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STATEMENT BY FIRST SECRETARY, ANET PINO RIVERO, REPRESENTATIVE OF CUBA, AT THE PLENARY MEETING OF THE GENERAL ASSEMBLY 63RD SESSION, REGARDING THE REPORT OF THE SECRETARY-GENERAL A/63/677 "IMPLEMENTING THE RESPONSIBILITY TO PROTECT". NEW YORK, 23 JULY, 2009.

Mr. President,

First and foremost, I would like to make some general considerations about the issue being discussed today, and then state some preliminary comments on the Report of the Secretary-General A/63/677.

Mr. President,

The notion of responsibility to protect does not exist as a legal obligation provided in any instrument of the International Law or in the Charter of the United Nations.

Although we recognize the responsibility of each State to promote and protect all the human rights of its people, we are concerned about the proliferation of ambiguous and similar terms that, under an indiscriminate humanitarian image, entail in practice a violation of the principle of sovereignty of States, and in general of the Charter of the United Nations and the International Law. The so call "humanitarian intervention" as well as the ancient "temporary interposition" from the beginning of XX century should be remembered.

Cuba reaffirms the respect for Sovereignty of States is one of the essentials in international relations and can be disregarded, not even for "noble" purposes. Without it, there could be no United Nations and the small countries of the South would be abandoned at the mercy of the large and strong ones.

Claiming the principle of Sovereignty has hindered the actions of the United Nations to come to the aid of suffering humanity is to distort the truth. The inefficiency of the Organization is sometimes caused by, inter alia, the lack of political will, selectivity and double standards, development resources constraints, and dysfunction in the working of some its bodies as the Security Council.

Despite its sixty years of existence, the Charter of the United Nations has the unanimous support of the international community and its provisions, including its principles and purposes, do not required to be changed or reinterpreted.

Mr. President,

The standards of the International Law and the Charter of the United Nations codify the legal framework for the international cooperation in solving international

problems of an economic, social, cultural, or humanitarian character, as well as the obligations of States to promote and protect human rights.

The solutions to address those problems are provided in Chapter IX of the Charter. In particular, Article 60 establishes that the discharge of these functions shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council.

In this regard, we believe the General Assembly is the proper forum to deeply analyze genocide, war crimes, ethnic cleansing and crimes against humanity, which are crimes that we repudiate.

Certainly, the decisions of the General Assembly are not binding. But being the General Assembly a democratic and transparent body of universal composition, its decisions can better legitimate and achieve a consensus than those of the Security Council.

Mr. President,

The Security Council lacks the power to take decisions on international problems of an economic, social, cultural, or humanitarian character.

In the International Law, international peace and security are linked to the prohibition on the threat or use of force. Thus, according to the spirit of the Charter, the concept of collective security could only be activated in case of an interstate conflict or to protect a State against a foreign aggression, which pose a threat to international peace.

There is no legal standard justifying the legal character of a humanitarian intervention by the Security Council under Chapter VII of the Charter. In case there is a legal standard of this kind, we believe the current unjust international order, riddled with double-standards, would not ensure credibility or justice for all on an equal basis. We would be facing a violation of the main achievement of the contemporary International Law, which is the illegal character of war and the prohibition on the use of force.

A deep reform of the Council's current membership and working methods would be required in order to ensure a non-abusive and non-selective implementation of such term.

Suffice it to mention the total inaction of the Council in the face of the attacks carried out by Israel against Lebanon in 2006, and against Gaza at the end of 2008, when clear acts of genocide and war crimes were taking place. Or, on the other hand, the attempt by a permanent member of the Council to appeal for the responsibility to protect against Myanmar in the face of Narguis hurricane in 2008. The countries more or less affected in these cases are always developing countries.

We reaffirm the International Humanitarian Law does not provide the right to intervene for humanitarian purposes as an exception to the principle of non-use of force. Humanitarian assistance cannot be related to the work of the Security

Council, since the non-coercive character of it contrasts with the ability of the Council to take coercive decisions.

That is why humanitarian actors must fully respect the guiding principles of humanitarian assistance and work on the basis of offering humanitarian assistance, as well as the appeal and consent by the affected State.

Countless questions illustrate the complex character of the problem from the legal, political, and ethical point of view. For instance:

Who is to decide if there is an urgent need for an intervention in a given State, according to what criteria, in what framework, and on the basis of what conditions? Who decides it is evident the authorities of a State do not protect their people, and how is it decided? Who determines peaceful means are not adequate in a certain situation, and on what criteria? Do small States have also the right and the actual prospect of interfering in the affairs of larger States? Would any developed country allow, either in principle or in practice, humanitarian intervention in its own territory? How and where do we draw the line between an intervention under the Responsibility to Protect and an intervention for political or strategic purposes, and when do political considerations prevail over humanitarian conditions? How can we believe the "good faith" of the powers which wage wars of aggression against other nations? Is killing for food legal and ethical? Is saving an ethnic group from an ethnic cleansing by killing the other party, legal and ethical? When do foreign forces of occupation withdraw? When does the violation of the sovereignty of a country cease?

Mr. President,

The language agreed at the 2005 World Summit on the responsibility to protect did not turn said term into a concept or a standard of law. Its ambiguity gave rise to an intense debate that must take place step-by-step. First, we should provide a joint answer to its legal loopholes, and then review the viability of the concept if the Member States so consider.

The debate must refer to genocide, war crimes, ethnic cleansing and crimes against humanity. Any attempt to extend the term to cover other calamities, such as HIV/AIDS, climate change or natural disasters, would undermine the 2005 Summit Outcome language.

We consider the report surpasses the intergovernmental agreement when including the question of human rights in the first two pillars and its annex. It grants the special procedures of HRC and the Office of the United Nations High Commissioner for Human Rights which fall within the competence of States.

The proposal that donor countries include the responsibility to protect in assistance programmes could create new conditionalities to operational activities, which are essentially aimed at promoting development.

We are concerned about the flexible character and automatic interdependence in implementing the three pillars, as well as their use at any time, which would imply the adoption of stronger measures with no clear premises for it.

The ambiguous reference to regional mechanisms or arrangements and the extra-regional aspect is highly controversial. As with NATO aggressions, we would run the risk of destroying the international legislation under the principles and purposes of the Charter of the United Nations and the International Law.

On the other hand, the report lacks an analysis on this term from the perspective of the legitimate right of peoples to self-determination, as well as the promotion of a dialogue among civilizations, tolerance, and in general of a culture of peace and non-violence in the world.

It does not properly annotate either the prevalence of the principles of voluntariness, prior appeal and consent by each State on assistance and capacity-building, including its military component.

These are, Mr. President, some of our concerns aroused from the preliminary study of the Report, which we will continue to analyze. This is the first time Member States debate on this term, which requires a deeper analysis in the framework of the General Assembly.

Thank you.