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S t a t e m e n t

by

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at the

General Assembly Plenary Meeting on
Implementing the Responsibility to Protect

New York

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Mr. President,

I would at the outset like to place on record my delegation's appreciation to you for convening these discussions. I would also like to record our appreciation to the Secretary General for the presentation of his report entitled "implementing the responsibility to protect" before the General Assembly on 21st July 2009.

Mr. President,

The discussions so far we have left some of us deeply disturbed. Perhaps, it is a sign of the troubled times we live in that these discussions continue to reveal both a sense of helplessness and deep intellectual acrimony in finding the political will to prevent the recurrence of the four identified mass atrocities.

It has been India's consistent view that the responsibility to protect its population is one of the foremost responsibilities of every state.

The right to life is one of the rights from which no derogation is permitted even in time of emergencies. This is a cardinal obligation under our Constitution. The International Covenant on Civil and Political Rights, which has 164 States Parties, also has this as its core obligation.

Para 138 of the World Summit Outcome document clearly demands that the international community encourage and help states to exercise their responsibility to prevent genocide, ethnic cleansing, war crimes and crimes against humanity and support the UN in establishing an early warning capability.

Capacity building and early warning are indeed critical to ensure that these four mass atrocities do not recur. The report of the Secretary-General has very well identified several proposals under pillars 1 and 2 in this regard. These should be worked on intensively by the international community.

Mr. President,

Protection of populations is identified by the Secretary General as a defining attribute of sovereignty and Statehood in the 21st century.

Sovereignty as responsibility has, however, always been a defining attribute for nation states where safeguards for protection of fundamental rights of citizens are constitutionally provided.

In the international arena, in so far as the identified four mass atrocities are concerned, we have a specific Convention on the Prevention and Punishment of the Crime of Genocide and several other legal instruments which not only lay down extensive obligations of the States towards their citizens but also hold them accountable where necessary. In fact, the entire human rights regime is fundamentally predicated on this.

The responsibility of the international community has also been identified, be it for war crimes or genocide. For example, under the Genocide Convention, on request of a State Party, the competent organs of the United Nations can take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide.

Regrettably, despite all the safeguards and obligations, the international community has in the past failed in its duty to respond to mass atrocities even when they were a clear threat to international peace and security. It is for this reason that this issue came up for consideration in the 2005 World Summit.

Mr. President,

The World Summit Outcome document was a large omnibus document that tried to find common ground on a vast array of issues of global interest. While, of course, disagreement prevented the document from addressing disarmament, we also need to accept that on the issue of responsibility to protect there was a cautious go-ahead. Discussions to provide doctrinal, policy and institutional life to paragraphs 138 and 139,

if they are to be faithful to the 2005 document, must therefore, not lose sight of this fact.

Mr. President,

Since words have meaning , it would be useful to recall that in Para 139, the international community was enjoined to use appropriate diplomatic, humanitarian and other peaceful means, and I would like to repeat, peaceful means, to help protect populations in the specific situations of genocide, ethnic cleansing, war crimes and crimes against humanity.

Willingness to take chapter VII measures can only be on a case-by-case basis and in cooperation with relevant regional organizations with a specific proviso that such action should only be taken when peaceful means are inadequate and national authorities manifestly fail in discharging their duty.

These measures, Mr. President, not only have to be used as a last resort but have to be in conformity with the provisions of the UN Charter.

Moreover Mr. President, we also have to be realistic. We don't live in an ideal world and, therefore, need to be cognizant that creation of new norms should at the same time completely safeguard against their misuse. In this context, responsibility to protect should in no way provide a pretext for humanitarian intervention or unilateral action. To do so would not only give responsibility to protect a bad name but also defeat its very purpose. Perhaps finalization and adoption of the definition of aggression under the Rome Statute would assuage to some extent the concerns regarding the misuse of this idea.

As students of history, we should remember that to disregard the lessons of history makes us vulnerable and commits us to the folly of repeating mistakes of the past. The need for extra vigilance, therefore, cannot be overemphasized.

Mr. President,

The 2005 World Summit Outcome document provides the parameters regarding the application of responsibility to protect to the four identified mass atrocities. Our deliberations must therefore, be within this framework. Sticking to these parameters is important in view of the very general linguistic meaning that the expression responsibility to protect can invoke. We are all aware that even after 2005 there have been attempts to disingenuously use responsibility to protect, also at the highest levels in the international community!

It is, therefore, important that the UNGA discusses these issues holistically in an open, inclusive and transparent manner so that in developing this new idea, we ensure that it will be used only for its stated purpose and that the potential for its misuse is minimized.

Mr. President,

The Secretary General's report examines some of the most heinous events during the UN's watch and notes the issue of mandate and means. Even a cursory examination of reasons for non-action by the UN, especially the Security Council, reveals that in respect of these tragic events that were witnessed by the entire world, non-action was not due to lack of warning, resources or the barrier of state sovereignty but because of strategic, political or economic considerations of those on whom the present international architecture had placed the onus to act.

The key aspect, therefore, is to address the issue of 'willingness to act'. Here, of course a necessary ingredient is real reform of decision making bodies in the UN, especially the Security Council in its permanent membership, to reflect contemporary realities and make them forces for peace and capable of acting against mass atrocities.

Thank You.