

23 July 2009

**Statement of Mr. Miguel d'Escoto Brockmann,
President of the 63rd Session of the General Assembly,
at the Opening of the Thematic Dialogue of the General Assembly on
the Responsibility to Protect**

Excellencies,
Distinguished members of this morning's panel,
Mr. Edward Luck, Special Advisor to Secretary-General on the Responsibility to Protect,
Representatives of the United Nations System,
Friends all,

The world has remained silent and stood still in the face of gross violations of the most basic sentiments of humanity all too many times. This paralysis resulted in shameful situations like the Holocaust, the Khmer Rouge killing fields, the massacres in Rwanda and in the former Yugoslavia, just to name a few. After so much suffering, there is finally broad agreement that the international community can no longer remain silent in the face of genocide, ethnic cleansing, war crimes and crimes against humanity. This is a great progress. At this very moment there are too many places where violence is causing much death and suffering. We all understandably feel we should do something.

What is debatable though is the best form to respond to that imperative in a predictable, sustainable and effective manner, without preconditions and double standards that would ultimately unravel the UN's credibility. I hope this debate will contribute to that purpose.

First and foremost, in dealing with this serious threat, the consecrated cornerstones values enshrined in the UN Charter and in international law, such as the principles of sovereignty and non-intervention, should not be subverted. Weakening those principles would be equal to undermining the international system created after the tragic experiences that lead to World War II.

That, however, does not mean that the UN should be indifferent to the fate of the weakest peoples, who are the most likely to being exposed to large-scale violations and deprivations.

The authors and proponents of R2P, I do not doubt, have the best of intentions and seek to be prudent, realistic and wise in pushing for its gradual implementation and evolution. Moreover, I understand and share their sense of urgency. And I share their commitment to strengthening the United Nations as the last best hope for preserving our common humanity and our Mother Earth. Though I personally hold very strong views, I respect and commend the work they are doing to force our global community to confront its past failures and think hard about what needs to be done to prevent future repetitions.

I believe the subject is one that we must all take seriously because it concerns our fundamental moral obligations to our fellow human beings. The doctrine of R2P calls for solidarity in the pursuit of

justice, and it seeks to put finite limits to what nation-states may do to their own citizens. It challenges all of us in the international community to take the full measure of our moral progress. It forces us to declare not only who we would become, but also to look honestly at who we are today.

So why do many of us hesitate to embrace this doctrine and its aspirations? Certainly it is not out of indifference to the plight of many who suffer and who may yet be caused to suffer at the hands of their own governments. Recent and painful memories related to the legacy of colonialism, give developing countries strong reasons to fear that laudable motives can end-up being misused, once more, to justify arbitrary and selective interventions against the weakest states. We must take into account the prevailing lack of trust from most of the developing countries when it comes to the use of force for humanitarian reasons.

In filling that gap of confidence, we must endeavor to find ways to prevent such crises from occurring, not only by crisis management, but rather through dealing with their roots causes. Quite often, those causes involve under-development and social exclusion. Due attention should therefore be placed in exploring the true potential of preventive UN action.

Rather than embark on a long list of issues, I want to highlight four benchmark questions that should determine, in my judgment at least, whether and when we and our system of collective security are ready to begin to implement R2P.

The first test is: Do the rules apply in principle, and is it likely that they will be applied in practice equally to all nation-states, or, in the nature of things, is it more likely that the principle would be applied only by the strong against the weak? In fact, in today's system – the one we have, rather than the one we want – the rules don't apply equally even in principle, and so they aren't applied equally. Under the present rules, a few states, sometimes only one state, apply rules or benefit from treaties that carry the sanctions of law, but to which they are not subject. The Security Council should not have recourse to the International Criminal Court, for example, until all UN member states are party, or at least until all Security Council members, are party to its convention. What is more, the operation of the veto assures that the doctrine cannot be applied to the permanent members of the Security Council. No system of justice can be legitimate that, by design, allows principles of justice to be applied differentially.

A second benchmark question is: Will adoption of the R2P principle in the practice of collective security more likely enhance or undermine respect for international law? To the extent that the principle is applied selectively, in cases where public opinion in P5 Member States supports intervention, as in Darfur, and not where it is opposed, as in Gaza, it will undermine law.

Given the extent to which some great powers have recently avoided the strictures of the Charter in resorting to the use of force, and have gone out of their way to denigrate international law as being an impediment to both national policy and justice, there is little reason to doubt that endorsement of R2P by the General Assembly will generate new “coalitions of the willing”, crusades such as the intervention in Iraq led by self-appointed saviours who arrogated to themselves the right to intervene with impunity in the name of overcoming nation-state impunity.

A third benchmark question is: Is the doctrine of R2P necessary and, conversely, does it guarantee that states will intervene to prevent another Rwanda? Here the unfortunate reality is that the absence of the doctrine was not what prevented the international community from acting in Rwanda; we could have acted and our actions would have been fully lawful in compliance with the Charter, but we chose not to act. It is vital to recognize, as well, that if proponents are correct in claiming that R2P is permissive, not obligatory, then it cannot compel action where the international community may believe strongly that it is necessary. This is not a desirable situation, but it is a fact that is not remedied in any way by the R2P concept.

The case of Iraq raises a fourth vital benchmark test of the adequacy of our present system of collective security – do we have the capacity to enforce accountability upon those who might abuse the right that R2P would give nation-states to resort to the use of force against other states? The capacity to review and hold accountable those who violate international law or abuse their legal rights is fundamental to any functioning legal system. We Nicaraguans have our own deeply ambiguous experience in this regard. When we challenged the paramilitary actions organized, funded and directed by the United States against Nicaragua in the World Court in the mid-1980s, the Court surprised many when it ruled in Nicaragua’s favor. But the real test came with enforceability. Nearly two and a half decades after the judgment was rendered, the actions that were judged to be illegal were never stopped and not a penny of compensation was ever paid. It would be appropriate to insist that nations meet their obligations under existing law before giving them the opportunity to ignore or violate new legal obligations.

For all of these reasons, I wonder whether we are ready for R2P? It is and should remain an important aspirational goal. We should all be willing to support collective action not just to preserve international peace, but to assure a minimum level of security in all its dimensions – including, today especially, the economic dimension.

There are many ways to improve our system of collective security. And many ways to demonstrate our solidarity and concern for all of our fellow human beings.

Let us begin by fixing our broken system of collective security, and let us, by first demonstrating generosity and flexibility in fixing our broken global economic system and architecture, prove that we are indeed prepared to build a better world.

By and large, the UN already has the institutional instruments necessary to deal with those challenges. Yet, political constraints have prevented them from being used to their fullest capacity to promote true human security.

I hope this dialogue will contribute towards a common understanding of the urgent steps required to deal with those challenges.

Today’s panel is intended to open the discussion and to help us in this important task. Responsibility to Protect is too important an issue to be left to narrow specialists, and those who have made it a

profession or an industry. And this has dictated the choice of the panel. I am both pleased and honored to introduce each and every member of our panel.

Professor Jean Bricmont is a theoretical physicist, philosopher of science and a professor at the Catholic University at Louvain in Belgium. He works on renormalization group and nonlinear differential equations, and this has enabled him to see through many misconceptions. He will concentrate mainly on the question of a timely and decisive response.

Professor Noam Chomsky is a specialist linguistics and this gives him an uncanny power to detect this phenomena. In his books he has analyzed such interventions with impeccable vigor. A self-described libertarian socialist, he is universally recognized as one of the world's leading intellectuals.

Professor Gareth Evans is no narrow specialist either. Among his many achievements and positions, he was the president and CEO of the International Crisis Group from 2000 to just recently, and has written widely on the subject of Responsibility to Protect. He was co-chair of the International Commission on Intervention and State Sovereignty (2000-2001), which is credited with initiating the Responsibility to Protect concept, and he has led the movement of its worldwide adoption and application.

And Ngugi wa Thiong'o is one of the greatest writers of Africa and has passionately defended human rights in his novel and personally suffered on this account. At the same time he has been an ironic satirist of political and economic intervention in developing countries, including those by the Bretton Woods institutions.

In short, we have with us today a highly distinguished panel of great intellectual ability and we look forward to a rich debate.

Thank you.