**"Responsibility to Protect" Does Not Apply to Myanmar, UN's Expert Tells Inner City Press, But Older Rights Concepts Do**

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UNITED NATIONS, May 12 -- Is the bleak situation in Myanmar following Cyclone Nergis a crime against humanity, which could trigger the doctrine of "responsibility to protect" as enacted in the UN in 2005? French Foreign Minister Bernard Kouchner on May 7 said the concept should be invoked. France's Deputy Permanent Representative to the UN Jean-Pierre Lacroix on May 12 said that his country might "introduce a text" to that effect to the Security Council the following day. But the UN's special advisor on Responsibility to Protect, Edward Luck, in an on-the-record written response to questions submitted by Inner City Press, diplomatically disagrees with Kouchner and France.

            Inner City Press asked, Does R2P apply to this case in Myanmar? Mr. Luck responded:

No, in my view and based on my limited knowledge of events on the ground there, it would be a misapplication of responsibility to protect (RtoP) principles to apply them at this point to the unfolding tragedy in Myanmar.  As you know, the Outcome Document of the 2005 Summit limited their applicability to four crimes and violations: genocide, crimes against humanity, war crimes, and ethnic cleansing. We must focus our efforts on implementing these principles in these four cases, as there is no agreement among the Member States on applying them to other situations, no matter how disturbing or regrettable the circumstances."

  Given the arguments advanced by France and others, Inner City Press asked, could non-response to a natural disaster rise to the level of a crime against humanity? Luck responded:

"Whether a non-response, or in this case a partial response, to a natural disaster could qualify as a crime against humanity is a matter to be debated by legal scholars and jurists.  It seems to me, however, that larger and well-established human rights principles are at stake here.  A state has fundamental responsibilities for the welfare of the populations on its territory that have long preceded the development of the concept of a responsibility to protect."

            Also in light of France's and the U.S.'s allusion to food-drops, Inner City Press asked, where would a food-drop fit in? Luck's answer, less on R2P, rebutted the food-drops on five separate grounds:

"On a purely practical level, it is hard to see a food drop accomplishing much.  One, it could add to chaos on the ground as people struggle over such aid drops.  Two, much of the area is now under water. Three, it would do nothing in terms of supplying the critical missing element of humanitarian and medical personnel on the ground.  Four, targeting could be a real challenge. And five, the violation of Myanmar's airspace could well increase the government's suspicion of the outside world."

          Since some have said, even in R2P applied, that force would be the "last step," Inner City Press asked, what would be the series of steps to apply R2P in such a case? Luck's response was shorter, and more telling: "We have yet to develop a clear decision-making process or standard operating procedures for implementing RtoP decisions." Who the "we" is that will develop such standard operating procedures is not yet clear.

            Since the official UN document announcing Luck's appointment says he would be paid "When Actually Employed," at the pro-rate hourly Assistant Secretary-General rate, but Luck has said he gets $1 a year, Inner City Press asked, which is it, and, since the appointment, what have you been doing under this mandate? How many hours? Luck did not answer the second part of this question, only reiterating that "my letter of appointment says $1 per year." He has joked, not without humor, that some people say he's overpaid at that rate.

            In terms of credit, since French Ambassador Ripert on May 7 told Inner City Press that Bernard Kouchner "invented R2P 20 years ago," Inner City Press asked Ed Luck, is that your understanding? Who else deserves credit? Luck replied diplomatically

"I have no comment on the quote from Ambassador Ripert.  However, it is worth noting that the concept of responsibility to protect represents a conceptual evolution from the earlier notion of humanitarian intervention.  The former was first coined as a term in the 2001 ICISS report, though it can trace its intellectual roots to the concept of 'sovereignty as responsibility' developed by Francis Deng and his colleagues at the Brookings Institution in the mid-1990s and the 2000 Constitutive Act of the African Union."

            To this, we'll add a few more names, including Lloyd Axworthy, Ramesh Thakur, and Mohammed Sahnoun of Algeria. Bernard Kouchner? Bonne chance, as they say. Watch this site.