Zimbabwe, citing concerns that the situation was affecting security and stability in the region and was therefore a threat to international peace and security. Despite that, the resolution was not adopted as China and the Russian Federation voted against.⁵⁶ Explaining its vote, the Russian Federation condemned the resolution as an attempt to 'take the Security Council

beyond its prerogatives of maintaining international peace and security' and to interfere in the internal affairs of Zimbabwe. Further, the Russian Federation considered that the resolution ignored the mediation efforts that were underway with the support of regional leaders and the AU. This was only the second time a double veto had been exercised in the Security Council since the Cold War period, and on both occasions, the resolution concerned human rights and democracy.⁵⁷

This political impasse in the Security Council spelled the effective end to its action on Zimbabwe for the remainder of the year. Although it did continue to receive briefings from the Secretariat, including the Secretary-General, to keep abreast of the situation, the Security Council was unable to revive the consensus it had shown in its earlier adoption of the presidential statement on this issue. This remained the case even after events took a dramatic turn for the worse following the collapse of Zimbabwe's health, water, and sanitation systems. This caused a cholera outbreak that left over 2,000 Zimbabweans dead and almost 40,000 ill. The influx of refugees into neighbouring States caused the outbreak to spread, further threatening regional stability.⁵⁸ The fact that the Government of Zimbabwe was both 'unwilling and unable' to intervene, prompted African leaders, including Archbishop Desmond Tutu and Kenya's Prime Minister, Mr Raila Odinga, to invoke the responsibility to protect, and to advocate for international military intervention to remove President Mugabe from office.⁵⁹ Their calls were supported by the Presidents of France and the US, as well as the Prime Minister of the UK.

The failure of the Security Council and the international community to summon the political will to act highlighted not only how deep the political division ran amongst its permanent five members. It also underscored the potential risks of 'sub-contracting' responsibility to regional partners to solve sensitive politically-based crises. It was also telling that the Secretary-General chose not to employ Article 99 of the *UN Charter*⁶⁰ to bring the issue to the Security Council's agenda – something that his own Special Adviser for the prevention of genocide and Special Adviser with a focus on the responsibility to protect have suggested should be done 'when necessary'.⁶¹

In contrast, the Russian Federation's invocation of the responsibility to protect to justify its military operations in Georgia in August 2008 was widely regarded as a misapplication, if not an abuse of the principle. For instance, France and the US were quick to criticise the Russian Federation's decision to immediately resort to coercive measures, rather than first exploring peaceful diplomatic and humanitarian options that would have respected the territorial integrity of Georgia.⁶² The Russian Federation's claims that its use of force was warranted, given Georgia's alleged acts of genocide against the people of South Ossetia, were largely unpersuasive outside of the Russian Federation.

Regardless of who was to blame for the outbreak of the Georgia crisis, resurgent Cold War politics among the Security Council's members prevented it from taking effective steps to end the conflict or contain it. For example, in early August, the Russian Federation urged the Security Council to call for a ceasefire, but disagreement over whether the presidential statement should refer to Georgia's territorial integrity (opposed by the Russian Federation, and strongly advocated by the US) resulted in the Security Council not taking any action. After August 2008, the situation in Georgia was conspicuously absent from the Security Council's agenda until early October 2008 when it was required to adopt a procedural resolution to extend the mandate of the UN's mission in Georgia.⁶³ The Security Council did not take up the matter for the remainder of the year.

The negotiation of a ceasefire between Georgia and the Russian Federation and the subsequent withdrawal of Russian troops from Georgia was largely brought about by successful mediation efforts by the French President (in his capacity as the then President of the EU). However, the ceasefire was preceded by several weeks of looting, arson, and reports of attacks against civilians by Ossetian militias, and followed by the Russian Federation's recognition of South Ossetia and Abkhazia as independent States. The real losers of the conflict were the 65,000 Georgians who were displaced in a small country already struggling to resettle some 200,000 people displaced by conflicts during the 1990s.⁶⁴

Perhaps the most encouraging development in relation to the responsibility to protect at the

Security Council occurred on 1 December 2008, when South Africa organised an **informal meeting on the responsibility to protect**. With the intention of assisting in operationalising the principle and contributing to the debate on the responsibility to protect expected in the General Assembly in early 2009, South Africa invited a range of human rights organisations and the Secretary-General's Special Adviser, Mr Ed Luck, to address the Security Council. Their statements elaborated on their interpretation of the principle as well as the Security Council's role in implementing it.⁶⁵ Several NGOs and some States pointed directly to the situations in the eastern DRC, Somalia, and Darfur as examples of the Security Council's failure to protect civilians.⁶⁶ China and the Russian Federation did not take actively part in the discussions.

The meeting emphasised the importance of early intervention by the Security Council, as provided under Chapters XI and XIII of the *UN Charter*. There was also general agreement that the international commitment to the responsibility to protect expressed in the 2005 World Summit Outcome, coupled with Security Council resolutions on the protection of civilians, provided further impetus for timely, preventative action by the Security Council. At the same time, States were reminded that where there was a 'manifest failure' by a State to act to protect its civilians, the Security Council was empowered under Chapter VII of the *UN Charter* to use coercive measures, including the use of force. Above all, NGOs impressed upon the Security Council the need to change its past practice and learn from both its successes and mistakes to ensure it could be 'part of meaningful efforts to prevent mass atrocity crimes' using 'non-violent solutions'.⁶⁷

The meeting also highlighted the need for a formal exchange on the responsibility to protect between the Security Council and the General Assembly to clarify their respective roles and responsibilities in implementing the principle. The Secretary-General's Special Adviser on the responsibility to protect stated that while the Security Council had a critical role to play in terms of the responsibility to protect, its interactions with other UN organs, such as the Peacebuilding Commission and the General Assembly, were equally important. He agreed that although the General Assembly should not seek

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The other instance was in January 2007 when China and the Russian Federation blocked the Security Council from demanding an end to political repression and human rights violations in Myanmar, arguing that the situation in Myanmar was not a threat to international peace and security. South Africa joined with China and the Russian Federation to oppose the resolution (drafted by the US), which was defeated in a vote of nine to three.

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An estimated 38,000 Zimbabweans lodged asylum claims in the South African border town of Musina between July and December 2008. Significant numbers of refugees were also registered in Zambia, Mozambique, and Botswana, and resulted in the cholera outbreak spreading to these countries. Human Rights Watch, 'Crisis without limits: Human rights and humanitarian consequences of political repression in Zimbabwe', p.21, available at www.hrw.org/en/reports/2009/01/21/crisis-without-limits-0.

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See Alex Perry, 'As cholera rages in Zimbabwe, Mugabe won't budge', in *Time Magazine*, 11 December 2008, available at www.time.com/time/world/article/0,8599,1865946,00.html.

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Article 99 of the *UN Charter* provides that the Secretary-General can bring any matter to the Security Council's attention which he believes 'may threaten the maintenance of international peace and security'.

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Centre for Conflict Resolution, International Peace Institute, Office of the UN Special Adviser for the prevention of genocide, 'Prevention of genocide and mass atrocities and the responsibility to protect: Challenges for the UN and the international community in the 21st century', *The Responsibility to Protect Occasional Paper Series*, June 2008, p. 10.

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The UN press release relating to the Security Council emergency meeting on Georgia on 8 August 2008 is available at www.un.org/News/Press/docs/2008/sc9417.doc.htm.

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Security Council *Resolution 1839*, 9 October 2008. The mission was extended only until 15 February 2009.

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Lawrence Sheets, Caucus Project Director, International Crisis Group, 'Georgia: flaunting impunity in the Russian Federation's "security zone"', in *International Herald Tribune*, 11 September 2008, available at www.crisisgroup.org/home/index.cfm?id=5666&l=1.

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Human Rights Watch, International Crisis Group, Security Council Report, World Federalist Movement – Institute for Global Policy. Some statements are available at www.responsibilitytoprotect.org/index.php/eupdate/?theme=all1.

66 South Africa expressed frustration that the examples of the responsibility to protect situations raised during the meeting had not referred to Somalia, although it was raised by the African Union representative. Human Rights Watch and Global Centre for the Responsibility to Protect cited the situation in Darfur in 2003 and the current situations in the eastern DRC and Zimbabwe. The International Crisis Group also cited the current situation in the eastern DRC.

67 See in particular the statement by the Global Centre for the Responsibility to Protect, presented by Ms Nicola Reindorp, available at www.responsibilitytoprotect.org/index.php/eupdate/?theme=alt1. The Global Centre emphasised the need for the Security Council to improve its receptivity to early warning information from a variety of sources; to be more willing to accept country situations onto its agenda; and to demonstrate its willingness to take early action, appropriate to the situation at hand.

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A/63/677.

69 The ten non-permanent members for 2009 are: Austria, Burkina Faso, Costa Rica, Croatia, Japan, Libya, Mexico, Turkey, Uganda, and Vietnam. Of these States, new incoming members are: Austria, Japan, Mexico, Turkey, and Uganda. They replaced: Belgium, Indonesia, Italy, Panama, and South Africa.

70 The UN Mission in Chad, MINURCAT, will contribute to the monitoring and to the promotion and protection of human rights in Chad, with 'particular attention to sexual and gender-based violence, and to recommend action to the competent authorities, with a view to fighting impunity'.

71 Although no decision had been made by year's end, in early 2009, the Security Council shifted course and expressed its intention to establish a UN peacekeeping force in Somalia through Security Council Resolution 1863 (16 January 2009). The unanimously adopted resolution called on the African Union to strengthen its force from 2,600 to 8,000 troops, and authorised the Secretary-General to submit a report by 15 April 2009 that would include a possible mandate for a peacekeeping force in Somalia. Further, it called for a decision on this matter by June 2009. See www.un.org/Depts/dhl/resguide/scact2009.htm.

72 High Commissioner for Human Rights, Navanethem Pillay, 'UN Rights Chief decries 'grotesque' abuses by Ugandan rebels in DR Congo', UN press release, New York, 27 January 2009.

to restrict the Security Council's endeavours, it was also important for the Security Council to recognise that the General Assembly could play an important role in prevention, mediation, monitoring and investigation. This interplay between the Security Council and the General Assembly looks set to be a focus of debate when the General Assembly considers the Secretary-General's first report on the principle of responsibility to protect in early 2009.⁶⁸

LOOKING FORWARD

One factor that may impact positively on the political dynamics among Security Council members is the change in non-permanent members as of 1 January 2009.⁶⁹ For example, the departure of South Africa, which had obstructed the Security Council taking action to protect or promote human rights, particularly on the African continent, could open up new possibilities. However its replacement, Uganda, may struggle to be a human rights champion on the Security Council given its own domestic record on human rights. A similar concern exists in relation to Turkey. There is however cause to hope that new-comers Austria, Japan, and Mexico will be proactive voices for human rights.

At the time of writing, there was also a degree of optimism that the new US Administration would bring a new dynamic to the politics of the Security Council, possibly restoring the Security Council's willingness to play a leadership role in relation to the protection and promotion of human rights. In particular, the new US Ambassador to the UN, Ms Susan Rice, has been an outspoken critic of the need for the international community to take decisive steps to address impunity and gross human rights violations, particularly in relation to the grave and systematic violations of human rights in Darfur.

However, such optimism must be tempered by the situations confronting the Security Council at the beginning of 2009. Much of its energy in early 2009 has been absorbed by the conflict and the humanitarian crisis that engulfed southern Israel and Gaza, but resolutions from the Security Council, the General Assembly, and the

Human Rights Council collectively had a negligible impact on stemming the violence.

Other challenges confronting the Security Council include an intensification of violence in Darfur and the DRC and the unfinished deployment to both situations; new mandates for Chad⁷⁰ and Somalia,⁷¹ which will require a significant increase in terms of peacekeeping costs and resources; 'grotesque' violence against civilians by the Lord's Resistance Army in the eastern DRC;⁷² and uncertainty about the consequences for peace in the DRC following the Government of Rwanda's arrest of Laurent Nkunda.

At the same time, some Security Council members are acutely aware of the urgent need to comprehensively deal with the host of challenges confronting its ever-expanding and increasingly complex peacekeeping operations. In January 2009, France and the UK will begin a series of formal and informal meetings designed to overhaul elements of the Security Council's peacekeeping operations to empower them to prevent and stop violations of international humanitarian law.⁷³ These meetings will involve members of the Security Council, as well as the wider UN membership, key components of the UN Secretariat, including OHCHR and the Office of the UN High Commissioner for Refugees (UNHCR), and the International Committee of the Red Cross. Although many of these initial meetings are closed or by invitation only, they may be instrumental in bringing about a more direct approach by the Security Council, including less contracting out of the management of its peacekeeping operations to regional partners

Again, it will be important to take a longer-term view of these initial signs before reaching conclusions about new trends. For example, despite the Security Council's closed thematic discussion on 'Protection of civilians in armed conflict' in mid January 2008, which resulted in a presidential statement reaffirming 'its commitment to the full and effective implementation of its resolutions on the protection of civilians in armed conflict' and the release of a revised aide-memoire on the issue,⁷⁴ these renewed commitments did not translate into commensurate action on other fronts. For example, two days after the release of the Security Council's presidential statement, the Security Council failed to



include protection of civilians or human rights monitoring as part of the proposed mandate of a UN peacekeeping force in Somalia.

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For more detail, see Security Council Report

'UN Peacekeeping Operations: Update Report No.2', 16 January 2009 and 'Respect for International Humanitarian Law: Update Report No.4', 27 January 2009, available at www.securitycouncilreport.org/site/c.giKWLeMTIsG/b.2400833/k.D0E4/Publications_on_Peacekeeping.htm.

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S/PRST/2009/1, 14 January 2009. The Security Council last revised this document in 2003.