

Statement by Ambassador Asoke Kumar Mukerji, Permanent Representative in the debate on “Protection of civilians in armed conflict: effective implementation of protection of civilians mandates in un peacekeeping operations” at the United Nations Security Council, February 12, 2014

Madam Chairperson,

We thank you for providing us this opportunity to share views on this important subject through an open debate. This is a subject on which we have much experience and on which we have views that would, we presume, be of relevance to the Council. We note that you organize this debate no more than a month or so after joining the Council.

2. We also thank Ms. Valerie Amos, Under Secretary General for Humanitarian Affairs, other representatives of the Secretariat and of the ICRC for the briefings that they have provided.

3. The Lithuanian Presidency has been generous in inviting us to also take this opportunity to reflect on the broader subject of protection of civilians in armed conflict, as most recently outlined in Secretary General’s Report S/2013/689. We will, however, given paucity of time, confine ourselves to the more limited theme of the implementation of protection mandates in UN Peacekeeping operations, which is the subject of the concept note prepared by your Presidency.

4. We recognize that suffering of civilians is an emotive issue. It is not that we are stone-hearted and indifferent to the horrors of war, to the maiming and killing of civilians, the orphaning of children and the sexual brutalizing of women. It is, however, our conviction that the solutions that we need to find should be based on fact and also on pragmatism.

5. The concept note reminds us that this year marks the 15th anniversary of the Council’s engagement on the protection of civilians in armed conflict. The targeting of civilians is, however, not a recent phenomenon. It, in fact, predates the United Nations first large scale Mission which was launched in the Congo in 1960. It certainly goes back to the two World Wars of the last century which saw the large scale killing of civilians in concentration camps and indiscriminate air raids.

6. The problem is, thus, not a recent one. It is, also, not a simple one. The concept note laments that, despite the attention the subject has received from the Council, civilians continue to bear the brunt of today’s armed conflicts. However, it is not more words, or stronger words, in the mandates written by the Council that will make the problem go away. It is, unfortunately, more obdurate. We also need to take cognizance of the grim conclusion that dispatching foreign troops does not automatically protect the civilian population.

7. Madam President, we need to ask: Who is the civilian and who is the combatant? Are the civilians the tens of thousands of Nuer that had taken refuge in UNMISS compounds in Juba last December? Or, the equal number of Dinka who were doing so in UN compounds in Jonglei?

8. We need to question if a robust mandate automatically translates into protection of civilians? On 19th December last year, some two thousand armed youth attacked the UNMISS base in Akobo that was providing protection to Dinka refugees. The forty Indian peacekeepers were heavily outnumbered. They had superior fire power and a robust mandate which would have allowed them to use force, not just in self-defence, but also in defence of the mission. Had they opened fire, hundreds of lives would have been lost. Would those lives have been civilian or combatant? And the troops who availed their superior fire power. Would they have been peacekeepers or war makers?

9. These are real life situations. They are known to those who have boots on the ground. And, to those who give up their lives in defence of the highest ideals of the United Nations. While a blood bath was avoided on 19th December, Warrant Officers Kumar Pal Singh and Dharmesh Sangwan paid for it with the supreme sacrifice. Were they exposed to risks that were unacceptably high? This is a tragic but real conundrum that cannot be ignored.

10. The concept note, very correctly, refers to the disparity between mandated tasks and allocated resources being an important challenge. The note can certainly not be accused of overstating the case. The Working Group on Contingent-Owned Equipment met last month, for the first time in three years. The Troop Contributing Countries (TCCs) asked for a revision of daily allowance. It is US\$1.28 per day and has been so for the past 20 years. The TCCs also asked for a revision of rest and recuperation allowance. It is US\$10 per day, and has been so for the past decade. The Committee could, however, only agree on an overall increase of 0.75% in COE rates. The challenge that the United Nations faces in disparity between mandates and resources is truly an important one.

11. Madam Chairperson, it is most embarrassing for us to recount the approach taken towards reimbursement of COE by the finance contributing countries, many of whom are present around the horse-shoe table. To not do so would, however, be shirking a responsibility that we owe to this organization as one of its most important TCCs - a member state who knows from experience, though less so from writing mandates. The TCCs had diligently collected data, over many months, from the field. For days, in the Working Group, they made laborious presentations of facts and arguments. But, all in vain. They were, in effect, told that there would be little correlation between expenditure and reimbursement. This is the extent of professionalism to which they were subjected. The TCCs were told that a sum of US\$225 mn was available for additional requirements. Regardless of how large or small they may be. Given this 'take it or leave it offer', the TCCs had no option but

to earmark the bulk for equipment rotation with what was left having to do for enhancement in COE rates.

12. Coming to mandates and their interpretation, the concept note, again wisely, refers to the requirement of consultation, including between the Council, the Secretariat, and the Troop Contributing Countries, prior to the establishment of and throughout the life cycle of peacekeeping missions. Once again, the note cannot be accused of overstating the case.

13. The Troop Contributing Countries put at risk the lives of their soldiers in the service of the United Nations. Strikingly more than many members of the Council who hold the primary responsibility in this regard. TCCs know the situation on the ground better than most, as they are in daily touch with developments and can - on the basis of practical experience - advise on what needs to be done. Their advice will be sound, objective and unbiased. It can serve the Council well.

14. Some five decades ago, when the first operation in the Congo was set up, there was a conflict within a state. Regional powers were involved. There was a collapse of administration and the UN was invited in. At one stage, India had 6,000 of the 16,000 troops deployed. 53 years ago, my predecessor many times removed, Permanent Representative C.S. Jha spelt out why India wanted to have an influence on the Council's thinking. His words are just as valid today. He said:

"We cannot forget, nor should the Council forget, that we have involved ourselves in the Congo at very great sacrifice, and that involvement does not mean merely the discomfort, the inconveniences and sometimes the loss of life to our young men serving in the Congo. This involvement is related to the whole state of public opinion in our country, and, ourselves being a democratic country, this naturally has a great influence on our Parliament and on our Government".

15. Though C.S. Jha voiced our views on what needed to be done, the views were ignored. Things started to go bad. More than half a dozen troop contributors withdrew from the Congo operations because they could not agree with the way it was run by the Council and by the Secretariat.

16. And that it is, inter alia, why we ask that consultations be held whenever there is a change in situation on the ground. The TCCs are the first to know that things are going wrong. Consultations must be held before the Council changes a mandate. TCCs are often the only ones who can properly advise if a change is needed, if what the Council has in mind will make matters worse or better, if it can be done militarily with the resources available, and, if it is, what the outcome will be. TCCs must know, and accept in advance, material changes to the terms and conditions under which they committed their troops. It is important for the TCCs, also because their Governments, Parliaments and their people, want to know why their soldiers have

been sent into situations not anticipated when the UN's request for forces was accepted.

17. Our involvement, be it in the Congo then, or be it in South Sudan or DRC today, or be it in the events of 19 December 2013, continues to be shaped, as it must, by public opinion in our country.

18. Madam Chairperson, we hear in the corridors of this building that the mandate of MONUSCO is going to change. We have not been told. But, those who wield the pen would know.

19. Madam Chairperson, we understand that you will be organizing an open debate on the "Rule of Law" next week. We do not know if we will participate. When we spoke in the Council on November 24, 1961, our voice was not heeded. We fear that the same may happen today. The consequences we, however, hope will not be the same. In the event that we do not make ourselves heard on the 19th of this month, we avail of this opportunity to request members of the Council to remind themselves of the requirements of Article 44 of the Charter. The Rule of Law, as far as the Council is concerned, requires TCCs to participate in the Council's decisions, and not just be consulted on them.

20. Madam Chairperson, in conclusion I will leave a few question before the entire membership of the United Nations, because it on their behalf that the Council acts. Does the peacekeeper shoot to protect? Should he have done so on the 19th of December 2013? Should he do so in DRC, once a revised mandate is adopted for the entire Mission which requires, not as an exception but as a rule, for MONUSCO to take on targeted offensive operations against armed groups? Who will then be the civilian and who will then be the combatant, when we cross the 'Mogadishu line' in the DRC once again?

I thank you, Madam Chairperson.

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