

(Check against delivery)

**STATEMENT OF AMBASSADOR GERT ROSENTHAL
PERMANENT REPRESENTATIVE OF GUATEMALA TO THE UNITED NATIONS
OPEN DEBATE OF THE UNITED NATIONS SECURITY COUNCIL
PROTECTION OF CIVILIANS IN ARMED CONFLICT
(New York, August 19. 2013)**

Madame President, Ambassador Susana Ruiz Cerutti,

We thank the Delegation of Argentina for organizing this second debate under your Presidency; this time to re-examine the subject of the protection of civilians in situations of armed conflict. We also thank you for the concept note circulated by your delegation, which helped give guidance to today's debate. We are also grateful to Secretary General Ban Ki-moon, as well as to Navi Pillay, Valerie Amos, and Phillip Spoerri for their respective presentations.

Madame President,

This is the third time during the present year that we address this subject, on which we expressed our views during the debates held on February 12th and July 17th. We do not want to repeat the points made in those interventions, so we will limit ourselves on this occasion to react with some observations to the questions raised in the concept note.

The core point of that note focuses on the insufficiencies, in the conceptual and normative aspects and especially in the operational aspects, in the protection of civilians since the Security Council adopted its pioneering resolution 1265 (1999). This point is reflected in the lapidarian phrase contained in the last report of the Secretary General (2012/376), mentioned also in the concept note, that describes the situation of the protection of civilians as "abysmal".¹ We would do well, then, in asking ourselves collectively "why?"

One first obvious answer is attributable to the serious shortcomings of the States of specific countries in conflict, that frequently do not have the political will or the institutional and organizational capacity to fulfill their primary responsibility to offer security and the right to life to their own civilian populations. Clearly, the contingents of the United Nations cannot replace the State in the fulfillment of this bedrock commitment, although they can sometimes contribute to mitigate the situation, especially regarding what appears to be a totally abandoned civilian populations. In addition, we have concrete cases in the agenda of this Council, where States, far from making sure that humanitarian aid reaches the victims, prevents it. By the same token, those same States, instead of respecting norms of international humanitarian law and the human rights law, are dedicated to violating them. It is for that reason, that, together with the palliative work of the peacekeeping operations, a greater complementary effort of capacity building is warranted, both for State and non-State institutions. Here there is a crucial role for UNDP, as well as for the multilateral financial institutions. Further, we

¹ Paragraph 2.

understand that the norms of the International Humanitarian Law must continuously be analyzed in the light of new circumstances or difficulties that can arise in the field.

A second and serious failure can be attributed to militias and rebel groups in revolt against the national governments; a subject of extraordinary complexity. We know relatively little about how to encourage those diverse groups –the majority characterized by an anarchical bent –to comply with international norms regarding the protection of civilians, especially the most vulnerable. We have cases in our agenda where not only the State failed to fulfill their most basic responsibility; but frequently the rebel groups also commit mass atrocities against the civilian population. Although we usually incorporate in our declarations and resolutions phrases demanding that perpetrators be held accountable before justice, this rarely occurs. You will remember, Madame President, that this was the subject of the Regional Workshop that took place in Buenos Aires on 7 and 8 November, 2011. For our part, we have firmly supported not only the rigorous observance of International Humanitarian Law and Human Rights Law, but have also insisted on the singular utility of the Rome Statute and the International Criminal Court to make individuals or collective groups accountable in certain cases. In the same order, we value the mechanism of the independent international commissions of inquiries established by the Human Rights Council.

The Third failure to improving the protection of civilians in armed conflict situations can be found in our own house; i.e., within the Security Council. A joint investigation of the Peacekeeping Operations Department and OCHA criticized the Security Council for not having offered clearer detailed guidance which would have permitted the United Nations to offer effective protection to civilian populations and at the same time develop local capacities to make its own role transitory. Furthermore, when we have not achieved a consensus on a clear path of action, as occurs in the case of the Arab Republic of Syria, the humanitarian consequences have been catastrophic. We believe that we ourselves carry the burden of responsibility of inaction in this flagrant failure in protecting innocent civilians, including women and children.

Finally, I would say that the use of modern technologies, such as the drones and remotely operated weapons the application of the fundamental norms of the International Humanitarian Law that much more difficult relative to *distinction* between combatants and non-combatants or the civilian population, and *proportionality* or asymmetric conflicts in which very unequal parts of troops or technological capacity are implied and *precautions* that they demand that all feasible measures are taken in the election of means and methods of attack to avoid or, at least, to reduce the number of dead and wounded that could be inflicted among the civil population.

In conclusion, almost 15 years have passed since our peacekeeping operations have been involved, with ever increasing intensity, with the protection of civilians during armed conflicts that, more often than not, pit non-State armed groups against their own civilian populations, or States that experience inter-ethnic or inter-communal conflicts. Apparently, the rich trove of lessons learned of that diversity of experiences has not been translated in proportional improvements in our performance in the field. In addition, we have doubts as to whether the latest innovations, to grant these missions the enforcement of peace, will tend to improve or worsen the situation. In any case, we have a strong

arsenal of instruments and policies at our disposal that at least have the potential of improving our performance in the matter of protection of civilians.

Among the concrete initiatives that can be orchestrated we can mention the following ones: first, to improve the methods of compilation and analysis of intelligence, to develop the armament technology and of monitoring, or to reframe the selection of arms; second, to strengthening the law, the mandates and the sanctions related to the violations within the own military structures, that the authors of deliberate damages are responsible for their acts investigating and prosecuting the serious violations of the IHL; and, third, to develop strategies to improve enhancing compliance with IHL by non-State armed groups, that go from dialogue, to offer incentives, to impose sanctions.

Thank you, Madame President.