

23 July 2009

**Statement of Mr. Miguel d'Escoto Brockmann,
President of the 63rd Session of the General Assembly,
at the Opening of the 97th Session of the General Assembly on
Agenda Items 44 and 107: Integrated and Coordinated
Implementation of and Follow up to the Outcomes of the Major
United Nations Conferences and Summits in the Economic, Social and
Related Fields**

Excellencies,
Mr. Edward Luck, Special Advisor to Secretary-General on the Responsibility to Protect,
Representatives of the United Nations System,
Friends all,

The World Summit Outcome Document of 2005 charged the UN General Assembly with the task of further considering the issue of Responsibility to Protect and examining its implications. As one of today's panelists, Mr. Gareth Evans, himself stated in his recent book on the subject, the concept of Responsibility to Protect has "the potential to evolve further into a full-fledged rule of customary international law". To argue that such a norm already exists is, ultimately, up to this body to decide.

I need not remind anyone present in this forum that in terms of the UN Charter, it is the General Assembly that develops international law.

This morning the General Assembly met in an informal session to discuss and engage some of the world's most prominent theorists and academicians in an interactive dialogue on Responsibility to Protect. We are indebted to them for honoring the United Nations with their presence and insights.

The discussion was rich and passionate, as is fitting, given that we are examining the fundamental moral and political obligations Member States and the international community have to our fellow human beings during times of extreme need. I would encourage all those who were unable to participate in the proceedings to refer to the statements of the panelists, which will be available on the website of the Presidency and on the UN webcast.

As I stated in my opening this morning, the world has remained silent and stood still in the face of gross violations of the most basic sentiments of humanity way too often. 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. As was made clear this morning, one can not treat these in isolation from the antecedent historical actions that precipitated them.

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. Yet there are currently situations, as in Gaza, which urgently need adequate and objective characterization, as well as the international community's responsibility to aid in their solution.

I would ask whether it was the absence of responsibility to protect that led to non-intervention in Gaza as recently as this year? Or was it, rather, the absence of the reform of the UN Security Council, whose veto power remains unchecked and its membership unreformed. Need I remind anyone here that we already have a Genocide Convention and various conventions on international humanitarian law, whose implementation remain erratic?

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.

The problem for many nations, I believe, is that our system of collective security has not yet evolved to the degree that can allow the doctrine of R2P to operate in the way its proponents intend, in view of the prevailing lack of trust from developing countries when it comes to the use of force for humanitarian reasons.

Unfortunately, the Secretariat's report argues for (as we heard again this morning) a continuum from strengthening a State's capacity to ensure human rights (in the sense of preventing R2P crimes), and diplomatic preventive measures to the economic sanctions and the use of force. This may tend to discredit the concept of Responsibility of Protect, just as the earlier concept of humanitarian intervention was discredited and, as described by Mr. Gareth Evans this morning, indeed buried.

The report of the International Commission on Intervention and State Sovereignty stated that the use of coercion and force could be hedged by the use of criteria, such as 'just cause'. 'Just cause' is a reversion to the pre-UN Charter doctrine of just war.

Given that the General Assembly has not yet managed to agree on a definition of 'terrorism' or 'aggression', it seems unlikely that it will be able to agree any time soon on definitions of just cause and right intentions.

Member States, as I do, clearly hold strong views on this issue. I believe this morning's discussion made it clear that the most effective and just form of avoiding large-scale human suffering certainly is not by resorting to the use of military force.

After this morning's discussion, the question still remains if the time for a full-fledged R2P norm has arrived, or whether as most of the panelists this morning felt, we first need to create a more just and equal world order, including in the economic and social sense, as well as a Security Council that does not create a differential system of international law geared towards the strong protecting, or not protecting, whomever they wish.

I wish you all a productive and enlightening debate. Thank you.