

**“GENERAL ASSEMBLY FOURTH INFORMAL INTERACTIVE DIALOGUE
ON THE RESPONSIBILITY TO PROTECT”**

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I want to thank President Nassir Abdulaziz Al-Nasser for asking me to participate as one of the panelists in today’s interactive dialogue. I also thank the Secretary-General for his Report. In his formal written invitation, the President of the General Assembly encourages me to allude to the quote “experience of Guatemala and Latin America relevant to the third pillar of the responsibility to protect...” end quote. Obviously, I can only talk for my own country, but probably two general comments would apply to all or at least the majority of the countries in my region.

- The first relevant comment is that in many parts of Latin America and the Caribbean, and due to foreign meddling and interventions on the part of world powers or neighboring countries since the eighteenth century and up to relatively recent times, there is a very deeply rooted culture which prizes the principle of non-intervention in the internal affairs of sovereign states. This principle attained the level of an article of faith in all Chancelleries, especially during the second half of the Twentieth Century. Indeed, it is also enshrined in the Charter of the United Nations.¹
- The second relevant comment is that the very significant events that occurred in the last quarter of the Twentieth Century in many countries, with transitions from authoritarian military regimes to democratically elected civilian regimes, led to an important shift in attitudes, both on the part of Governments and of civil society. There clearly is a greater appreciation for the respect of civil and political rights, and a firm recognition that Governments have among their primary responsibilities the protection of their own populations. In the global arena, there is strengthened support for international conventions dealing with human rights and humanitarian affairs. In that respect, there is an emerging caveat to the principle of non-intervention, in that Governments cannot and should not use this principle as a pretext for neglecting their own obligations *vis á vis* their respective civilian populations.

¹ Article 2.7.

- Having said the above, there continues to be a tension, at least in our region, between the strong culture of non-intervention, and the emerging culture which calls for the strict observance of international humanitarian and human rights law and conventions. That tension comes to the surface in the very limited cases of mass atrocities committed by Governments against their own populations which might actually call for international actions, especially if these could involve article 42 measures. In this respect, and as an aside, it should be recalled that the so-called third pillar is decidedly not synonymous with military intervention; the large arsenal of preventive diplomacy measures at our disposal – some admittedly of a coercive nature – are equally and probably more important to encourage sovereign States to observe the above-mentioned norms than the strictly punitive measures. But we do have a grey area in translating the R2P conceptual frame-work into its practical application in specific instances, as a direct result of the tensions I just described.

This is the reason that we frequently hear delegates stating that they have no difficulty with pillars one and two, but serious doubts about pillar three, as if these were separate categories instead of parts of one coherent and integrated package designed to prevent mass atrocities. The universal application of pillars one and two would presumably make the application of pillar three unnecessary, while the potential application of pillar three is a powerful incentive to center our efforts of protection around pillars one and two. The point is that the conceptual framework should be approached in a holistic manner, rather than picking some elements and rejecting others. That is not to say, however, that the potential scope and content of pillar three should not be examined in its own right, basically to continue clarifying the over-all conceptual framework of the Responsibility to Protect. In that respect, I believe that the question of bridging the gap between the principle of non-intervention and the principle of respect for international humanitarian and human rights norms is of particular relevance.

One very interesting attempt to fill precisely this gap, which is a genuine Latin American contribution, springs from Brazil's innovative proposal entitled "Responsibility while protecting". This concept recognizes – albeit cautiously – the right of the international community to resort to force as a last resort in addressing mass atrocities perpetrated by Governments against their own populations, but only after a "comprehensive and judicious analysis of the possible consequences of military actions on a case-by-case basis," based on an agreed set of fundamental principles, parameters and procedures.² As the Secretary-General's Report indicates, Responsibility while protecting requires early identification, engagement, and preventive action.

² Letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General, circulated on 11 November 2011 under A/66/551-S/2011/701.

I would also like to touch briefly on a topic that is on many people's mind, and that is the link between the agenda item of the Security Council on the protection of civilians in armed conflict,³ and the concept of the responsibility to protect. These concepts are distinct from each other, but they clearly overlap. As everyone is by now aware, the Libyan authorities' responsibility to protect their civilian population was explicitly invoked in Resolutions 1970 and 1973; the latter authorizing "all necessary measures...to protect civilians..."⁴ The main distinction between the two concepts is that the protection of civilians is a universally accepted concept of international humanitarian law, while R2P is a political initiative, limited to address four specific crimes against civilians, which only contemplates international action when sovereign states are unwilling or unable to exercise their own responsibility to deal with those crimes. Even then, it should be pointed out that the application of punitive measures under Chapter VII is only envisaged in the most extreme cases, and as recourse of last resort.

To conclude, I can understand the concerns of some countries in my own region that R2P, and especially its third pillar, can be manipulated and/or abused on the part of some international actors to meet their own foreign policy agenda, rather than as a useful tool to prevent the four categories of mass atrocities that are specifically mentioned in paragraphs 138 and 139 of the 2005 Summit Outcome Document.⁵ But it should not be too difficult to put safeguards in place to avoid this type of abuse, especially if further procedural refinements can be introduced, both at the level of the General Assembly and especially at the level of the Security Council. Further development of the distinction between prevention and response – a central theme in the Secretary-General's Report – and enhanced partnerships between the United Nations and regional organizations should help in this endeavor.

The important message of R2P, that I believe all Latin American and Caribbean states can identify with, is that all members of the international community are expected to conform to certain norms of conduct regarding the treatment of their own citizens. Naturally, committing acts of genocide, war crimes, ethnic cleansing or crimes against humanity, or acts of incitement that could lead to any of these crimes is considered totally out of bounds. Should such states fail in this basic commitment, they should understand that they will face consequences from the international community (to which they of course belong). Our own Heads of State collectively accepted this concept in 2005; the least we can do now, seven years later, is to make sure that this important break-through continues to evolve in its practical and operational application.

Thank you.

³ See: S/2012/376 of 22 May, 2012, and the Security Council Report's Cross-Cutting Issues Report 2012, No. 2 of May 31, 2012, entitled "Protection of Civilians in Armed Conflict".

⁴ S/1973 (2011), March 17, 2011, op 4.

⁵ See: A/60/1 of 24 October, 2005.

