

# The Amateur Computerist

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In the Shadow of Deep Crises

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## Father Brockmann and the 63<sup>rd</sup> Session of the UN General Assembly

The articles in this issue of the *Amateur Computerist* help to document the role played by the General Assembly in its 63<sup>rd</sup> Session from Sept 16, 2008 to Sept 14, 2009. They have been selected to document what was a special year in the recent experience of the United Nations. The year began when Father Miguel d'Escoto Brockmann of Nicaragua assumed the Presidency of the General Assembly. The

articles ask the question: In the shadow of deep crises like the world financial and economic crisis, and the Middle East political crisis, can the UN be a force to help clarify and bring needed change?

As the president of this important but poorly understood body of the United Nations, Father Brockmann was criticized by several conservative entities and was subjected to death threats in response to his defense of the Palestinians when they were the object of an Israeli attack on Gaza in Dec. 2008 and Jan. 2009.

But also, he was admired by those who had hope that the United Nations could begin to challenge the forces of privilege and power which dominate institutions like the UN Security Council.

The year of Father Brockmann's presidency was marked particularly by the Israeli invasion of Gaza in Dec 2008 and the economic and financial crisis that gripped the world in much of 2009. As Father Brockmann left the presidency in Sept 2009, he expressed his disappointment that he had not been able to do more to support the forces of democracy. (See, "In the Shadow of Deep Crises," p. 3.) His achievements however were significant.

In this issue we have attempted to give a sampling of what was accomplished when a diplomat with a vision of a more democratic world was at the head of an important international organization. Except for the first article, the issue is organized chronologically. The earliest article, "UN Security Council Reform in Focus" (p. 8) concerns a problem that was passed onto the 63<sup>rd</sup> Session. The remaining articles were written about the developments that were part of the General Assembly during its 63<sup>rd</sup> Session.

Father Brockmann's statement below was delivered in the final session of his presidency. We have placed it at the beginning of the issue to give some sense of both the sweep of events of the year and of the goal that Father Brockmann had set for the year. It is important to recognize that a significant achievement of the 63<sup>rd</sup> Session of the General Assembly was the introduction of the concept of the G192, of a democratization of the international economic structure to challenge the G7, G8 or even G20 as the vision for a more democratic economic system. (See, "Change in Economic Model Needed to Solve Crisis," p. 12, "G192 Emerges at UN Conference on World Financial and Eco-

conomic Crisis,” p. 28 and “We, the Different are Here,” p. 32.)

Far less understood is the role Father Brockmann and the General Assembly played in breaking through the barrier in the Security Council which was blocking the Council from passing a resolution to support the Palestinian people during the attack by Israel on Gaza.

Articles in the issue document the urgency Father Brockmann felt when Israel launched its attack on Gaza on Dec 27, 2008. (See, “the World Has Been Watching,” p. 15.) Many excuses by the U.S. Ambassador kept the Security Council from intervening against the carnage.

If the Security Council is blocked from fulfilling its Charter obligation of maintaining or restoring “peace and security,” that does not relieve the member nations of their responsibility. Father Brockmann and member nations of the General Assembly realized that this was a situation needing the “Uniting for Peace”<sup>1</sup> procedure for calling a General Assembly meeting.

Under Father Brockmann’s presidency, members of the General Assembly called an emergency session. It was set to meet if the Security Council failed to act on Jan. 8, 2009. On Jan. 8, the Foreign Ministers of the Security Council member nations finally managed to vote on and pass Security Council Resolution 1860, calling for an “immediate, durable and fully respected cease-fire, leading to the full withdrawal of Israeli forces from Gaza.”<sup>2</sup> The vote was 14 in favor with the United States abstaining. If the U.S. had voted against the Resolution, the General Assembly meeting was set to take on the responsibility to take the action which the U.S. was blocking. Given these conditions, Condoleezza Rice abstained but did not veto Resolution 1860.

Other achievements during Father Brockmann’s presidency included the bringing to the General Assembly of several experts to debate controversial issues before the member nations. One example was the Interactive Thematic Dialogue on the Responsibility to Protect (R2P). (See, as an example, “A More Just World and the Responsibility to Protect,” p. 24.)

The most important achievement of the year however was the General Debate on the World Financial and Economic Crisis and Its Impact on Development held in June 2009. (See, “G192 emerges at UN Conference on the World Financial and Economic Crisis,” p. 27.) We

have included from this debate the speech by Rafael Correa, the President of Ecuador. (See, “We the Different are Here,” p. 32.) President Correa’s speech is an example of the alternative economic perspective presented to the nation members as part of this Debate.

Father Brockmann appeared disappointed that more was not accomplished during the 63<sup>rd</sup> Session of the General Assembly over which he presided. But his Presidency has left a legacy that can act as a foundation for the United Nations to truly be an international organization that can help to enable the different world that is emerging.

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Notes:

1. If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefore. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations; (See:

<http://habitat.igc.org/ufp/a-r377ae.htm>).

2. See: [http://www.un.org/Docs/sc/unsc\\_resolutions09.htm](http://www.un.org/Docs/sc/unsc_resolutions09.htm) and <http://www.un.org/News/Press/docs/2009/sc9567.doc.htm>

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[Editor's Note: From September 2008 to September 2009, H.E. Father Miguel d'Escoto Brockmann, M.M. was the President of the 63<sup>rd</sup> session of the United Nations General Assembly. On September 14, 2009 he finished his term and made a **Farewell Speech**. This is a shortened version of his remarks concerning the issues considered by the 63<sup>rd</sup> Session. His whole Farewell Speech can be seen at:

<http://www.un.org/ga/president/63/statements/statements.shtml>]

## In the Shadow of Deep Crises UN General Assembly 63<sup>rd</sup> Session

by Miguel d'Escoto Brockmann  
President of the 63<sup>rd</sup> Session  
of the UN General Assembly

Dear Brothers and Sisters,  
*Tempus fugit*, the Romans used to say, and they were right. Time flies: it is running out for us. And as time passes us by, so too do the opportunities for us to do what we must to ensure a fitting future for the coming generations....

One year ago, from this very rostrum, I shared with you the vision of what I hoped to achieve during my year in this high office, to which you, with such trust and affection, had elected me. Now the time has come to take stock.

I would like to begin by expressing my gratitude not only for your trust, but also for the generous cooperation afforded to me, including by many who did not disguise their concerns about me being a Catholic priest committed to the theology of liberation and to the liberation struggle of my people, led by the Frente Sandinista de Liberación Nacional in my country, Nicaragua. Fortunately, these doubts and suspicions did not prevent a frank and fraternal dialogue with those who



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Father Miguel d'Escoto Brockmann (far left) with reporters and staff at the UN

would have been expected to oppose me most strongly. Today, as I step down, I am very happy and extremely grateful for all of the generous cooperation that I received from all of you without exception....

## Economic and Financial Crisis: Need for the G192

The most important months of my presidency occurred in the shadow of the current deep economic and financial crisis, which does not yet appear to have bottomed out. However, as an eighteenth century English philosopher once said, perhaps the carping of our worst critics sounds less triumphant when we observe that, while we did not accomplish as much as we would have liked, we nevertheless accomplished a great deal.

In accordance with Article 13 of the United Nations Charter, the General Assembly “shall make recommendations for the purpose of promoting international cooperation in the economic, social, cultural, educational and health fields.” However, for approximately the past 30 years, the Organization has been prevented from performing the role assigned to it by the Charter on the pretext that only the Bretton Woods institutions had expertise in these fields.

The work of my Presidential Commission of Experts made it clear that the General Assembly was indeed capable of bringing together specialists with sufficient expertise to discuss global financial, economic, monetary and trade governance. Furthermore, the Commission produced what is undoubtedly the most serious and complete proposal for how we should tackle the current global financial and economic crisis.

The adoption on 9 July of the outcome document of the United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development, held from 24 to 30 June 2009, was a historic milestone for the United Nations. The G-192 was thereby established as the most appropriate forum to address those issues that affect the international community as a whole. [See this issue p. 28 and the Outcome Document at:

[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/63/303](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/63/303)

The G-8 and the G-20 will continue to be significant minorities. However, this is more due to the fact that they are rich and powerful

than to their demonstrated ability to do things well. We cannot and should not forget that, after all, it is because of the extremely grave errors committed by them, and the Bretton Woods institutions run by them, that the world is currently undergoing what could well turn out to be the worst crisis in history.

Extremely valuable inputs were made to the outcome document's conclusions as a result of the proposals put forward by the Commission of Experts chaired by Professor Stiglitz, the report issued by the Department of Economic and Social Affairs (DESA) and, of course, the statements delivered by Heads of State and Government at the plenary meeting of the Conference itself – for example, the excellent statement by President Rafael Correa of Ecuador [See this issue p. 30] – in addition to the comments made at round tables and working breakfasts.

However, we must also recognize that without the extraordinary support and active participation of non-governmental organizations and the South Center, headed by Martin Khor, we would not have made the progress that we did.

The draft outcome document, despite being negotiated by 192 countries and contrary to the fears expressed by some notable minorities, was not only ready two days before the Conference, but also comprehensively addressed a series of complex issues that went beyond the debates and documents arising from other forums.

It should also be noted that the outcome document of our historic June Conference finally launched the process of compliance with the recommendations contained in the report of the World Commission on the Social Dimension of Globalization, entitled “A fair globalization.” This report states that “Globalization is making multilateralism both indispensable and inevitable” and that the multilateral system of the United Nations “is uniquely equipped to spearhead the process of reform of economic and social policies.”

The role of the United Nations in dealing with the most urgent issues of our time was institutionalized with the establishment on 31 July 2009 of the ad hoc open-ended working group of the General Assembly to follow up on the issues contained in the outcome document. Such issues include reform of the Bretton Woods institutions, the same “expert” institutions that have reduced the implementation of Article 13

of the United Nations Charter as much as possible for the past three decades.

## Responsibility to Protect (R2P)?

Today the most urgent issue continues to be the provision of resources to the most vulnerable countries, primarily in the form of donations, or, rather, the provision of compensation through a global fund, or of special drawing rights for development, in order to finance both public goods and the Millennium Development Goals.

It is precisely because of our failure to resolve the fundamental problems of the economic system, and the extreme poverty and inequality on which this system is based, that we have had to resort to palliative measures such as the Millennium Development Goals, or to press for the urgent implementation of the concept of the Responsibility to Protect. However necessary the Millennium Development Goals may be, they do not address the need for urgent and indispensable international economic reforms.

In the absence of the political will to tackle the serious injustices and inequalities facing the world, it is far more convenient to have recourse to the Responsibility to Protect in dealing with the consequences of such problems. Nevertheless, we should be satisfied that we have been able to comply with the provisions of paragraph 139 of the 2005 World Summit Outcome, which calls on the General Assembly to continue consideration of the Responsibility to Protect and its consequences.

Our panel on this issue was not only balanced but was also one of the most distinguished in the history of the United Nations, including intellectuals of the calibre of Noam Chomsky, Ngugi wa Thiong'o, Jean Bricmont and former Australian Foreign Minister Gareth Evans. The rich and comprehensive discussions clarified our understanding of this concept, which continues to be an important aspiration. [See this issue p. 22] However, great care will be needed to ensure that this concept is not interpreted or used, as so often in the past, as a right to intervene.



## Security Council Reform: Narrow Decision-Making Base

We are at a critical juncture on the path that we set out upon in San Francisco 64 years ago. The institutions established at that time, like all institutions, have undergone a natural, gradual and inevitable process of attrition. As a consequence, the present crisis is affecting both international economic governance and policy.

There is broad consensus that the United Nations Security Council is incapable of effectively addressing many crucial issues related to international peace and security and that it requires comprehensive reform in order to overcome the increasing limitations arising from its restrictive methods and narrow decision-making base. We have also taken important steps in this regard, and we have made progress with the implementation of decision 62/557 of 15 September 2008. [See this issue p. 6]

With regard to reform of the Security Council, I believe we can say that during the sixty-third session of the General Assembly we have turned a dream into a reality, since we have succeeded in moving the reform process from a study by the open-ended working group to the level of intergovernmental negotiations in informal plenary meetings.

Since the start of the negotiations in February, under the leadership of Ambassador Zahir Tanin of Afghanistan, we have held 32 meetings to consider specific issues. More than two thirds of Member States participated actively in these meetings and detailed proposals were also submitted, which clearly demonstrates the importance that Member States attach to this issue.

In May even more progress was made on this basis, with the negotiations receiving further encouragement by a document outlining the main options and a series of negotiable issues. A robust framework for subsequent negotiations has thereby been established. I am convinced that there is light at the end of the tunnel. Provided that we continue the negotiations and show a greater degree of commitment at the next session of the General Assembly, this process will shortly yield concrete results.

## General Assembly Reform: Democratization of the United Nations

I am grateful to Ambassador Maria Fernanda Espinosa of Ecuador and Ambassador Morten Wetland of Norway for their excellent work as Co-Chairs of the Ad Hoc Working Group on the revitalization of the General Assembly. Their efforts were a focused response to my longstanding call to prioritize the democratization of the United Nations.

Only a strong General Assembly which vigorously exercises its deliberative, policymaking and decision-making roles will be capable of enhancing multilateralism as the best option for relationships between States. It must be borne in mind that the most significant revitalization has been the capacity demonstrated by the General Assembly to address existential economic problems that it had been unable to tackle for almost three decades. Revitalization is a political rather than a technical issue.

I am also grateful to the Co-Chairs of the System-wide Coherence process, Ambassador Juan Antonio Yáñez-Barnuevo of Spain and Ambassador Kaire Mbuende of Namibia, for the progress achieved under their able guidance. Indeed, harmonized cooperation in line with the national plans of developing countries should continue to be a fundamental objective to ensure system-wide coherence of the United Nations through governance that is focused on the principles of transparency, inclusiveness and national ownership. These principles should, in turn, ensure that the forces of change are mobilized to achieve both gender equality at the global level and enhanced results at the national level.

Further efforts must therefore be resolutely pursued to secure an agreement between Member States on the need for a global institutional incentive to achieve gender equality. This will ensure that the women of the world have a strong and coherent voice within an effective structure.

## Events of International Relevance

For my part, I leave satisfied at having spared no effort conscientiously to fulfill my obligation to carry out the agenda of the sixty-third session and, at the same time, to ensure that the General Assembly

remained attuned to events of international relevance not foreseen in the agenda, such as the Israeli aggression against Gaza, the global financial and economic crisis, or the recent *coup d'état* in Honduras, a stroke of luck for the pro-coup forces of the twenty-first century by which the international reactionaries tried to impede the victorious and promising advance of the Bolivarian Alternative for the Americas. If we had had more time, we would have taken up as an agenda item in the General Assembly the serious threat to peace in Latin America posed by plans to build seven new United States military bases in Colombia, but regrettably the sixty-third session has run out of time. This theme will therefore have to wait until the next session, if the work of the General Assembly is to be kept in tune with events in our world.

As has happened with the Governments of many Member States, the magnitude and gravity of the global financial and economic crisis, the greatest crisis since the foundation of the United Nations, have occupied centre stage in our agenda during this past year, and have in fact prevented us from considering, to the extent we would have preferred, such other issues as nuclear disarmament, the situation in Palestine, decolonization and the extremely dangerous and illegal concept of preventive war, which has nothing to do with that of “pre-emptive war,” despite the fact that, regrettably, we use the same word in Spanish to refer to these two essentially and critically different concepts.

We would also have liked to have considered the so-called war on terror in greater depth in our agenda. Most salient in that regard is the universally condemned case of the five Cuban heroes, unjustly and arbitrarily detained for exactly 11 years and two days, and subsequently condemned to serve heavy prison terms for having brought to light, in Miami, terrorist schemes against the heroic and ever-supportive Republic of Cuba. Despite the fact that the information was duly provided to the authorities of our host country, who have continuously claimed to have no knowledge of it, the response was to jail them. It is to be hoped that with the much-touted change and rectification policy of the new Government of the host country, there will be a correction of this miscarriage of justice, which has caused so much suffering to the five families affected and so much damage to the image of the United States that its new president is committed to improving.

## **Palestine: A Scandal that has Caused Me Much Sorrow**

My greatest frustration this year has been the Palestine situation. The Question of Palestine continues to be the most serious and prolonged unresolved political and human rights issue on the agenda of the United Nations since its inception. The evident lack of commitment for resolving it is a scandal that has caused me much sorrow.

I promised a proactive Presidency, and sincerely believe that I did everything I possibly could in this regard, requesting and attempting to persuade those who should have been most closely involved to call for the convocation of the General Assembly to consider the Palestine situation. However, whether at the time of the three-week invasion of Gaza that began on 27 December or now, all I received was advice to give the process more time, because things were always on the point of being resolved and we should do nothing that could endanger the success that was always just beyond our reach. [-ed. Father Brockmann is here and below likely referring to the Permanent Observer Mission of Palestine to the United Nations representing the Palestinian Authority]

Faced with this situation, I sincerely did not know what to do. I wanted to help Palestine, but those who should supposedly have been most interested denied their support for reasons of “caution” that I was incapable of understanding. I hope that they were right and that I was wrong. Otherwise, we face an ugly situation of constant complicity with the aggression against the rights of the noble and long-suffering Palestinian people.

A just resolution of the Question of Palestine must be based on the content of international law, and will only be attained when the unity of the Palestinian people has been achieved and the international community speaks with all its representatives who enjoy credibility and have been democratically elected. In addition to the withdrawal of the Israelis from all territories illegally occupied since 1967, international law demands that all Palestinians displaced during the creation of the State of Israel, their children and grandchildren, be permitted to return to their homeland of Palestine.

My chief consultant on humanitarian affairs, Dr. Kevin Cahill, was sent to Gaza from 17 to 22 February to prepare a report on the humanitarian situation in Gaza immediately after the aggression. Dr. Cahill’s

report was issued on Wednesday 19 August, on the occasion of World Humanitarian Day commemorating the sacrifices of United Nations staff in conflict zones; it had originally been intended for release at a Special Session on Gaza, but that did not take place for the reasons mentioned.

I find disgraceful the passivity and apparent indifference of some highly influential members of the Security Council to the fact that the blockade of Gaza has continued uninterrupted for two years, in flagrant violation of international law and of the resolution of the Security Council itself, causing immense damage and suffering to the Palestinian population of Gaza. This situation threatens to become even more serious if immediate measures are not taken, now that winter is approaching. Now is the time to demonstrate, with actions and not simply words, a true commitment to the concept of the Responsibility to Protect.

## Main Lesson or Perception

It would be inappropriate for me to leave without sharing with you what I feel is the main lesson or perception I have gained during this year of work, dedication and total commitment to the cause of peace through the democratization of the United Nations; the revitalization of the General Assembly; the complete abolition of nuclear weapons by the year 2020, the 75<sup>th</sup> anniversary of the dropping of atomic bombs on Hiroshima and Nagasaki; the eradication of poverty and hunger, which this year passed the psychological barrier of a billion people suffering hunger throughout the world; the taking of measures to ensure the availability of clean water and food for all; the promotion of effective policies for dealing with climate change; putting an end to the crime of human trafficking, as well as to the disgrace of the ill treatment of and discrimination against women; guaranteeing the right to education for children and youths, including that of girls and boys in situations of armed combat or humanitarian disasters caused by natural phenomena; as well as guaranteeing universal access to health, which is an ethical and religious imperative.

In all these endeavours, the ongoing counsel of Brother David Andrews of the Congregation of the Holy Cross, as well as of Maude Barlow, Mohamed Bedjaoui, Byron Blake, Leonardo Boff, Noam

Chomsky, Ramsey Clark, Michael Clark, Kevin Cahill, Aldo Díaz Lacayo, François Houtart, Michael Kennedy, Francisco Lacayo Parajón, Carlos Emilio López, Paul Oquist, Nuripan Sen, Joseph Stiglitz and Oscar-René Vargas, was of great use to this Presidency, which we intended to be a team effort from the beginning. However, clearly, our greatest gratitude is to God, our Lord, for having allowed us to contribute in some small way to the cause of world peace.

During this year, there was much talk of the need to reform the United Nations and to do everything possible to improve its image, credibility and effectiveness. According to data from the latest poll by the Pew Research Center's Global Attitudes project, carried out in 24 nations and the Palestinian Territories, there has been a noticeable improvement in the perception of the United Nations. This gives us happiness, but not satisfaction. Much remains to be done if the United Nations is to become worthy of the prestige, trust and credibility it needs to carry out its mission effectively, a mission that is so important in today's troubled world.

It is said that the League of Nations failed because those who sponsored it lacked the power or will needed to make it a reality. I believe that something similar can be said of the United Nations. I am one of those who believe that the United Nations has the potential as an organization to be indispensable to humanity's efforts to survive the crises converging to threaten its extinction. The main problem, without a doubt, is that not all its founders really believed, or believe even today, in the vision or principles explicit and implicit in its underlying Charter.

I believe that it is not far-fetched to note that the whole world knows that, among many other truths, some of our most powerful and influential Member States definitely do not believe in the rule of law in international relations and are of the view, moreover, that complying with the legal norms to which we formally commit, when signing the Charter, is something that applies only to weak countries. With such a low level of commitment, it should not be surprising that the United Nations has been unable to achieve the main objectives for which it was created.

Certain Member States think that they can act according to the law of the jungle, and defend the right of the strongest to do whatever they

feel like with total and absolute impunity, and remain accountable to no one. They think nothing of railing against multilateralism, proclaiming the virtues of unilateralism while simultaneously pontificating unashamedly from their privileged seats on the Security Council about the need for all Member States conscientiously to fulfill their obligations under the Charter, or be sanctioned (selectively of course) for failing to do so. The sovereign equality of all Member States and the obligation to prevent wars are, for them, minor details that need not be taken very seriously.

All of this, and many other equally serious anomalies, is what has brought many to believe in the urgency of the need to reform the United Nations. But during this year as President of the General Assembly, I have come to the conclusion that the time has already passed for reforming or mending our Organization. What we need to do is to reinvent it, and we need urgently to do it *ad majorem gloriam Dei*, which is to say, for the good of the Earth and of humanity.

In the 64 years since the creation of the United Nations, there have been many scientific advances and development in the ethical consciousness of mankind that allow us to clarify the main elements of this other world, possible and indispensable for our survival, and to proceed on that basis to the drafting of a proposed Declaration on the Common Good of the Earth and Humanity. Once the consensus of Member States has been obtained on this Declaration, this shared vision will have to be converted into a draft for a new Charter of the United Nations, one that is attuned to the needs and knowledge of the twenty-first century....

*Tempus fugit.* Time is running out. In Copenhagen [at the 2009 United Nations Climate Change Conference] we will have the opportunity to show that we understand well what that means and that we are determined to do what is needed to defend life.

Thank you.

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[Editor's Note: One of the problems inherited by the 63<sup>rd</sup> Session is the widely felt need for Security Council reform. Father Brockmann phrased this as the need for democratization of the UN. The following article appeared on Sept 15, 2008 one day before the beginning of the 63<sup>rd</sup> Session. As mandated by the 62<sup>nd</sup> Session, the 63<sup>rd</sup> session initiated intergovernmental negotiations on Security Council reform which is a small step toward the desired reform.]

## **UN Security Council Reform in Focus**

### **Public Scrutiny and Debate Needed, Not Closed Meetings**

by Ronda Hauben

The critical need for Security Council reform is being expressed by a number of nations at the United Nations as the 62<sup>nd</sup> session comes to an end and the 63<sup>rd</sup> session of the General Assembly gets underway.

Describing this urgency, Hilario Davide, the Philippine ambassador to the UN, told the Security Council Open Debate on its Working Methods held in late August: "Calls for changes and reforms in the Security Council are becoming louder and stronger. In due course, it may even become irresistible."<sup>1</sup>

### **The Problem of Equitable Expansion**

The 61<sup>st</sup> session of the General Assembly ended a year ago with a resolution on Security Council reform stating that intergovernmental negotiations would take place in the next session and that a transitional agreement could provide for the flexibility needed to try out a tentative solution. The idea of a transitional agreement was presented as a breakthrough. Similarly, the plan to move to intergovernmental negotiations was a means to move past the deadlocked working group phase of discussion.

No such activity took place during the 62<sup>nd</sup> Session of the General Assembly, which ran from Sept. 18 2007 to Sept. 15, 2008. Instead, the members of the General Assembly once again have the dilemma of passing the problem onto the next session of the General Assembly,



which begins on Sept. 16.

Most of the delegations to the UN maintain that there is a need for some change. What the change should be, however, is a deeply contentious issue. There have been a number of proposals over the years. The effort to create a forum to reform the Security Council has been going on for years. The most recent effort dates back to 1993 when the Open Ended Working Group was created. Since then the problem has passed from one General Assembly session to the next.

There are a number of proposals for reform that have been presented to the UN membership but none has gained general acceptance.<sup>2</sup> Among the more well-known proposals for reform is that of Germany, Japan, India and Brazil (Group of Four [G-4]), proposing four new seats for themselves and two for African nations. In this proposal, the new permanent seats would not hold veto power.

Several other member nations appear concerned that if a nation from their region in this group gains the additional power that possessing a permanent Security Council seat represents, it will shift the power balance in the region in an undesirable way. Such a concern is an impetus for other proposals, such as the Uniting for Consensus Group of nations led by Pakistan and Italy, which opposed the creation of new permanent seats for individual nations, but advocated 10 new seats for two-year renewable terms.

Another proposal on behalf of a group of 54 African nations is asking for both permanent and nonpermanent seats to be assigned to the African region, with the decision of which nations fill those seats to be determined regionally. The African group wants the permanent seats to be with veto as long as any other nation on the Security Council has a veto. Its proposal is for an increase in total Council membership to 26 seats, with two of the six new permanent seats to be for nations selected by the African region, and two of the five new nonpermanent seats to be for African nations as well.

The Organization of Islamic Conference has expressed its concern that there be adequate representation for its members.

## Does the Council Act on Behalf of the Members?

Despite the differing views on how to expand the Security Council membership, there is an agreement among many of the nations on the need for changes in the working methods of the Council.

In statements made at the Open Debate of the Security Council on Working Methods held on Aug. 27, several nations point to Section 1 of Article 24 of the United Nations Charter, which says that the Council acts on behalf of the members. They argue that this article obliges the Council to involve them when determining its course of action.

The language in the charter reads, "In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf" (Article 24, Section 1).

Several of the nations not on the Security Council say they are rarely consulted or even informed about the issues being determined. Yet they are told that they must enforce the decisions made by the Council.

Even some of the members of the Council itself report that they do not know how the decisions by the five permanent members of the Council (P-5) are made in the drafting of resolutions. Also, they observe that non-council groups or nations are part of the process of drafting resolutions instead of the members of the Council.

Article 32 of the charter states, "Any member of the United Nations which is not a member of the Security Council, or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute."

Instead, nations complain that even when they are a subject of or involved with the matters before the Security Council, they are excluded from the discussion and negotiation of resolutions and are only allowed to speak after a decision has been agreed to and voted on by those on the Council.

Since nonpermanent members only serve for two years at a time, they are at a disadvantage when compared to the P-5, which have been

on the Council since it was created over 60 years ago. The P-5 nations are familiar with the past experience of the Council. They also have greater resources to draw on in keeping up with the intense schedule of diverse issues that come before the Council. In addition, the P-5 can use their veto as a means to pressure for their interests or to threaten that they will prevent any action.

## Nations Urge Specific Reforms

Following are a few excerpts from many statements made by UN delegates at the Aug. 27 open debate describing what delegates view as the problems that need attention.

Dumisani Kumalo, the South African ambassador to the UN, explained: “The Security Council has witnessed the gradual erosion of its credibility and authority. Its representativity has been challenged increasingly, as it addresses matters that have expanded beyond the vision that the founders of the United Nations foresaw in 1945.

“In the past decades, permanent members of the Security Council have sought to utilize the Council to further their own interest.... We have always been troubled by the fact that issues such as Kosovo, Western Sahara, non-proliferation and even Georgia, are regarded as of interest, at least to some members of the Council, to the exclusion of other issues. On the question of the Middle East, people around the world are well aware that the Council has remained paralyzed in trying to address the plight of the Palestinian people 40 years after the illegal occupation of their land.”<sup>3</sup>

Ambassador Hilario G. Davide, Jr. of the Philippines told the Council: “Due process and the rule of law demand that Member States that are not members of the Security Council but are the subjects of the Council’s scrutiny should have the right to appear before the Council at all stages of the proceedings concerning them to state or defend their positions on the issues that are the subjects of or are related to that scrutiny. At present such participation is unfairly limited by rules 37 and 38 of the provisional rules of procedure.... This is a denial of due process, which is a violation of the basic principle of the rule of law. Due process and the rule of law require that a party must be heard before it is condemned.”<sup>4</sup>

Mehdi Danesh-Yazdi, the Iranian ambassador to the UN, asked: “A legitimate question therefore arises: whether the outcome of such non-transparent, exclusive and political procedures can represent the points of view of the entire membership. How can one expect Member States to implement decisions that are made without even minimal engagement on their part, or even without their knowledge?”<sup>5</sup>

Maria Fernanda Espinosa, Ecuador’s ambassador, reminded the Council: “In failing to apply these methods and thus failing to improve its working methods, the Council has overlooked the fundamental premise that its actions are carried out on behalf of and in representation of all Member States.”<sup>6</sup>

## **Does the Council Act in Accord with the Charter and International Law?**

The UN Charter states that the member nations are obliged to carry out the decisions of the Security Council that are in accord with the charter. This implies there is an obligation of the Council to draft resolutions that are in line with the obligations of the charter and of international law. According to Article 25, “The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” Presently, however, there is no mechanism to prevent the Council from passing resolutions contrary to the charter and then claiming that member states must enforce the resolutions.

A case in point is the sanctions list the Security Council has compiled of the names of individuals and entities that it alleges have been involved in the financing of the al-Qaida network and the Taliban. This is detailed in Security Council resolution 1267 (1999) and related resolutions.

The bank accounts of these individuals and entities are to be frozen and a ban instituted on their right to travel.<sup>7</sup> Several of those whose names have been put on this list have appealed to various courts and sought other avenues for legal remedies, as they claim none exists within the UN processes. A recent decision by the European Court of Justice on Sept. 3, agreed with the arguments of two of those on the list, Yassin

Abdullah Kadi, an individual, and Al Barakaat International Foundation, an entity.<sup>8</sup>

The two separate cases were joined together by the court. The court found that both are being denied the mandatory due process procedures that are to be followed when access to one's property or to the right to travel are being denied. Therefore, being put on the sanctions list subjects them to a violation of their human rights. The court decision refers to the obligations of the UN charter to "encourage respect for human rights" (Article 1, Section 1).

The European Court of Justice said Kadi and Al Barakaat's argument was well founded, that European Union (EU) and European Community (EC) regulations to enforce the Security Council sanctions to freeze their funds violated their rights of defense, "especially the right to be heard, and of the principle of effective judicial protection" (Decision No. 353). It ordered that the two particular regulations imposing the restrictive measures on persons and entities associated with al-Qaida and the Taliban be annulled, but that the effects of the regulations be maintained for a period not to exceed three months so that the EU and EC could remedy the infringements found and redraft the regulations.

In their criticism of the working methods of the Security Council, several nations explain that they do not want the Council to be acting arbitrarily or outside of the framework of international law.

Expressing this idea, Marty Natalegawa, Indonesia's ambassador to the UN, told the Council: "We seek a Council that safeguards the interests of all and whose decisions and actions are in full consonance with the established principles of international law and the Charter of the United Nations."<sup>9</sup>

## Open Processes Make Reform Possible

The challenges facing the nations of the United Nations in trying to bring reform to the practices and composition of the Security Council are formidable. The possible veto of any change by any of the P-5 nations presents a difficult obstacle to overcome. Similarly, fostering agreement among the diverse nations as to what change is needed and how to implement it is similarly a difficult task.

Considering the difficult nature of the problem, the process in working for reform becomes important. If discussion of the various proposals for change is done in an open environment, the details can be covered by the press and public discussion can be encouraged. The activities of the group working on Council reform<sup>10</sup> held during the 62<sup>nd</sup> Session of the General Assembly, however, were often held in closed meetings and even some of the nations involved complained that they were kept in the dark about what was happening.<sup>11</sup>

Little progress is likely to be made in this difficult area of United Nations reform unless the whole process is opened up to welcome public scrutiny and discussion. Such discussion helps to clarify the public interest and to find ways to solve problems impeding a solution that is in line with the public purpose.

For example, in 2003 the United States sought to get a Security Council resolution authorizing the invasion of Iraq. The argument was made that it would weaken the UN if the Security Council failed to authorize the invasion. One of the ambassadors on the Council at the time explained how the broadly based international coverage of Council meetings and the broad public discussion of the issues involved helped to clarify that it was in the best interests of the UN not to authorize the invasion. This international public concern helped him to resist the pressure.

The lesson of the need for open, public processes is a lesson that can help to guide the efforts toward Security Council reform in the 63<sup>rd</sup> session of the General Assembly. Democratizing the UN has been proposed as a key issue for this session and for the opening debate. This is a sign that there are some nations that recognize the problem and will make efforts to solve it.

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Notes:

1. Security Council meeting, Aug. 27, 2009 S/PV.5968 Resumption 1, p. 8, and longer statement distributed by ambassador at meeting. This statement was one of many comments presented at a meeting of the Security Council to discuss its working methods on Aug. 27. This Council meeting on the subject, held under the Belgium presidency in August, was a rare event that several delegates urged be repeated at least every two years.

2. See a summary of some proposals at: <http://www.Reformtheun.org>.
3. Security Council meeting, Aug. 27, S/PV.5968 Provisional, p. 15.  
<http://www.reformtheun.org/index.php/eupdate/3920>
4. Security Council meeting, Aug. 27, S/PV.5968 Resumption 1, p. 8.
5. Security Council meeting, Aug. 27, S/PV.5968 Resumption 1, p. 12.
6. Security Council meeting, Aug. 27, S/PV.5968 Resumption 1, p. 13.
7. For details, see Ronda Hauben, "At the Crossroads: Security Council Sanctions Imposed without Due Process," Telepolis, June 29. 2009.  
<http://www.heise.de/tp/r4/artikel/28/28217/1.html>
8. See Decision Judgment of the Court (Grand Chamber), Sept. 3.  
<http://eur-lex.europa.eu/Notice.do?val=478012:cs&lang=ro&list=463008:cp,478012:cs,463008:cs.&pos=2&page=1&nbl=3&pgs=10&hwords=&checktexte=checkbox&visu=>
9. Security Council meeting, Aug. 27, S/PV.5968 Provisional, p. 5.
10. The actual name of the working group is the Open Ended Working Group on the Question of Equitable Representation and Increase in the Membership and Other Matters related to the Security Council. The proposal for the Sept. 9 draft for the final document is A/Ac.247/2008/L.1/Rev.1.
11. For a summary of some of the actions of the working group, see "Security Council Reform Debate Heats Up as Member States Negotiate Final Drafts," by Jonas von Freiesleben, Sept. 11.  
<http://www.centerforunreform.org/node/364>

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# **Change in Economic Model Needed to Solve Crisis**

## **President of Bolivia Offers Alternative to the Neoliberal Agenda**

by Ronda Hauben

Evo Morales, the president of Bolivia, in a talk to the United Nations General Assembly [in September 2008], offered an alternative viewpoint of how member nations should deal with the economic crisis.

He presented a critique of what he called “the continuation of the neo-liberal agenda of the developed nations,” explaining how this approach would only deepen the crisis rather than help to solve it. “In order to put an end to the financial crisis,” he said, “we have to put an end to the rules of the World Trade Organization (WTO).”

“It is important to move forward to deep economic change,” Morales explained. This means changing the economic model. He called for replacing the neo-liberal model.

His alternative agenda included providing aid to the victims of the crisis. By the victims he meant those who have lost their homes, and those who are losing their jobs. The money should not go to those who have caused the crisis, he told the member nations of the General Assembly.

Morales also criticized the G20 summit held on Nov. 15, 2008 in Washington, D.C. as not representative of the majority of countries in the world who are affected by the economic crisis. Maybe it was just 20 countries, because those countries feel they bear responsibility for the crisis, he suggested. But that still didn’t justify limiting the decision making process for the world response to the crisis to 20 of the developed nations, he reasoned.

As a model for an alternative economics, he offered the practice of Bolivia where a new constitution has been passed, and services have been instituted to benefit all the people, including those in the rural areas who were ignored by the governing institutions in the past.

Morales noted that it was very important “to be constantly with the



people, to heed what the people want, to listen to what the people are asking for.”

Describing how the newly passed constitution would provide rights for the indigenous people, he said that, for the first time, “the state is for all.”

Morales explained that he had come to thank the General Assembly for the support given him and his country when groups tried to destabilize the country. While the nationalization of the oil in Bolivia has resulted in a substantial increase in the funds the country receives from its oil reserves, this also led to certain groups trying various means to cut Bolivia’s exports.

At the press conference held on Nov. 18, just after Morales’ speech to the General Assembly, Father Miguel d’Escoto Brockmann, who is from Nicaragua, introduced Morales. He said President Morales is a head of state who is practicing the values for the 21<sup>st</sup> century. Member nations had described such values as desirable during meetings supporting interfaith dialogue which had been held at the UN the previous week.

In response to a question at the press conference, Morales explained that illiteracy is being eradicated in Bolivia, and that a pension has been instituted for those over 60 years of age.

He offered these as examples of how the resources of the country are being used to improve the lives of the people.

Also he explained that under the new political constitution, no foreign nation is allowed to set up a military base in Bolivia. He described how his country is opposed to the use of the coca leaf to produce cocaine, but that consumption of the coca leaf is a traditional part of the culture in Bolivia and the government supports this cultural practice.

Morales told members of the media, that though in the past the rural people had no access to telecommunications, after the nationalization of telecommunications important changes have taken place. Now even people tending sheep in the fields have cell phones and can get calls from their relatives abroad.

Electricity in the rural areas, he explained, is becoming more affordable to people.

While Morales offered an alternative economic model for developing nations to that of neoliberalism as the needed response to the economic crisis, much of the western press focused on his ban on the role played by the U.S. Drug Enforcement Administration (DEA) in Bolivia. In response, Morales described how even when he was a member of the Parliament, he was not allowed to pass a certain check point that was at the time maintained by the officials of the DEA. He also recalled when the DEA had had helicopters monitoring social movement activity.

Morales, who had been a labor leader in Bolivia, maintains that government has a duty to serve people and defend the sovereignty of the country.

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Note: A video of Evo Morales' press conference is available at the UN Web site. <http://webcast.un.org/ramgen/ondemand/pressconference/2008/pc081117pm.rm>  
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## **Response to Israeli Attacks on Gaza Press Statement Issued by Security Council After Five Hours of Consultations**

by Ronda Hauben

Reporting from the United Nations, Saturday night Dec. 27, 2008 through Sunday morning, Dec. 28. – I arrived at the United Nations around 9:35 p.m. (EST) after learning that there were to be Security Council consultations about what is happening in Gaza. The Security Council consultations were scheduled for 10 p.m. (EST).

The Libyan delegation, on behalf of the Arab League, had asked for a meeting of the Security Council to respond to the Israeli attacks on Gaza.

Soon after the members arrived, some members of the delegations

told the press that the Security Council members were working on a statement which would urge Israel to halt its military operations in Gaza. Also, the statement was to call for cessation of rocket attacks on Israel from Gaza.

Another element for the statement was said to be to call for the opening of the border crossings into Gaza and unrestricted humanitarian access to the area.

A few others who spoke with the press informally were quick to point out that the draft effort to fashion a statement was not something agreed to in any way yet by the members of the Security Council. The discussion among the members of the Security Council was said to be about whether they would hold a meeting this evening and if so what the meeting would do.

A representative of one of the delegations said that his delegation wanted either a statement that all members of the Security Council agreed on presented to the press this evening, or else an open meeting where all members would speak freely.

Five hours after the meeting began, members of the Security Council emerged from their consultations. They had indeed agreed on a statement to be read to the press.

The statement contained several points. These included:

- 1) There was serious concern about “the escalation of the situation in Gaza.”
- 2) The call for “an immediate halt to all violence.”
- 3) The call for “all parties to stop immediately all military activities.”
- 4) The call for the opening of the border crossings “to ensure the continuous provision of humanitarian supplies.”

The statement “stressed the need for the restoration of calm” toward finding a political solution for the settlement of the Palestinian-Israeli conflict.

Several of the parties came to speak briefly to the press after the Security Council issued its statement.

The American ambassador to the UN, Zalmay Khalilzad, wanted it known that he attributed the root cause of the problem to Hamas’ rocket attacks on Israel. He limited the questions he would answer after being

confronted with questions from reporters asking if what Israel was doing in killing over 200 Palestinians was not a disproportionate response.

Russian Ambassador Vitaly Churkin indicated that there were different views among Security Council members about what the root cause of the problem was, but that the bottom line was that the situation in Gaza had slipped, and that it was important to stop the bloodshed. He expressed his appreciation that the matter had been brought to the Security Council as a result of a decision of foreign ministers, and that a statement had been issued by the Council.

When asked what the Security Council would do to follow up on the statement, he said that the statement had been crafted with some understanding by the Israeli government that it was issued, and he expected that the parties assumed that there were certain responsibilities given that the Security Council had issued a statement.

The Palestinian observer at the UN explained that if Israel didn't comply, the Arab nations would come back knocking at the door of the Security Council.

Israeli Ambassador Gabriela Shalev said that the Security Council didn't have to be in such a rush to issue a statement.

The French ambassador, Jean-Maurice Ripert, said that the statement made clear that the border crossings to Gaza had to be open including having access allowed to NGOs, diplomats, and journalists.

While the members of the Security Council were discussing what the Security Council would do, others at the United Nations presented their view of the situation.

The Secretary-General, Ban Ki-moon, via his spokesperson had issued a statement on Saturday, Dec. 27. It contained a general statement about Israel's obligation to uphold humanitarian law, and human rights law, in general condemning "excessive use of force," but condemning by name Hamas for ongoing rocket attacks on Israel. The statement is posted at the UN.

The President of the General Assembly, Miguel d'Escoto Brockmann, announced he would cut short his brief Christmas holiday to return to the UN from Nicaragua.

His spokesperson, Enrique Yeves, told journalists, "The General Assembly President is extremely worried about the whole situation. He

believes it is time for the international community to act to prevent this kind of aggression from Israel against the civilian population of Palestine.”

“If we fail,” Yeves explained, “we will all be guilty by omission.”

The president of the General Assembly is following very closely the situation in New York, said Yeves, and he gave journalists a copy of Brockmann’s statement.

The statement expressed in a clear and forthright manner that he condemned the actions by Israel. The statement by the president of the General Assembly is:

The behavior by Israel in bombarding Gaza is simply the commission of wanton aggression by a very powerful state against a territory that [it] illegally occupies.

Time has come to take firm action if the United Nations does not want to be rightly accused of complicity by omission.

The Israeli air strikes on the Gaza Strip represent severe and massive violations of international humanitarian law as defined in the Geneva Conventions, both in regard to the obligations of an Occupying Power and in the requirements of the laws of war.

Those violations include:

Collective punishment – the entire 1.5 million people who live in the crowded Gaza Strip are being punished for the actions of a few militants.

Targeting civilians – the air strikes were aimed at civilian areas in one of the most crowded stretches of land in the world, certainly the most densely populated area of the Middle East.

Disproportionate military response – the air strikes have not only destroyed every police and security office of Gaza’s elected government, but have killed and injured hundreds of civilians; at least one strike reportedly hit groups of students attempting to find transportation home from the university.

I remind all member states of the United Nations that the UN continues to be bound to an independent obligation to protect any civilian population facing massive violations of international humanitarian law regardless of what country may

be responsible for those violations.

I call on all Member States, as well as officials and every relevant organ of the United Nations system, to move expeditiously not only to condemn Israel's serious violations, but to develop new approaches to providing real protection for the Palestinian people.

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## **The World Has Been Watching The UN and the Failure to Act to Stop Attack on Gaza**

by Ronda Hauben

On the evening of Jan. 3, the President of the General Assembly, Father Miguel d'Escoto Brockmann, arrived at the UN as the Security Council was preparing to hold a closed door meeting about the Gaza crisis.

Earlier in the day, Israel had escalated the previous eight days of bombing of Gaza by beginning a ground invasion into the territory.

The situation in Gaza is that 1.5 million civilians are trapped in a virtual prison. For 18 months prior to the invasion, Israel has blockaded the crossing points into Gaza that it controls and Egypt has closed the one crossing point it has control over.

Responding to the question from a journalist about what his reaction was to Israel's actions in Gaza and the Israeli ground attack, Brockmann said, "I think it's a monstrosity. There's no other way to name it."<sup>1</sup>

He went on to explain that "once again the world is watching in dismay the disfunctionality of the Security Council." The shame of this, he said, is that "people are dying."

Such activity by the Security Council, Brockmann said, is "what is responsible for the loss of prestige and the bad image" that the

disfunctionality results in. “The Security Council,” he explained, “is in very urgent need of profound reform.”

Subsequent events on Jan. 3 at the Security Council demonstrated the accuracy of Brockmann’s description of the current state of the Security Council.

This was the first meeting of the Security Council in 2009. Five newly elected nations replaced five outgoing members. The new members were Turkey, Mexico, Uganda, Japan and Austria. They replaced Indonesia, Panama, South Africa, Belgium and Italy.

A problem, however, seemed to be that the newly elected members did not have the same understanding of the dynamics and how to deal with them that the outgoing elected members had learned from their two years on the council.

While several of the outgoing members had voiced<sup>2</sup> their commitment to having open meetings of the Security Council – especially when there was a dispute that couldn’t be resolved – the new members and others on the Council allowed the meeting on Jan. 3 to be a closed meeting. The discussion and actions of the Security Council were only available from second hand reports.

During a similar meeting of the 2008 Security Council on Dec. 27-28, one of the outgoing ambassadors, South Africa’s Domisani Kumalo told journalists that he was insisting on an open meeting if the Security Council did not, at least, come to an agreed upon statement for the press.

At the first Security Council meeting in 2009, however, it is reported that no ambassador insisted on an open meeting. Hence there was neither an agreed upon press statement from Council members, nor was there an open meeting.

Describing the events of the Jan. 3 meeting, the Egyptian Ambassador, Maged A. Abdelaziz, told the press that, “we find regrettably that the Security Council is downgrading its response.”<sup>3</sup> He was referring to the fact that the U.S. Ambassador Alejandro D. Wolff would not even agree to make the previous weekend’s press statement into a Presidential statement. Nor would the U.S. agree to a press statement like that of the previous Saturday, calling for an immediate halt to all violence.

Significantly, Israel’s escalation of violence against Palestinians in

Gaza, represented by the Israeli land invasion, was greeted with official silence at the first meeting of 2009 of the Security Council. The Security Council was silent on the fact that the large number of civilian deaths and injuries and the massive destruction of civilian targets in Gaza demonstrated that Israel was committing widespread collective punishment of civilians in Gaza.<sup>4</sup>

During Brockmann's comments to the press, he had referred to "other possible steps" that were being considered.

Some member nations of the UN are pointing to General Assembly Resolution 377 "Uniting for Peace"<sup>5</sup> as a procedure to be invoked to respond to the problem when a permanent member of the Security Council blocks action on an urgent issue, as the U.S. did on Jan. 3.

The Uniting for Peace resolution notes that the blocking of urgent action by a permanent member of the Security Council does not relieve the members of the UN of their responsibility under the charter. Under Article 24 of the UN charter, members of the UN confer "on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."

When the Security Council fails to carry out such duties however, the General Assembly can assume the responsibility. If the General Assembly is in session, a meeting is to be called. If the General Assembly is not in session, as is currently the case, there is a procedure to call for an Emergency Session, which is to meet within 24 hours of the request.

There have been press reports that member nations of the UN, like members of the 57 nations of the Organization of Islamic Conference (OIC), or like members of the 117 non-aligned nations are working to start the process to call for an emergency meeting of the General Assembly about the Gaza crisis if the Security Council continues to be unable to act on the need for a cease fire and the opening of the border crossings into Gaza.<sup>6</sup>

There have been ongoing and growing demonstrations around the world of people upset about the lack of action by their governments to find a way to stop Israel's bombardment of Gaza. The persistent failure of the UN Security Council over the past 18 months to stop the siege of



Gaza has helped to set the conditions for the current attack on the Palestinians by Israel.

Angry demonstrations around the world are evidence that this inaction is an affront, not only to the besieged Palestinians but to people around the world who condemn Israel's invasion of Gaza. In his comments to the press on Jan. 3, Brockmann said that "what is really responsible [for the current violent situation in Gaza –ed.] I think is the unfulfilled resolutions of the Security Council" with regard to the Palestinian crisis.

"The world has been watching," he noted.

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Notes:

1. Media Stakeout: Informal comments to the Media by H.E. Mr. Miguel d'Escoto Brockmann, President of the 63rd session of the General Assembly on the situation in the Middle East, including the Palestinian question. [Webcast: Archived Video - 7 minutes]

<http://webcast.un.org/ramgen/ondemand/stakeout/2009/so090103pm2.rm>

See also Ronda Hauben "Security Council and Others at UN Respond to Israeli Attacks on Gaza , Press statement issued by Security Council after 5 hours of consultations," *OhmyNews International*, Dec. 28, 2008.

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=384512&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=384512&rel_no=1)

2. Ronda Hauben, "Security Council Fails to Act on Gaza Crisis: The Silence is Deafening Says Indonesia's Ambassador to the UN," *OhmyNews International*, Feb. 7, 2008.

[http://english.ohmynews.com/articleview/article\\_view.asp?article\\_class=16&no=381689&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?article_class=16&no=381689&rel_no=1)

3. Egypt Media Stakeout: Permanent Representative of Egypt, H.E. Mr. Maged A. Abdelaziz [See especially Minutes 18:47-20:52]

<http://webcast.un.org/ramgen/ondemand/stakeout/2009/so090103pm3.rm>

4. Article 33 of the Fourth Geneva Convention of 1949, states, "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited."

5. General Assembly Resolution A/RES/377(V) A 3 November 1950 377 (V). Uniting for Peace.

<http://domino.un.org/UNISPAL.NSF/99818751a6a4c9c6852560690077ef61/55c2b84da9e0052b05256554005726c6>

6. Indonesia and Malaysia are two such nations. See for example, Abdul Khalik and

Lilian Budianto, “RI pushes for UN emergency meeting” *The Jakarta Post*, Jakarta. <http://www.thejakartapost.com/news/2010/04/02/ri-calls-israel-halt-attack-gaza-strip.html>

“President Susilo Bambang Yudhoyono said Monday that Indonesia would continue its political and diplomatic efforts to push the Security Council to issue a resolution to stop Israeli attacks and force both sides to return to peaceful dialog to solve the conflict.”

“But if we can’t get a resolution through the Security Council then we will use the alternative of an emergency meeting at the General Assembly to force a cease fire to stop the hostilities that have claimed many lives,” he told reporters at the Presidential office.

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## **Israel Attempts to Justify Its Attack on Gaza**

### **The Obligations of Israel As an Occupying Power Under the UN Charter**

by Ronda Hauben

In a letter submitted to Ban Ki-moon, the Secretary-General of the United Nations, and to the President of the Security Council for the month of January (S/2009/6, Jan. 6, 2009), Israel informs them that it has expanded its military operations in the Gaza Strip. Israel claims this is its right under Article 51 of the Charter of the United Nations. Israel states that this is a “defensive military operation” and that it has begun this military operation only “after exhausting all other means.”

The letter states “Israel is not at war with the Palestinian people.” It states that Israel is doing its “utmost to avoid and minimize civilian casualties and to take the necessary precautionary measures in accordance with Israel’s obligations under international humanitarian law.” Also Israel claims that it “makes – and will continue to make every effort to allow humanitarian relief into the Gaza Strip.”

Describing the nature of Israel's attack on the political infrastructure of Gaza, Sarah Leah Whitson, the Executive Director of the Middle East and North American Division of Human Rights Watch, in a press conference at the United Nations, presented a different view of what Israel is doing. She explained that under international law only combatants who are actively engaged in fighting are legitimate subjects of attack. (Press Conference, Jan. 7, 2009, Note 1)

In its bombardment, Israel has targeted the political and civilian infrastructure such as police stations. It is Israel's burden of proof to show that the police were indeed Hamas militants. Instead, Whitson noted, Israel targeted police stations "on a blanket basis."

Similarly, she pointed out, Israel targeted a Hamas Official at the Ministry of Health, and the Hamas media broadcasting station.

Whitson maintained that under international law, the closure of the crossing points into Gaza, the blockade that Israel and Egypt have participated in imposing on the people of Gaza, is the imposition of collective punishment on a civilian population. The people suffering from the effects of the blockade are civilians, rather than the effects being restricted to the combatants Israel claimed it was fighting. Moreover, Israel, as the occupying power over Gaza, has the primary responsibility to provide food and medicine for the people of Gaza, but instead has prevented the people from having access to the goods and services necessary for life.

The rationale presented by Israel in its letter to the United Nations is quite different from the facts. The claim that its military bombardment of Gaza is defensive in nature is contrary to its announcement that it has attacked the political infrastructure of Gaza, a political infrastructure that was the result of the Palestinian people voting in January 2006 for Hamas as its political representatives.

In an interview by UN radio with Richard Falk, the UN Human Rights Rapporteur on the Occupied Palestinian territories, about the crisis in Gaza (Interview on Gaza, Jan. 2, 2009, Note 2), Falk maintains that the "maintenance of a blockade on a society is treated as an act of war." Imposing such a blockade and then militarily attacking the people of Gaza, as Israel has done since Dec. 27, is "a massive and severe violation of the prohibition on collective punishment which is contained

in Article 33 of the Geneva convention.” Falk also explains that Israel’s failure to provide adequate food and medicine for a population that is under its occupation, is a continuing violation of Article 55 of the same international treaty.

Falk describes how Hamas adhered to the cease-fire agreed to in June 2008 by not launching rocket attacks on Israel, but that Israel broke the cease-fire agreement by failing to restore humanitarian supplies as they had agreed to do. (UN radio, Interview with Richard Falk, Jan. 9, 2009, Note 3) Israel is not defending its own territory from an invasion, but attacking another political community, one that it has a responsibility to maintain under humanitarian law. According to Falk, Israel, by controlling land, sea and air access to Gaza, is the occupying power in Gaza.

It was not only that Israel failed to allow food, fuel, and medical supplies into Gaza as it was obliged to do under its agreement with Hamas, but on Nov. 4, 2008, when much of the world was distracted with the U.S. election, Israel launched an attack on Gaza, resulting in at least six deaths. This act of Israel broke the cease-fire. Hence Israel’s attack on Gaza is not defensive as its actions were the cause of the escalation of hostilities. Then when Hamas offered to agree to a continuation of the cease-fire for 10 years if the blockade was lifted, Israel ignored the offer. Falk says Israel’s action in ignoring the offer by Hamas to negotiate how to continue the cease-fire “is a violation of international law which requires a government to use every diplomatic option before they have recourse to war.”

An article by Jimmy Carter similarly details how Hamas did not break the cease-fire, just as it was Hamas that offered to negotiate with Israel to extend the cease-fire. (Jimmy Carter, “Gaza: an unnecessary war,” 1/8/09, Mercury News, Note 4) Carter notes that the people of Gaza “were being starved” by Israel’s actions enforcing the blockade. Carter describes his efforts in mid-December to extend the soon-to-expire six-month cease-fire deadline. The issue for Hamas was the opening of the crossing points into Gaza to restore access to needed supplies for the people of Gaza. Carter reports that Israeli officials “informally proposed that 15 percent of normal supplies might be possible.” Carter relates how this was “unacceptable to Hamas and

hostilities erupted.”

While Israel has presented its rationale for its attack on Gaza to the United Nations, claiming that it is acting in a just manner, the Security Council has passed a binding resolution calling for a cease-fire and withdrawal from Gaza. Israel is ignoring the resolution, though as a member state of the United Nations, it has an obligation to abide by the decisions of the Security Council.



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Karen AbuZayd and John Holmes speak to reporters after presenting reports on need for Security Council action on Gaza.

Under Article 33 of the Charter of the United Nations, the Security Council has the authority to call upon the parties to settle their dispute by peaceful means. More civilians are being killed and wounded every day that Israel continues its military attack and blockade of Gaza, yet Israel continues to ignore its obligations to cease its attacks.

The crisis in Gaza is a test of the United Nations and the international community. Can a means be found to require Israel to live up to its obligations as an occupying power to the Palestinian people in their struggle for self determination? This is a critical challenge facing the United Nations and the international community.

Many protests and demonstrations are taking place around the world in support of the Palestinian people and against the attack by Israel on Gaza. These demonstrations are an indication that there is public opinion and grassroots pressure for the United Nations and member nations to let Israel know the need to fulfill its obligations under the UN charter and international law. The struggle of the Palestinian people for self-determination and against occupation, as covered under Article 73 and 74 of the Charter of the UN, is a struggle that deserves the support of the member nations and of people around the world.

## Notes:

1. UN Press Conference: Yazdan Al Amawi, team leader, Care's West Bank and Gaza program, Allyn Dhyes, communications manager, World Vision International, Sarah Leah Whitson, Middle East and North Africa director, Human Rights Watch, to brief on the humanitarian situation in Gaza. January 7, 2009. [Webcast: Archived Video - English: 50 minutes]

<http://webcast.un.org/ramgen/ondemand/pressconference/2009/pc090107am1.rm>

2. UN radio's Samir Aldarabi spoke to Richard Falk, the UN Human Rights Rapporteur on the Occupied Palestinian territories about the situation in Gaza. January 2, 2009

<http://www.unmultimedia.org/radio/english/detail/67184.html>

3. UN Radio's Samir Imtair Aldarabi spoke to Richard Falk, the UN Human Rights Council's Special Rapporteur on the Occupied Palestinian Territories about the human rights violations in Gaza. January 9, 2009

<http://downloads.unmultimedia.org/radio/en/real/2009/090109-falk2.rm?save>

4. Jimmy Carter, "Gaza: An Unnecessary War," The Mercury News, January 8, 2009.

[http://www.mercurynews.com/livechats/ci\\_11408309?source=email](http://www.mercurynews.com/livechats/ci_11408309?source=email)

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# **UN Officials Present Need to End Israeli Siege of Gaza to Security Council**

**Response Continues Failure to Act**

by Ronda Hauben

“Every Gazan projects a sense of having stared death in the face. Every Gazan has a tale of profound grief to tell,” recounted Karen AbuZayd, the Commissioner General of the United Nations Relief and Works Agency (UNRWA) in her presentation to the Security Council on Tuesday before they went into closed session.

She reported that there had been a systematic destruction in Gaza to schools, universities, residential buildings, factories, shops and farms. (Karen AbuZayd’s Statement to the Security Council, Jan. 27, 2009)<sup>1</sup>

AbuZayd told the Security Council that “There is rage against the attackers for often failing to distinguish between military targets and civilians and there is also resentment against the international community for having allowed first the siege and then the war to go on for so long.”<sup>2</sup>

Also speaking to the Security Council before they went into closed session was John Holmes, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief. Holmes explains how he visited Gaza from Jan. 21 to 25.

Describing the widespread destruction to Gaza’s economic and civil infrastructure, he reported, for example, that the entire industrial and residential area in East Jabalia had been systematically bulldozed, along with other serious damage to medical facilities, water, sanitation and other critical infrastructure, including damage to UN facilities. “I saw the UNRWA compound warehouse still smouldering, and the OCHA office in the UNSCO compound, where my own staff used to work, damaged beyond use,” Holmes reported.

Both AbuZayd and Holmes emphasized the impossibility of any improvement in the situation in Gaza without the lifting by Israel of the

blockade. “All Gaza’s borders must be opened and kept open continuously (including at Karni, Sofa, Nahal Oz, Kerem Shalom, Erez and Rafah) to allow two way freedom of movement for people, goods and cash,” AbuZayd told the Security Council.

“Recovery requires the free inflow of humanitarian and commercial supplies,” she stressed. “Reconstruction demands open borders that enable the importation of construction materials and the export of products and goods from Gaza.”

“Let me emphasize again,” Holmes reiterated, “the unacceptability of the status quo ante, with a limited trickle of items into Gaza continuing the effective collective punishment of the civilian population – and the resultant counterproductive reliance on tunnels for daily essentials, and further build up of frustration of anger.”

He explained the critical need to open Gaza to at least 500 truckloads of goods daily, including commercial traffic, up from the 120 truckloads that Israel allows on “good days,” in contrast to the frequent situation when fewer than 120 truckloads are given permission to enter Gaza, and the times when no trucks are allowed to enter as the crossing points are closed by Israel.

Holmes also described how many humanitarian workers, including those from international NGOs, “continue to be refused regular entry” to Gaza.

“We already see relief goods piling up in Egypt for lack of ready access,” Holmes reported. Reminding the members of the Security Council that they themselves passed Resolution 1860 (2009) which provides for “unimpeded provision and distribution throughout Gaza of humanitarian assistance,” Holmes pointed to the importance of this critical principle.

Moreover, Holmes explained that “Israel has a particular responsibility as the occupying power in this context, because of its control of Gaza’s borders with Israel, to respect the relevant provisions of international humanitarian law.” (See for example, Articles 73 and 74 of the United Nations Charter)

As soon as the reports by Holmes and AbuZayd had been presented, the Security Council went into a closed session.

When the closed session with Holmes and AbuZayd was over, these



two UN officials came to speak with the press.

No member of the Security Council, however, was available to speak with the press. Journalists wondered why not even the Security Council President was available to comment on these important reports on the situation in Gaza and the need for the Security Council to act on getting Israel to lift the siege.

Had the reports about devastated Gaza as a “giant open-air prison” fallen on deaf ears at the Security Council?

The lack of any public response from any member of the Security Council to these two heart wrenching reports is but another sign of the failure of the Security Council to demonstrate its ability to carry out its mandate.

The failure of the Security Council to act with regard to the siege against Gaza began over a year ago.<sup>3</sup>

The growing calls for Security Council reform can only be further fueled by this lack of action by the Security Council, which the Indonesian ambassador described as, “The silence is deafening.”

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Notes:

1. See: Security Council: The situation in the Middle East, including the Palestinian question. [Print version of talk, Security Council S/PV.6077], also Webcast : version of Archived Video - English: 26 minutes.

<http://webcast.un.org/ramgen/ondemand/sc/2009/sc090127pm2>

2. For background see, for example: Ronda Hauben, “Marathon UN Meeting on Gaza Goes Nowhere: The ability of the Security Council to function breaking down,” *OhmyNews International*, March 4, 2008.

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=381957&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=381957&rel_no=1)

Ronda Hauben, “Israel Attempts to Justify Its Attack on Gaza. The obligations of Israel as an occupying power under the UN Charter,” *OhmyNews International*, Jan. 12, 2009.

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=384602&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=384602&rel_no=1)

3. Ronda Hauben, “Security Council Fails to Act on Gaza Crisis ‘The silence is deafening,’ says Indonesia’s UN Ambassador,” *OhmyNews International*, Feb. 7, 2008.

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=381689&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=381689&rel_no=1)

## **What Principles Guide the UN in Creating a Palestinian-Israeli Peace Framework?**

**Davos Talks by Recep Tayyip Erdogan and Amr  
Moussa on Steps Needed to Build Peace Process**

by Ronda Hauben

### **Part I - Analysis of Situation**

The Palestinians in Gaza continue to suffer under the siege created by Israel and Egypt closing the border crossings into Gaza. Who is responsible? What can be done to get the siege lifted?

Such questions are on the minds of many people around the world. The siege of Gaza has gone on for many months and continues, even after the devastation, deaths and injuries of the Palestinians caused by the recent 22-day Israeli military assault on Gaza.

Though these are serious questions, they rarely get public attention and discussion. One recent exception surprisingly was a panel held at the World Economic Forum in Davos last month. The panel session was titled “Gaza: The Case for Middle East Peace.” David Ignatius of the Washington Post was the moderator. On the panel were the UN Secretary-General, Ban Ki Moon, the Secretary-General of the Arab League Amr Moussa, the Prime Minister of Turkey, Recep Tayyip Erdogan and the President of Israel, Shimon Peres.

In his instructions to the panel, Ignatius asked members to discuss, “What needs to be done to prevent the Middle East peace process from slipping back.”<sup>1</sup>

After Ban Ki-moon gave a short set of comments, Erdogan was called on to speak. He proposed that “we need to do a proper analysis of

the current situation in order to determine what steps need to be taken.”

He pointed to the period six months earlier when there was a cease fire agreed to by Israel and Hamas. The Turkish Prime Minister reminded the audience that for six months there had been “No problem for rocket attacks” on Israel. The Israeli obligation for the cease fire then was “to lift the embargo,” that Israel had imposed on Gaza.

But Israel didn’t fulfill its part of the truce agreement.

Erdogan went on to discuss what he saw as one of the key problems to be solved if the circumstances of the Palestinians had any chance of being improved.

That problem was how to heal the breach between the Palestinian factions, particularly between Hamas and Fatah.

Erdogan pointed to the fact that Hamas had won the parliamentary election of January 2006. Actually Hamas won 76 of 132 seats, while Fatah only got 43.<sup>2</sup>

Erdogan explained, “We are talking about democracy. So if we would like to see democracy take root, then we must respect first of all the people who have received the votes of the people of the country they are running in.”

“So we may not like them, but we have to respect the process,” he emphasized.

Instead, Israel arrested several of Hamas government ministers and members of Parliament and put them in prison. Erdogan described how in the middle of December 2008, he had asked Prime Minister Olmert, as a gesture of good will, to release these prisoners, along with the Palestinian women and children they had in Israeli prisons. Olmert told Erdogan that he would talk to his colleagues in Israel and respond the next day. No response was forthcoming. Four days later Israel started the war on Gaza.

Erdogan expressed his conviction that the UN should be taking the lead in working to solve the Palestinian crisis and that he was hopeful that the new U.S. administration would put its weight behind a solution.

“There’s got to be a new opening and Hamas must be considered in the process,” Erdogan proposed. He offered Turkey’s help in the process.

## Part II – Occupation Breeds Resistance

Next the moderator asked Amr Moussa to speak to the question of how to achieve unity among the Palestinians, and what he felt the new U.S. administration could do to help the situation.

Moussa said there must be a recognition that Israel's assault on Gaza "was not just a reaction for some rockets being launched against Southern Israel." This situation in Gaza and in the rest of the Palestinian territory is a problem of a foreign military occupation, he explained.

"The siege, the blockade of Gaza," Moussa maintained, "is a very severe situation." He argued that "you cannot ask people in Gaza living in starvation and hunger because of the blockade... to be calm and ask them why do you throw stones against your occupiers?" This, Moussa said, "is against the nature of people. You strangle them, you starve them and then you ask them to be quiet?"

He went on to refer to Israel's claim that the smuggling into Gaza must be stopped. Moussa said, "You strangle them, not a single window of opportunity, and then you talk to them about illicit trade?"

Instead, "If you want to prevent this, you have to open the crossing points," Moussa explained. "You have to give them food, you have to give them water, to give them medicine."

He added that the "Palestinians had believed the call for them to practice democracy, to have an election."

But then he described how when, " Hamas won, and half an hour, twenty-five minutes after the announcement of the results of the election, Hamas was served notice that aid would be suspended and then came the blockade."

"It is not a question of Israel reacting to some rockets," Moussa emphasized, "it is much deeper than that, it is an action of occupation, it is an action of blockade, then a reaction of resistance, then the reaction of destruction carried out by Israel."

Moussa also referred to Israel's failure to respond to the Arab initiative.

In 2002, the Arab nations decided at a Summit that they were ready, at their highest levels, to agree to peace with Israel. They proposed to recognize Israel and carry out any agreements signed with Israel in exchange for the creation of a Palestinian State with borders similar to

those before 1967. But in the seven years that transpired after the offer of the initiative, Israel failed to respond in any authorized way to the authorized message from the Arab summit.

Referring to Ban Ki-moon's brief presentation to the panel, Moussa said there are three or four things that need to be done now. He listed these as a cease fire, opening of the crossings, stopping illicit traffic and the reconciliation between the Palestinians.

Moussa also said he had another point to make. But the moderator cut him off, before he could explain.

Unfortunately, instead of providing for a similar short period for the Israeli president to make his comments, the moderator allowed Peres to speak for twice the time he had given to each of the two previous speakers. When Erdogan asked for time to respond to Peres, however, Ignatius told him there was no time. This led Erdogan to leave the panel in protest.

The issues raised by these two talks were a significant statement of what is needed to deal with the crisis facing the Palestinians in Gaza.

### **Part III - Principles for UN Actions in Palestinian Crisis**

Had there been time for discussion in the panel held at Davos, it would have been helpful to put this discussion in the context of a United Nations General Assembly document presented in January 2008.<sup>3</sup>

This document is a report by the Human Rights Rapporteur John Dugard, discussing what he believes to be the law governing the United Nations participation in the Palestinian situation.

Dugard refers to the problem represented by the Quartet and the UN's participation in it, with the Secretary-General representing the UN.

Dugard explains how on July 20, 2004 the General Assembly adopted resolution ES-10/15. This resolution called on Israel to comply with the Advisory Opinion of the International Court of Justice issued by the court titled the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory."<sup>4</sup>

The International Court of Justice is the judicial organ of the United Nations. It is, according to Dugard "now part of the law of the United Nations." In addition the General Assembly by a large majority gave its approval to the decision. As such the Advisory Opinion is one of the

authoritative statements of the applicable international law relating to the framework for peace in the Middle East.

While this law isn't binding on three of the Quartet members, the U.S., Russia, or the EU (though the Russians and the EU members did vote in favor of the UN resolution approving the advisory opinion), the UN as a member of the Quartet is bound by the Advisory Opinion. As a representative of the UN, the Secretary-General, Dugard argues, is by law obliged to uphold the principles of the Advisory Opinion in his participation in the Quartet.

The Secretary-General or his representative is by law obliged to be guided by the Opinion and to endeavor in good faith to do his or her best to ensure compliance with the opinion.

In his statement about what is happening in the Palestinian situation, Dugard points to the fact that Palestine is an occupied territory and that Israel has obligations regarding its treatment of the Palestinians.

Dugard argues that the root cause of the violence in the Israeli-Palestinian context is the occupation, not any act of Hamas or others.

He notes that the right of the Palestinian people for self-determination is in general recognized. But such a recognition "should not take the form of support – political, economic or military – for one [Palestinian] faction at the expense of the other."

A critical factor in the Palestinian situation is the need for reconciliation between the two major Palestinian factions, Fatah and Hamas, Dugard maintains. The Quartet explains Dugard, instead "pursues a divisive policy of preferring one faction over the other, of speaking to one faction but not to the other; of dealing with one faction while isolating the other."

In negotiations between the Palestinian Authority and Israel, what was being done was a negotiation among unequal partners. The problem with this is that it doesn't make it possible to have the negotiations reflect a normative framework.

As the UN draft resolution A/HRC/7/17 of Dugard's report states: "In the opinion of the Special Rapporteur negotiations should take place within a normative framework, with the guiding norms to be found in international law, particularly international humanitarian law and human

rights law, and the Advisory Opinion of the International Court of Justice and Security Council resolutions.”

“Negotiations on issues such as boundaries, settlements, East Jerusalem, the return of refugees and the isolation of Gaza should be informed by such norms and not by political horse-trading,” Dugard’s report advises.

The experience of the negotiations that led to a democratic South Africa in the mid 1990’s is offered as an example in Dugard’s report, as it places the efforts toward a solution to the problem within a framework of accepted democratic principles, and international law (with special reference to human rights law).

## Part IV - Need for Normative Framework

What the presentations by Erdogan and Moussa at the World Economic Forum and the UN report document by Dugard have in common is that they look for the underlying principles that are needed to guide efforts to settle the Palestinian-Israeli crisis.

These principles are based on the obligations under international law, established and accepted by most of the international community via its support for the Advisory Opinion. The Palestinians are in a situation where they suffer from Israeli occupation.

These principles include:

- 1) Recognizing the Palestinian right to resist occupation.
- 2) Treating the Palestinian factions of Fatah and Hamas with equality so as to encourage unity.
- 3) Letting Israel know that it has the obligation to negotiate with the Palestinians in a way that is conducive to recognizing and implementing the principles of international law, not in a way that treats the Palestinians as less than equals.
- 4) That the UN uphold the principles of international law.

A particular example of the need to apply these principles is raised by Dugard’s report when it discusses the role the UN Secretary-General has played in the Quartet. The U.S., the EU, Russia and the UN (represented by the Secretary-General) are part of the Quartet which is supposedly providing a framework for peace negotiations between Israel and Palestine.

The problem Dugard observes is that the Quartet does not recognize the principles of the Advisory Decision. While this is a course of action that can be taken by the U.S., the EU or Russia, it is not appropriate for the Secretary-General acting on behalf of the UN to discard these principles. Dugard's report proposes that the Secretary-General is "in law obliged to be guided by the Opinion and to endeavour in good faith to do his or her best to ensure compliance" with it. In this context he proposes that it is necessary for the Secretary-General to either withdraw from the Quartet or to explain "why he is unable to do so and how he justifies remaining in the Quartet in the light of its refusal to be guided by the law of the United Nations."

Unless international law becomes the framework under which the international community, including the UN's Secretary-General, operates to work toward a solution to the Gaza crisis, there seems no way to end the devastation that the Israeli government believes it has the right to inflict on the Palestinians.

The recent panel at Davos on the crisis in Gaza demonstrated that there are nations like Turkey and international representatives like the Secretary-General of the Arab League willing to explain to the world the principles needed to guide the efforts for a peaceful solution. It is imperative that there be serious discussion around the world about these principles and also efforts to hold the UN and other international and national entities accountable for the implementation of these principles.

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#### Notes:

1. A webcast of the session is online at: Gaza: The Case for Middle East Peace:

[http://wn.com/Turkish PM to Israeli President Thou shalt NOT kill#](http://wn.com/Turkish_PM_to_Israeli_President_Thou_shalt_NOT_kill#)

For a partial transcript:

<http://palestinehinktank.com/2009/01/31/transcripts-of-erdogan-moussa-peres-and-erdogan-again-at-davos/>

2. Scott Wilson, " Hamas Sweeps Palestinian Elections, Complicating Peace Efforts in Mideast," *The Washington Post*, Jan. 27, 2006; Page A01.

3. General Assembly Draft Resolution A/HRC/7/17 21 January 2008, Human Rights Situation in Palestine and Other Occupied Arab Territories. Report of the Special Rapporteur on the Situation of human rights in the Palestinian territories occupied since 1967, John Dugard.

4. Advisory opinion requested by General Assembly on Dec. 8, 2003 from International



Court of Justice regarding legal consequences of construction of the wall built by Israel in the Occupied Palestinian Territories. Issued July 9, 2004. [www.icj-cij.org](http://www.icj-cij.org)

Among the advisory opinion's principle findings were:

- 1) Palestinian people have the right to self determination.
- 2) Israel is under a legal obligation to comply with 4<sup>th</sup> Geneva Convention in Occupied Palestinian Territories.
- 3) Israel is bound by international human rights conventions in the Occupied Palestinian Territories.

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[Editor's Note: On July 23, 2009, Father Brockmann convened the United Nations General Assembly Interactive Thematic Dialogue on the Responsibility to Protect. The Responsibility to Protect (R2P) is a notion agreed to by world leaders in 2005.<sup>1</sup> That agreement holds each State responsible for shielding its own population from genocide, war crimes, ethnic cleansing, and related crimes against humanity, requiring the international community to step in if a state does not meet its obligation. The Dialogue included Noam Chomsky, a U.S. public intellectual, Gareth Evans, former Foreign Minister of Australia, Ngugi wa Thiong'o, a prominent African writer and defender of human rights, and Jean Bricmont, a Belgian physicist and co-author of the book *Fashionable Nonsense*. This dialogue was vibrant and a significant event at the UN in that it clarified issues rather than leaving them vague. The following is the statement on that panel by Professor Jean Bricmont. The entire dialogue can be seen at: <http://www.un.org/ga/president/63/interactive/responsibilitytoprotect.shtml>]

## **A More Just World and the Responsibility to Protect**

### **How Are the Weak Ever to be Protected From the Strong?**

by Jean Bricmont

I would like, in this talk, to challenge the intellectual assumptions underlying the notion and the rhetoric of Responsibility to Protect (R2P). In a nutshell, my thesis will be that the main obstacle to the implementation of a genuine R2P are precisely the policies and the attitudes of the countries that are most enthusiastic about this doctrine, namely the Western countries, and in particular the U.S.

During the past decade, the world has looked on helplessly as innocent civilians were murdered by American bombs in Iraq, Afghanistan and Pakistan. It has been a helpless bystander of the murderous Israeli onslaught on Lebanon and Gaza. Previously, we have seen millions of people perish under American firepower in Vietnam, Cambodia and Laos; and many others have died in American proxy wars in Central America or Southern Africa. In the name of those victims, shall we say: never again! From now on, the world, the international community, will protect you!

Our humanitarian response is yes, we want to protect all victims. But how, and with which forces? How are the weak ever to be protected

from the strong? The answer to this question must be sought not just in humanitarian or in legal terms, but first of all in political terms. The protection of the weak always depends on limitations of the power of the strong. The rule of law is such a limitation, so long as it is based on the principle of equality of all before the law. Achieving that requires clear-headed pursuit of idealistic principles accompanied by realistic assessment of the existing relationship of forces.

Before discussing politically the R2P, let me stress that what is at issue are not its diplomatic or preventive aspects, but the military part of the so-called “timely and decisive response,” and the challenge that it represents for national sovereignty.

R2P is an ambiguous doctrine. On the one hand, it is being sold to the United Nations as something essentially different from the “right of humanitarian intervention,” a notion that was developed in the West at the end of the 1970's, after the collapse of the colonial empires and the defeat of the United States in Indochina. This ideology has been relying on the human tragedies of the newly decolonized countries to lend a moral justification to the failed policies of intervention and control by the Western powers over the rest of the World.

Awareness of this fact exists in most of the world. The “right” of humanitarian intervention has been universally rejected by the South,<sup>2</sup> for example at the South Summit in Havana in April 2000 or at the meeting of the Non Aligned Movement in Kuala Lumpur in February 2003,<sup>3</sup> shortly before the U.S. attack on Iraq. The R2P is an attempt to fit this rejected right into the framework of the UN charter, so as to make it appear acceptable, by stressing that military actions are to be the last resort, and must be approved by the Security Council. But, then, there is nothing legally new under the sun, and I refer you to the concept note of the Office of the President of the General Assembly for a precise discussion of the legal aspects of the problem.<sup>4</sup>

On the other hand, R2P is being sold to public opinion in the West as a new norm in international relations, one that authorizes military interventions on humanitarian grounds. For example, when President Obama, at the recent G8 meeting, stressed the importance of national sovereignty, the influential French newspaper *Le Monde* called it a step backwards, since R2P has already been accepted. There is a big

difference between R2P as a legal doctrine and its ideological reception in the Western media.<sup>5</sup>

However, in a post-World War II history that includes the Indochina wars, the invasions of Iraq and Afghanistan, of Panama, even of tiny Grenada, as well as the bombing of Yugoslavia, Libya and various other countries, it is scarcely credible to maintain that it is international law and respect for national sovereignty that prevent the United States from stopping genocide. If the U.S. had had the means and the desire to intervene in Rwanda, it would have done so and no international law would have prevented that. And if a “new norm” is introduced, within the context of the current relationship of political and military forces, it will not save anyone anywhere, unless the United States sees fit to intervene, from its own perspective.

Moreover, it is beyond belief that the supporters of R2P speak of an obligation to reconstruct (after a military intervention). How much money exactly did the United States pay as reparations for the devastation it inflicted on Indochina or in Iraq, or that was inflicted on Lebanon and Gaza by a power it notoriously arms and subsidizes? Or to Nicaragua, to which reparations for the Contra activities are still unpaid by the U.S., despite their condemnation by the World Court of Justice? Why expect R2P to force the powerful to pay for what they destroy if they do not do so under current legal arrangements?

If it is true that the 21<sup>st</sup> century needs a new United Nations, it does not need one that legitimizes such interventions by novel arguments, but one that gives at least moral support to those who try to construct a world less dominated by the United States and its allies. The very starting point of the United Nations was to save humankind from “the scourge of war,” with reference to the two World Wars. This was to be done precisely by strict respect for national sovereignty, in order to prevent Great Powers from intervening militarily against weaker ones, regardless of the pretext. The wars waged by the United States and NATO show that, despite some significant accomplishments, the United Nations has not yet fully achieved this primary goal. The United Nations needs to pursue its efforts to achieve its founding purpose before setting a new, supposedly humanitarian priority, which may in reality be used by the Great Powers to justify their own future wars by undermining the

principle of national sovereignty.

When NATO exercised its own self-proclaimed right to intervene in Kosovo, where diplomatic efforts were far from having been exhausted, it was praised by the Western media. When Russia exercised what it regarded as its R2P in South Ossetia, it was uniformly condemned in the same Western media. When Vietnam intervened in Cambodia, or India in what is now Bangladesh, their actions were also harshly condemned in the West.

This indicates that Western governments, media and NGOs, calling themselves the “international community,” will judge the responsibility for a human tragedy quite differently, depending on whether it occurs in a country where the West, for whatever reason, is hostile to the government, or in a friendly state. The United States in particular will try to pressure the United Nations into endorsing its own interpretation. The United States may not always choose to intervene, but it may nevertheless use non-intervention to denounce the United Nations as ineffective and to suggest that it should be replaced by NATO as international arbiter.

National sovereignty is sometimes stigmatized by promoters of humanitarian intervention, or of R2P, as a “licence to kill.” We need to remind ourselves of why national sovereignty should be defended against such stigmatization.

First of all, national sovereignty is a partial protection of weak states against strong ones. Nobody expects Bangladesh to interfere in the internal affairs of the United States to force it to reduce its CO<sub>2</sub> emission because of the catastrophic human consequences that the latter may have on Bangladesh. The interference is always unilateral.

U.S. interference in the internal affairs of other states is multi-faceted but constant and always violates the spirit and often the letter of the UN charter. Despite claims to act on behalf of principles such as freedom and democracy, U.S. intervention has repeatedly had disastrous consequences: not only the millions of deaths caused by direct and indirect wars, but also the lost opportunities, the “killing of hope” for hundreds of millions of people who might have benefitted from progressive social policies initiated by people like Arbenz in Guatemala, Goulart in Brazil, Allende in Chile, Lumumba in the Congo, Mossadegh

in Iran, the Sandinistas in Nicaragua, or President Chavez in Venezuela, who have been systematically subverted, overthrown or killed with full Western support.

But that is not all. Every aggressive action led by the United States creates a reaction. Deployment of an anti-missile shield produces more missiles, not less. Bombing civilians – whether deliberately or by so-called “collateral damage” – produces more armed resistance, not less. Trying to overthrow or subvert governments produces more internal repression, not less. Encouraging secessionist minorities by giving them the often false impression that the sole Superpower will come to their rescue in case they are repressed, leads to more violence, hatred and death, not less. Surrounding a country with military bases produces more defense spending by that country, not less. The possession of nuclear weapons by Israel encourages other states of the Middle East to acquire such weapons. The humanitarian disasters in Eastern Congo, as well as in Somalia, are mainly due to foreign interventions, not to a lack of them. To take a most extreme case, which is a favorite example of horrors cited by advocates of the R2P, it is most unlikely that the Khmer Rouge would ever have taken power in Cambodia without the massive “secret” U.S. bombing followed by U.S.-engineered regime change that left that unfortunate country totally disrupted and destabilized.

The ideology of humanitarian intervention is part of a long history of Western attitudes toward the rest of the World. When Western colonialists landed on the shores of the Americas, Africa or Eastern Asia, they were shocked by what we would now call violations of human rights, and which they called “barbaric mores” – human sacrifices, cannibalism, women forced to bind their feet. Time and again, such indignation, sincere or calculating, has been used to justify or to cover up the crimes of the Western powers: the slave trade, the extermination of indigenous peoples and the systematic stealing of land and resources. This attitude of righteous indignation continues to this day and is at the root of the claim that the West has a “right to intervene” and a “right to protect,” while turning a blind eye to oppressive regimes considered “our friends,” to endless militarization and wars, and to massive exploitation of labor and resources.

The West should learn from its past history. What would that mean concretely? Well, first of all, guaranteeing the strict respect for international law on the part of Western powers, implementing the UN resolutions concerning Israel, dismantling the worldwide U.S. empire of bases as well as NATO, ceasing all threats concerning the unilateral use of force, lifting unilateral sanctions, in particular the embargo against Cuba, stopping all interference in the internal affairs of other States, in particular all operations of “democracy promotion,” “color” revolutions, and the exploitation of the politics of minorities. This necessary respect for national sovereignty means that the ultimate sovereign of each nation state is the people of that state, whose right to replace unjust governments cannot be taken over by supposedly benevolent outsiders.

Next, we could use our overblown military budgets (NATO countries account for 70% of world military expenses) to implement a form of global Keynesianism: instead of demanding “balanced budgets” in the developing world, we should use the resources wasted on our military to finance massive investments in education, health care and development. If this sounds utopian, it is not more so than the belief that a stable world will emerge from the way our current “war on terror” is being carried out.

Defenders of R2P may argue that what I say is besides the point or needlessly “politicizes the issue,” since, according to them, it is the international community and not the West that will intervene, with, moreover, the approval of the Security Council. But in reality, there is no such thing as a genuine international community. NATO’s intervention in Kosovo was not approved by Russia and Russian intervention in South Ossetia was condemned by the West. There would have been no Security Council approval for either intervention. Recently, the African Union rejected the indictment by the International Criminal Court of the President of Sudan. Any system of international justice or police, whether it is R2P or the ICC, needs a relationship of equality and a climate of trust. Today, there is no equality and no trust, between West and East, between North and South, largely as a result of past U.S. policies. If we want some version of R2P to work in the future, we need first to build a relationship of equality and trust and what I said before goes to the heart of the matter. The world can become more secure only

if it first becomes more just.

It is important to understand that the critique made here of R2P is not based on an “absolutist” defense of national sovereignty, but on a reflection on the policies of the most powerful states that forces weaker states to use sovereignty as a shield.

The promoters of R2P present it as the beginning of a new era; but in fact it is the end of an old one. From an interventionist viewpoint, the R2P backtracks with respect to the old right of humanitarian intervention, at least in words, and that old “right” was itself a step back from traditional colonialism. The major social transformation of the 20<sup>th</sup> century has been decolonization. It continues today in the elaboration of a genuinely democratic world, one where the sun will have set on the U.S. empire, just as it did on the old European ones. There are some indications that President Obama understands this reality and it is only to be hoped that his actions will match his words.

I want to end with a message for the representatives, and for the populations, of the “Global South.” The viewpoints expressed here are shared by millions of people in the “West.” This is unfortunately not reflected in our media. Millions of people, including American citizens, reject war as a means to settle international disputes and strongly oppose the blind support of their country for Israeli Apartheid. They adhere to the goals of the nonaligned movement of international cooperation within the strict respect for national sovereignty and equality of all peoples. They risk being denounced in the media of their own countries as being antiWestern, anti-American or anti-Semitic. Yet, they are the ones who, by opening their minds to the aspirations of the rest of mankind, carry on what is genuinely of value in the Western humanist tradition.

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#### Notes:

1. See paragraphs 138 and 139 of the 2005 World Summit Outcome Document online at: <http://www.who.int/hiv/universalaccess2010/worldsummit.pdf>
2. The South (also known as the Global South) is part of a distinction between the most developed nations (the North) and the poorer less developed nations (the South). See for example, [http://en.wikipedia.org/wiki/Global\\_South](http://en.wikipedia.org/wiki/Global_South).
3. In their opposition to the creation of a broad right of intervention on humanitarian



and human rights grounds, African and other developing countries cited possible opportunities for infringements on sovereignty and possible pretexts for interference by former colonial powers or neighbouring states. (See for example: <http://www.un.org/ecosocdev/geninfo/afrec/subjindx/143peack.htm>).

4. See the Office of the President of the General Assembly, “Concept note on responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity” at: <http://www.un.org/ga/president/63/interactive/protect/conceptnote.pdf>

5. The “Concept Note” cited above in (4) reports that, “At the negotiations on the World Summit Outcome Document, the then U.S. Permanent Representative John Bolton stated accurately that the commitment made in the Document was ‘not of a legal character’.” The “Concept Note” is appended to this issue as the last article.

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## **G192 Emerges at UN Conference on the World Financial and Economic Crisis Reforming the World Bank and IMF is Only Stop Gap Measure**

by Ronda Hauben

Describing the need for a new financial grouping to challenge the G8 and G20, John Hiliary, in an article in *The Guardian* (U.K.) writes, “It is not just that they [G8 and G20] are exclusive, invitation only forums where deals are drawn up behind closed doors. It is the fact that both the G8 and G20 have championed the same free-market fundamentalism that served the interests of their corporate backers but brought the world economy to the brink of collapse. It is the tune that needs changing, not just the band.”<sup>1</sup>

Such a new economic grouping, which some have called the G192, recently held its first meeting at the United Nations in New York. The meeting, which took place from June 25 to June 30 was officially titled “Conference on the World Financial and Economic Crisis and its Impact on Development.”<sup>2</sup>

Referred to as the G192 because it includes all 192 member nations

of the United Nations, the meeting provided a sharp contrast to the more exclusive meetings of the G8 and G20 convened by the major economic powers. The UN meeting provided a glimpse into how a more democratic process can lead to a better understanding of the global financial and economic crisis now plaguing the nations of the world.

A number of the talks presented at the UN meeting did indeed represent a substantial change from the guiding ideology that has dominated grouping like the G8 and G20. In offering such a change in perspective, the UN conference provided an opportunity to consider both the problem represented by the current global economic and financial architecture, and the means that are being attempted to make a change.

Dr Ralph Gonsalves, Prime Minister and Minister of Finance of St. Vincent and the Grenadines, who served as co-facilitator for the outcome document approved during the conference, credited Venezuela for proposing the idea for such a conference in November 2008. Gonsalves said:<sup>3</sup> “I also applaud the vision of the Bolivarian Republic of Venezuela which first conceptualized a formal United Nations conference on this crisis in a draft resolution tabled last November.”

Calling the current moment, “a crisis of capitalist globalization, of international capitalism in crisis,” Gonsalves depicted the crisis as “reflective of the triumph of neo-liberal ideology, which sought to roll back any interventionist role of the democratic state.” According to the set of ideological tenets he saw as setting off the crisis, “the organs of the State, so the neo-liberal thesis went, were to be minimalist; the international capitalist system driven by ‘the market’ was best left to be self-regulatory, according to the neo-liberal ideologues.”

The result of such ideological tenets which led to little or no regulation over investment and other financial institutions and instruments, Gonsalves explained, is “the worst crisis in international capitalism since 1929-31 has come upon us.”

The crisis led to the recognition of the important role of “the democratic State,” and in his region, Gonsalves said that the democratic national government has been “a force for good.”

Along with “the urgent need for further reforms of the global financial system and architecture,” Gonsalves called for “improved regulation at all levels and for an appropriate state role in regulatory

matters.”

Several other speakers at the conference, including the Foreign Minister of the Dominican Republic, stressed the need to recognize “the regional sphere” as the most ideal for the implementation of the short and long-term measures that will end the crisis, as opposed to the global and national sphere.<sup>4</sup>

In his presentation to the General Assembly, Steve William Abana, the Minister for Planning and Coordination of the Solomon Islands, called for an enhanced role for the UN in creating an international mechanism to periodically assess the global economic situation and provide broad guidelines for the economic and financial sectors.<sup>5</sup>

He and others who spoke during the five days of the conference called for serious reflection on the legitimacy and effectiveness of the current economic and political system so as to determine its flaws and the means needed for its reform.

One of the most significant complaints concerned the problematic use of the dollar as both a national currency in the U.S. and as a source of international reserves. “A common international currency has remained elusive,” observed Dr Dipu Moni, the Foreign Minister of Bangladesh.<sup>6</sup> This is a problem that many, including Chinese economist Yu Yongding, a member of the General Assembly Experts Commission, emphasized as a significant problem needing both short and long term attention.<sup>7</sup> The Experts Commission was established by the President of the General Assembly to help prepare for the conference.

Though this conference was to be open to all the member nations of the UN to participate, the U.S. did not provide visas in time for the designated representatives of Iran or Venezuela to attend.<sup>8</sup>

In place of the designated government official of Venezuela, Ambassador Jorge Valero the Venezuelan Ambassador to the UN spoke on Friday, June 26.

Valero described the resistance to the conference on the part of some of the developed nations. He said, “We were aware that an initiative of this nature would be met with resistance by forces clinging to the past. An attempt was made to prevent the United Nations from discussing the economic and financial crisis – that we are suffering today, when it is precisely this forum – the G192 – [that is] the most legitimate

and representative of the world.”<sup>9</sup>

Valero said, “We must move toward the construction of a new international architecture that is not concentrated, legitimizing new relationships that underpin the emergence of a multipolar world. We must take off the straight jacket of uni-polarity.” Crucial to such a program is the need “for a more effective involvement of the State to ensure an appropriate balance between market and public interest.”

It was, however, the presentation of President of Ecuador, Rafael Correa, to the General Assembly and later in a press conference, that most eloquently demonstrated the urgent need for the conference and the concept of a G192.<sup>10</sup> Correa's talk put the conference into context and helped to illustrate how the solution to the current crisis cannot be left to the few powerful nations that make up the G-8 or G-20.

Correa referred in his talk to a poem by the poet Juan Ramon Jimenez. The poem emphasized how the powerful dominate and treat the rest of the people as “the different.”

“The different, the exploited and vilified, the majority of us,” Correa said, “demand transparency and truth at the time of revealing who was at the origin of today's crisis, who plundered the peoples, who benefitted from these adjustment policies, from illegitimate debts, *coup d'etats*, subterfuges and institutionalized illegalities.”

Correa described how the lowering of interest rates by the U.S. after September 11, 2001, was a decision that in a deregulated environment encouraged the growth of sub-prime loans with very high risk, resulting in a situation of increased volatility in financial markets.

Correa elaborated, “Now precisely we the different are here, and we have come to the G192 to demand democracy and to highlight the other possible world, the other urgent world that we need, the world of peace and justice, only made possible through the respect for the sovereignty of the people and through equilibrium and respect among human beings, countries, nations, continents.”

Correa placed the responsibility for the crisis on the shoulders of what he referred to was the Washington Consensus. His characterized the Washington Consensus as “a paradoxical and cynical agreement signed behind the backs of peoples and governments and limited to the conclaves of the dominating and colonialist powers.” Correa explained

that “the different” will talk “about issues that it seems, are absent in other exclusive and excluding fora, such as the G8 or G20.”

These issues include how, “the crisis originated in the U.S. financial markets” and how it has spread so that “the whole world has been contaminated.”

Correa explained that the current crisis is but a symptom of a system that privileges financial speculation over the real economy. “For years the United States maintained huge trade and fiscal deficits, with the connivance of the International Monetary Fund (IMF),” he said. “Any other country would have been forced to devalue their currency and ‘correct’ its imbalances.” The United States, however, Correa pointed out, was allowed to continue its irresponsible fiscal and monetary activities while other nations would not have been allowed the same leeway.

Such preferential treatment of the U.S. financial sector by the IMF, was a decision to “choose complicity” with the U.S. and subsequently “led to the unhinging of capitalism.” According to Correa, “the effort to recapitalize the IMF without even removing one chair from its Board of Directors” is a sign of the duplicity that undermines the operation of the IMF.

By the time the crisis became evident in 2008, Correa explained, 9 trillion dollars was dispersed to banks and other institutions “without any oversight or control mechanisms and without knowing where these funds have gone or how they have been used.” This raises the question of what effect such action will have on the global financial system and crisis in the future. He proposed that the current crisis is a much more serious crisis than those which recur periodically “provoked by capitalism” or even when compared with the Great Depression.

Correa argued that the reform of the Bretton Woods institutions – the World Bank and the IMF, were only a stopgap, temporary measure. He maintained that these institutions have only “served to make ideological marketing for neo-liberalism and the Washington Consensus.”

“If the speculative markets of the capitalist core were directly responsible for the world crisis,” Correa reasoned, “it would be absurd and irresponsible to let the solutions be proposed, programmed and

executed by the same system that caused it.” Yet this is what is being presented as the means to carry out a reform of the Bretton Woods institutions by the G8 or G20.

Instead, the crisis, Correa and others argued, presents the opportunity to work toward a new regional and global architecture for the world financial system. As an example of the regional proposals, he pointed to Latin America. Correa described the work to create a Development Bank for the South capitalized by the countries of the region.

He argued that the gravity of the crisis requires that it be addressed within the UN by all the governments of the world. This conference held by the United Nations, “must be the turning point toward the strengthening of the role of the United Nations in world governance to advance toward a true democratization of international relations....”

Correa called for “models of society that put human well being above the interests of capital.” At the press conference he held after his speech to the UN General Assembly, Correa elaborated on what such a model would be.<sup>11</sup> He said that the model he was proposing was a form of 21<sup>st</sup> century socialism which learns from the errors of past socialist efforts and builds on these lessons.

Though the UN conference continued for two additional days, the Outcome Document was put to a vote on Friday, June 26.<sup>12</sup> The document was adopted by the conference participants by consensus. After it was approved, applause filled the hall of the UN General Assembly.

After the vote, a few nations spoke of their reservations and several spoke of their hopes for stronger action. Many commented that something significant had been achieved. The principle of full participation of the 192 nations of the UN, the G192, had been established as a basis for discussion of the problems of the global financial and economic crisis.

On Monday, June 29, and Tuesday, June 30, those nations which had not yet spoken, presented their talks to the General Assembly. One of those was Sin Son-ho, the UN Ambassador from North Korea. He said: “It is fortunate that the draft outcome document, which is the product of the intensive inter-governmental negotiations so far, contains, more or less, such issues like the possible substitution or the diversifica-

tion of international reserve currency, and the strengthening of supervision and regulation over and reform of international financial institutions.”<sup>13</sup>

Ambassador Sin said that the only way out of the crisis “is to replace the outdated international financial and economic system with a new international economic order that ensures the equal sovereignty of all countries.” “It is the imperative requirement,” he concluded, “of our times to restructure the old international financial system and economic order of the last century, which relies heavily on the U.S. dollar.”

In an article published shortly before the conference, Julio Escalona, an adjunct Ambassador to the UN for the Venezuelan mission, predicted that convening the conference would be a victory in itself. “For the first time,” he wrote, “an initiative promoted by the South against the will of the North could materialize. Then it's a matter of forcing the centers of power to discuss topics, such as the IMF and World Bank’s monopoly on credit, the reform of the international financial structures and regional currencies, the end of the dollar’s hegemony, among other things, and making sure the discussion continues open inside the UN, as well as the G-20 could signal the beginning of a new epoch.”<sup>14</sup>

Just as Escalona predicted, the presentations by the Ecuador’s President Correa, and others, were examples of a sharp critique of the problems at the core of the current crisis. These critiques demonstrated the inadequacy of proposed reforms of the Bretton Woods institutions, institutions created over 60 years ago. Instead the UN conference helped to highlight the need to redesign the current financial architecture, taking into account the experience of the past half century. The new architecture that is being proposed is one that is more solidly based on a regional cooperation and consensus, and one that will be more supportive of national sovereignty than the Bretton Woods institutions.

How this new architecture will be formed is yet to be determined. But the need for it has been argued and the requirements it must satisfy have been articulated. Significantly, through this conference at the UN, the principle of involving all 192 nations of the UN in identifying the problems and fashioning means to solve them has been successfully put into practice for the first time.

Describing the importance of the UN meeting, Father D’Escoto

Brockmann, the President of the United Nations General Assembly saw the meeting itself and the outcome document, to as a victory. At a press conference at the UN on July 10, he said that the significance of the conference was, that no longer is it possible to leave in the hands of a few, the matters that affect the whole world.<sup>15</sup>

Reminding journalists that every effort was made prior to the conference, first not to have the conference, then to narrow the focus, Father Brockmann explained how despite these problems, the G192 is now recognized as a venue to deal with the economic and financial problems of the global crisis. “In the end it’s happening,” he noted.

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2. United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development.

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11. Press Conference with HE. Mr. Rafael Correa Delgado, President of Ecuador, and H.E. Fander Falconi, Minister for Foreign Affairs of Ecuador, to brief in connection with the current General Assembly Conference on the Economic Crisis and its Impact on Development.

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12. Draft Outcome Document, A/CONF.214/3\*.

[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/CONF.214/3&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/CONF.214/3&Lang=E)

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14. Julio Escalona, “It’s the time of history. Whether we know it or not, whether we believe it or not,” Vheadline.com.

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15. General Assembly President Miguel d’Escoto Brockmann on the outcome of the UN Conference on the World Financial and Economic Crisis and Its Impact on Development as well as on the current crisis in Honduras, Press Conference, June 10, 2009. [Webcast: Archived Video – 45 minutes]

<http://webcast.un.org/ramgen/ondemand/pressconference/2009/pc090710pm.rm>

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[Editor's Note: The first 21<sup>st</sup> century world financial and economic crisis was precipitated by the purposeful lack of regulation of the U.S. financial sector. This crisis brought attention to the inadequacy of the International Monetary Fund (IMF), the World Bank and the G8 and G20. As a world crisis, world measures are needed to resolve it. Under Father Brockmann's presidency, the General Assembly addressed the question of the crisis on June 24-26 2009 at the General Debate on the World Financial and Economic Crisis and Its Impact on Development. In some ways this Debate was the beginning of the emergence of a G192 economic institution. The first speaker on June 25 was Rafael Correa, President of the Republic of Ecuador, an economist by training. He spoke in Spanish. All texts from the June 25 session can be seen at: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/CONF.214/3>. The following is a shortened version of the English translation of President Correa's presentation.]

## **We, the Different are Here**

### **The G192 Economic Summit**

by Rafael Correa,  
President of Ecuador

In the Atlantic Charter,<sup>1</sup> which served as a basis for the foundation of the United Nations, Roosevelt and Churchill affirmed that “after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want.”

However, several decades after the United Nations came into existence, the lack of conviction, will and political generosity have become manifest, as have the lack of a humanistic project imbued with equity and solidarity, and the prevailing greed and utilitarianism of the capitalist system.

Those of us who have embraced our status as world citizens cannot understand schemes that always end up trampling on the poorest and that contradict their own claims. How are we to understand a so-called globalization that seeks to create not citizens of the world, but consumers of the world; that seeks to create not a world society, but a world market; that continually seeks greater mobility for capital and markets, but criminalizes the mobility of human beings? All of this, we feel, is the

work of a sort of clan of the powerful that boasts of respect and equality, but bends international organizations to its own ends and never treats others with fairness.

We talk not of tolerance, because it arises from domination, but of concepts that, in all religions and cultures, have been the source of every struggle and every aspiration: justice and equality. However, equality has been manhandled, used rhetorically or reviled by power, as the poet Juan Ramón Jiménez said in his verses: “They wanted to kill him, the equals, because he was different.”

Now, it is we who are different here, and we have come to the G-192 to demand democracy and to highlight the other possible world, the other world that we urgently need, the world of peace and justice, made possible through respect for the sovereignty of peoples and through balance among human beings, countries, nations, peoples and continents.

We, the different, are here, and we have come from all corners of the world. Here we have our African brothers, who have overcome the shameful oppression of apartheid, but who continue to be cursed with inequality, disdain and indifference. While their drums, magic and incorruptible struggle managed to break the spells and fears, today the whole world must heal the wounds of the African people. As Nelson Mandela once said, “Let there be peace for all. Let there be work, bread, water and salt for all.”

Here we have the peoples of the East, age-old and wise, but hidden from us because the distribution of the universe concealed them from our sight, surely because we would have discovered much sooner a life consecrated to peace. In other words, as Confucius said: “Nothing can be done with the corrupt; it is like trying to build on a swamp.”

Here we have Muslims of various origins, but united and rooted in religion and humanism, even as some in the Western hemisphere, with their tyrannical powers, have prevented us from being brothers with our fellow men. Here age-old civilizations are represented, cultures built with talent and on the basis of necessity and diversity. A living example is the Palestinian people, living on shifting sands, with its memories and its martyrs.

The different come also from Latin America, an ignored and

humiliated continent, but one that, today more than ever, is insurgent, rebellious and aware of its historical responsibility. From Latin America, almost 45 years ago, on 11 December 1964, Commander Ernesto “Che” Guevara came to this very forum to tell the world: “Yes, now history will have to take the poor of America into account, the exploited and spurned who have decided to begin writing their history for themselves for all time.”

The different, we who are the vast majority, demand transparency and truth now that it is time to reveal who was at the origin of today’s crisis, who plundered the peoples and who benefitted from their adjustment policies, illegitimate debts, coups d’état, subterfuges and institutionalized illegalities, such as the Washington Consensus, a paradoxical and cynical agreement signed behind the backs of peoples and Governments and limited to the conclaves of the dominating and colonialist Powers.

Let us now talk about issues that, it seems, are absent in other exclusive and exclusionary forums such as the Group of Eight (G-8) or the Group of 20 (G-20), alien to those who consider themselves to be equal, because our manifesto is based on mutual respect, solidarity, justice, environmental sustainability and the pre-eminence of human beings over capital.

It was the constant violation of these principles that caused the crisis which still spreads menacingly, with powerful destructive effects on the countries of the South<sup>2</sup>. After the attacks of 11 September 2001, the United States decided to lower interest rates to a minimum to revive consumption and production. In a deregulated environment, that decision exacerbated the growth of sub-prime credit – extremely risky second-category sub-prime loans. The sub-prime rates were high-risk rates, especially for mortgage lending.

In 2004, it was decided to raise the rates to offset inflationary outbreaks. That decision did not stop the bankers, who resorted to securitizing their assets to have greater liquidity. But when delinquency grew and it was revealed that the largest banks had committed a large part of their assets to sub-prime loans, panic spread. Mistrust reduced the supply of money, volatility shot up and stock markets crashed.

We all know this: the crisis originated in the United States financial

markets. But it is no longer only a financial crisis, and the whole world has been contaminated. The South, which bore no responsibility whatsoever for the crisis, has now become its main victim. For years, the United States maintained huge trade and fiscal deficits, with the connivance of the International Monetary Fund (IMF). Any other country would have been forced to devalue and “correct” its imbalances. But in this case the double standards that prevail in the IMF governance forced it to choose complicity, which led to the unhinging of the capitalist system. And now, the G-20 wants to recapitalize it just like that, without even changing one seat on the Fund’s Board of Governors. This is totally absurd.

The world financial debacle is just a symptom of the crisis of a system that favoured the speculative-financial economy over the real economy – where goods and services are actually created to meet the needs of human beings. I hope we never forget that. My colleagues here know that, even though I am an economist, I am a good person. Economics is a science with real variables: basically, productive capacity, upon which depends the availability, allocation and efficiency of the use of productive resources. But in recent years everything became unhinged, and it was claimed that money simply generated more money by itself.

During the first quarter of 2009, the United States economy fell at the rate of 6.1% per annum, and investment dropped by 38%. In 2009, Japan expects a recession of 3.1% and the euro zone expects a fall of 4% in gross domestic product (GDP). As these markets demand fewer goods produced in Latin America and the Caribbean, this year [2009] our region may lose between 2.3 million and 3.2 million jobs, according to estimates by the International Labour Organization.

Since October 2007, immense amounts of money have been allocated to “rescue” the private financial sector. It is estimated that in 2008 alone such disbursements totaled some \$9 trillion, without any oversight or control mechanisms, and without knowing for certain where those funds have gone or how they have been used.

Something must not be working right, or at least not working to its full extent, in this gigantic rescue. This year, the GDP of Latin America and the Caribbean will decrease by between 1.5% and 2%. The World

Trade Organization (WTO) estimates that in 2009 international commercial exchanges will go down by 9%, which suggests the largest downturn since the Second World War. And, as always, the powerful are placing the greatest burden on the most vulnerable: the drastic measures taken against our migrants, combined with the contraction of productive activities in the countries of the North, will cause a 5% reduction in remittances without any counterbalances.

We are faced with a crisis unlike the others repeatedly provoked by capitalism. Some have wanted to compare it with the Great Depression of the 1930s, but it is much more than that: climate change, along with the global energy crisis and the grave risk of a worldwide food crisis, places us in the presence of a true problem of civilization. Our action must be commensurate with the challenges imposed by history. The gravity of this crisis requires that it be addressed within the United Nations, an organization that groups all the Governments of the world and that must, for the sake of its own credibility and validity, face up to a comprehensive transformation of the world economic order.

To reform Bretton Woods<sup>3</sup> would be an insufficient and unjustified stopgap. For some time its institutions have served only to engage in ideological marketing for the benefit of neo-liberalism and the Washington Consensus. If the speculative markets of the capitalist core were directly responsible for this world crisis, it would be absurd and irresponsible to let the solutions be proposed, planned and carried out by the very system that caused it.

However, every crisis is also an opportunity, and this one is no exception, although for my part I prefer opportunities without crises. “Every crisis is an opportunity” is a *cliché*, is it not? The orthodox notions of macroeconomic stability and the role of the State in the era of neo-liberalism have proven obsolete in less than one and a half years of crisis. We have the historical responsibility to seek the re-emergence of our peoples and to walk on our own feet, starting by redefining the global financial system, freeing us from the blackmail to which we have been subjected by rich countries.

The response to Ecuador’s proposals for a new regional and global financial architecture by the members of the Commission of Experts appointed by the President of the General Assembly and chaired by

Joseph Stiglitz, Nobel laureate in economics, is an endorsement of the relevance of the proposal that I wish to share this morning.

We propose, simultaneously and in parallel, and in line with the political and economic realities of each region, to enhance the integration of spaces of supranational monetary-financial sovereignty which are capable of reducing the evil effects that our economies suffer because of their links of dependency with the international financial system.

This proposal began to be forged in regional Latin-American forums such as the Quito Declaration of May 2007, the European Union-Latin America Summit held in Lima in May 2008 and the San Salvador Ibero-American Summit of October 2008. We are already working in our region to create a development bank for the South, capitalized by the countries of the region. In fact, its role has already been defined; we need only make it operative. There are seven signatory countries in Latin America for the Bank of the South. Its objective will be to finance development projects, particularly multinational ones, and to improve systemic competitiveness and connectivity among our countries, on the basis of our own priorities and giving space to local and regional currencies.

Linked to this, we must establish a common reserve fund for Latin America. This would prevent the deposit of more than \$200 billion in reserves from our countries in banks of the North. Imagine: the poor are financing the rich. On one hand we are getting down on our knees, or subjugating ourselves, so that the international bureaucracy of the International Monetary Fund and the World Bank will give us a few dollars, and on the other hand we are sending more than \$200 billion to the North. It is absurd and irrational. It is paradoxical that, in the midst of the crisis, we still allow our money to finance rich countries in exchange for a few dollars in interest. That is one of the traps inherited from the long and unfortunate neo-liberal night. In the first half of the 1990s, on the basis of studies that would make a first-year economics student blush for shame, the World Bank imposed, throughout Latin America, the autonomy of central banks. These are bureaucracies that are independent of their countries, but sufficiently dependent on international bureaucracies. We see how many central bank chairmen and Finance Ministers end up as Washington bureaucrats at the IMF, the

World Bank, the Inter American Development Bank, et cetera. I stress that these bureaucracies are independent of their countries, but quite dependent on the international bureaucracies which, in turn, manage our reserves and which, for the sake of supposed “prudence,” invest them in the first world. Our savings are financing the rich. This irrational system must change, starting by ensuring that Governments gain control over their central banks.

If we pool our reserves in a common fund, we will need less money to tackle regional contingencies and crises, and excess funds would serve to capitalize the Bank of the South. This fund could be supplemented with a regional payment system, which would be the precursor of a regional central bank that would give us more autonomy vis-à-vis the financial circles of the North. Let us recall that the new regional financial architecture that we are proposing – which is already being implemented in Latin America – is first and foremost a development bank, in the form of the Bank of the South, which has already been created in name. Secondly, it is a common reserve fund: instead of sending our reserves to the first world, and in order to avoid the absurdity of financing the first world, we can use our own reserves. With this reserve pooling, we can with less money have greater security with respect to the balance of payments crisis and financial crises in the region.

Thirdly, this new regional financial architecture will make us less dependent on – or totally independent from, as I would wish – the speculative international financial markets. We propose here to build a common monetary system, which could begin as an electronic currency to facilitate regional exchanges. This system of regional electronic payments can be set up immediately. It is only a matter of coordination and political decision. In fact, we are doing it in the framework of the Bolivarian Alternative for the Peoples of Our Americas (ALBA),<sup>4</sup> a democratic forum which my country formally joined just 24 hours ago. The proposal is making significant progress in that forum, as the Regional Single Payment Compensation System (SUCRE) is about to begin operation. This is an electronic currency to facilitate our exchanges and thus to minimize the use of extra regional currencies such as the United States dollar. But in the medium term the idea is to have



a physical regional currency. We firmly believe that larger monetary blocs constitute the only way to survive this inhuman, cruel globalization – which as the world’s citizens, not the world’s consumers, we do not seek, just as we do not seek to create a planet-wide society or planet-wide market. We believe that, sooner or later, Latin America will have to move to monetary union and possess a physical regional currency.

I must add also that during the negotiations for this Conference, the Group of 77 and China expressed their appreciation for and welcomed these two regional initiatives, which they considered concrete examples of financial cooperation at the regional level. They will assist countries of the region in addressing possible balance of payment problems in an alternative way, and promoting trade among them, moving away from the iron rule imposed by the dollar.

The current international financial system obliges us, against all sense of justice, to provide cheap financing to the North and, at the same time, to seek expensive funding in the North. This cannot continue in the twenty-first century. What sense can there be in using an extra-regional currency for our trade, if in that way we only maintain our dependence and, on top of that, we pay seigniorage? Seigniorage is the fee paid to the country that issues the currency used for exchanges. If a box of biscuits costs a dollar in a given country, when the United States issues \$10 it is as though it is gaining 10 boxes of biscuits from that country’s production – merely by issuing the currency. What sense is there in paying special fees to whoever issues the currency used for world trade, when this right to seigniorage could belong to our own countries?

However, as the crisis advances unstoppably, helped by the passivity – or complicity – of the International Monetary Fund and the World Bank, we need more urgent measures. We cannot commit the historical error of falling into a war of depreciation in which our production will lose value and from which, at the end of the day, only the countries of the North will benefit, as they will purchase our goods at cheaper prices. We need to negotiate a regional monetary agreement immediately, in order to coordinate our monetary policies and prevent the crisis in our region from broadening, to the benefit of third countries.

This proposal is made in the framework of a broader concept that

challenges the dominant paradigm. Competition among poor countries is absurd, and we must move toward cooperation and integration. When poor countries compete with one another, third countries – the rich countries – benefit. We must not fall into that trap. The response of the poor countries must be coordination, complementarity and integration.

....

Patching up the Bretton Woods system, which we do not control, makes no sense for the countries of the South. This is our opportunity to consolidate our presence and to develop greater powers of deliberation and decision in international forums so that we can finally become the owners of our own destinies. But it will be impossible to attain this objective unless we have our own international financial architecture. The structure we are promoting for Latin America can be replicated in other regions of the world, under other conditions and with different priorities. We all have the conditions to do so, and we no longer have to depend on what the countries of the North do or fail to do. This implies, obviously, invigorating and strengthening regional integration forums such as the Union of South American Nations (UNASUR) or the Bolivarian Alternative for Latin America and the Caribbean.

However, at the global level, we must promote the creation of a coordinating entity of planet-wide proportions, based on a monetary council established with clear criteria for representation and accountability; through the issuance of special drawing rights, it would endorse new foreign exchange commitments and regional institutional arrangements. This issuance of special drawing rights, which has been postponed for decades by the big Powers of the North, will contribute to breaking the monopoly in the provision of liquidity that guarantees the uni-polarity of the United States dollar and the asymmetric decisions of the International Monetary Fund.

Furthermore, if by means of the necessary institutional changes we succeed in channeling these special drawing rights through multilateral regional bodies or entities in charge of urgent tasks, such as the Food and Agriculture Organization of the United Nations and the United Nations Development Programme, we will prevent the IMF from reproducing the asymmetrical relations that have allowed it to impose conditions on our countries, something that will be inevitable if we

allow the recapitalization proposed by the G-20 to go forward without a total change in the governance of that entity. That would be quite different from the decency the IMF should display – the *mea culpa* it should offer – as one of those that caused the crisis.

Yesterday, when I was talking with President Daniel Ortega of Nicaragua, he told me that the conditionalities that the Fund wanted to impose for a \$90 million loan were truly intolerable for Nicaragua. How can we continue to accept this: that the international bureaucracy, through its machinery of pressure, and with its new twentieth- and twenty-first-century bombers – the dollars that the international bureaucracies give us – try to tell sovereign countries what to do and what not to do? That is unacceptable.

It is necessary to change the governance of the International Monetary Fund. In principle, it would be better to eliminate it, because it has already done too much damage. It has betrayed all the principles for which it was created. Paradoxically, the International Monetary Fund and the World Bank were created to stabilize world demand, but they have been the main factors in the destabilization of demand, through their adjustment programmes and so forth – is that not true? – and through their pro-cyclical policies. In principle, they should be eliminated, but there is a desire to retain them because of special interests. But there should at least be substantial changes in their governance.

In this scenario, while an alternative governance system is decided upon, all new funds handed to the International Monetary Fund should be placed into a new emergency facility, agile and without the conditionalities of traditional adjustment. The administration of this facility must be entrusted to a different governing body, such as the one already created for the World Bank's Global Environmental Facility.

We must intensify our pressure to demand that the capitalization of these agencies of the United Nations system through special drawing rights is used to tackle food, climate change and development problems of the countries of the South with more resources.

These special drawing rights must be issued immediately. The 60 per cent corresponding to developed countries may be used to meet, at least partially, the 0.7% of GDP that in the 1970s they offered to dedicate to the development of counter-cyclical policies and to the fight

against poverty. By the way, this would also help us escape from the liquidity restrictions imposed by financial uni-polarity.

The imperative of redefining the world financial order, which has been unhinged by speculation and privilege, is also warranted from a human rights perspective. At the global level, human beings have fewer rights than capital does, thanks to bilateral investment agreements and to international arbitration systems regulated, by the World Bank and the World Trade Organization, at the International Centre for Settlement of Investment Disputes (ICSID). These, the worst things that can happen to us, are incredible and constantly challenge our capacity for amazement. What is happening in Latin America is genocide. It is amazing that when human rights are undermined, one must first exhaust all of a country's national legal machinery before being able to turn to the Inter American Court of Human Rights of the Organization of American States. But here is what happens when you are facing up to capital: if any transnational feels itself harmed by a Latin American country, it can immediately take us to ICSID without filing any legal motion within our countries. It can take us to extra-regional arbitration: a transnational can do this to a sovereign State. And only this extra-regional arbitration body – the World Bank's ICSID – can judge whether or not the law of this sovereign State has been complied with vis-à-vis that transnational. It can even hand down a judgement when the law is very harsh, when the legal punishment is disproportionate to the error that has been committed. Imagine the asymmetry in the current system between defense of the “rights” of capital and defense, for example, of human rights. Do we have a forum where we take countries with the death penalty? United States law employs the death penalty, the most drastic penalty for a crime: no human being deserves to die for any crime. There is no such forum, but for capital there is a forum which can oppose the laws of sovereign States. That must come to an end; it is madness.

The right to life, to health, to the education of our peoples, to a good life – to ‘sumac kawsay,’ as the ancestral peoples of my homeland say – is above the interest of the international speculators of Wall Street. If this minimum principle is considered as insubordination, so be it. Ecuador has succeeded in cancelling its illegitimate commercial debt. With an investment of almost \$900 million, we will have avoided paying

principal plus interest of almost \$9 billion by the year 2030.<sup>5</sup>

The history of underdevelopment, dependency and domination of Ecuador and of Latin America is also the history of the foreign debt. Bonds, renegotiations, conditioned policies and debt agreements have been the modern mechanisms of domination through forced and hereditary indebtedness, which in Latin America was called ‘concertaje’. These mechanisms have also been, in our time, the instruments by which the financial centers of industrialized capitalism have dominated our peoples. I repeat: they do not use gunboats or bombers; they only use the International Monetary Fund, the World Bank, the unregulated stock markets. Those are the modern-day ‘encomenderos’, the true insatiable traffickers of wealth at the expense of the education, health and food of our children – 26% of whom suffer from chronic malnutrition in a country such as Ecuador – and at the expense of peace, well-being and the very lives of millions of our fellow countrymen and women born as slaves of a foreign debt.

In my country, the Government of the citizen revolution set out from the very outset to find a final solution to the yoke of foreign debt. And, in line with its promise and its proposals, and with profound conviction, it succeeded in doing so. Now Ecuador can be declared free from illegitimate external commercial debt. That declaration pays homage to the bicentenary of our independence and honours the memory of our heroes: Bolivar, Alfaro, Sucre and Manuela. As we have said, for the first time in history, a Government has established a debt auditing commission. There have been experiments with such commissions, but these have been carried out by civil society and have been very few in number. This is the first time that a Government has designed a debt audit commission.

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After the crisis of 1929, most Latin American countries emerged with stronger and more active public institutions that helped them to maintain stable growth rates until the 1970s. We must not repeat the mistake made after 1982, when we were forced – from the centre – to respond to the debt crisis by paralysing our public institutions, with the supposed aim of reaching optimal fiscal policies, policies that would be satisfactory in honoring a foreign debt manipulated by those at that very

center.

In Latin America, and in the developing world in general, we have full creative, technical and political capacity to promote our own responses, without any need for supporting or fostering them on the basis of proposals that are alien to our regions, as has happened before with the so-called Washington Consensus<sup>6</sup>. I do not know why they call it a consensus when they never consulted Latin America on anything. This has been to the shame of the region in recent decades, with the implementation of public policies arising from that so called consensus, in which we in Latin America never participated. We shall not be colonized, even in intellectual terms. We are quite capable of developing our own thinking and our own responses on the basis of our reality, our values, our principles and our interests – not interests alien to our regions.

Our peoples deserve no less than what the constituents of rich countries are demanding. These demands have already been expressed in drastic changes in their public policies: financial regulation with more controls on investment funds and greater international coordination; regulation of international commodities markets and subcontracting; a new industrial policy more committed to the promotion of environmentally friendlier industries; and universal social policies, that is, coverage for all citizens and the development of public insurance programs.

This Conference must be the turning point toward strengthening the role of the United Nations in world governance, in order to advance toward a true democratization of international relations, beginning with substantial changes in financial institutions.

The draft outcome of this historic conference does not meet all the expectations of our countries. We faced great resistance to bringing this issue before the parliament of mankind: the universal and democratic forum of the General Assembly. However, it has the merit of having marked the beginning of a process of political agreement to effect comprehensive reform of the current international financial system, thanks to the commitment that all countries are assuming here and now. Now we must define the institutional path toward collaboration and dialogue and toward monitoring what is decided here.

It is in the framework and under the aegis of this Group of 192 –

different but truly equal – that we must discuss comprehensive, equitable and democratic solutions to this crisis, which originated, as always, in greed and disdain. It is we, the different, who must guide the convulsed world of today. Time is of the essence. We have to advance toward models of society that put human well-being above the interests of capital, respecting the limits imposed by nature. This can be possible not through market mechanisms, but only through the required political will, collective action, cooperation, coordination, a new ethics of planetary coexistence and an in-depth process of decolonization, including the decolonization of thought.

It can be possible, as well, only through unwavering defence of sovereignty. Our collective response to imperial thrashing is, once again, solidarity and our inexhaustible strength; it is based on the unity of the peoples, the unity of the poor and the unity of the different.

*‘Hasta la victoria siempre!’* (Always, until victory!)

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#### Notes:

1. Eight points of agreement between the U.S. and the U.K. issued on August 14, 1941, <http://avalon.law.yale.edu/wwii/atlantic.asp>
2. The South (also known as the Global South) is part of a distinction between the most developed nations (the North) and the poorer less developed nations (the South). See for example, [http://en.wikipedia.org/wiki/Global\\_South](http://en.wikipedia.org/wiki/Global_South).
3. See [http://en.wikipedia.org/wiki/Bretton\\_Woods\\_system](http://en.wikipedia.org/wiki/Bretton_Woods_system). The World Bank and the International Monetary Fund, grew out of an agreement signed in Bretton Woods New Hampshire, United States in 1944 by delegates from the 44 Allied nations
4. About ALBA, see for example: <http://www.voltairenet.org/article142921.html#article142921>
5. “Ecuador announced in late 2008 that it would stop servicing two of its foreign bonds; six months later, it bought most of them back for cash at about 35 cents on the dollar, effecting substantial debt relief.” (Quoted from: <http://www.creditslips.org/creditslips/2010/03/debt-and-the-people-part-ii-the-hot-di-squietude.html>)
6. The so called Washington Consensus was a set of economic reform goals proposed in 1989 for Latin American countries. The reforms were orthodox neo liberal reforms. Fiscal Discipline, Reordering Public Expenditure Priorities, Tax reform, Liberalizing Interest Rates, A Competitive Exchange Rate, Trade Liberalization, Liberalization of Inward Foreign Direct Investment. Privatization. Deregulation, Property Rights. The countries which tried to implement them all had poor or disastrous results particularly in terms of growth, employment, and poverty reduction. The Consensus has basically

been abandoned by its original advocates and Latin American countries.

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[Editor’s Note: As part of the United Nations General Assembly Interactive Thematic Dialogue on the Responsibility to Protect (R2P) on July 23, 2009, the Office of the President of the General Assembly prepared a concept note about R2P. That concept note emphasizes that the people have inalienable rights and are the sovereign. If R2P is exercised by an external agency, sovereignty passes from the people of the target country to that agency transferring the people from sovereign to wards. The following is that concept note. It can be accessed at:

<http://www.un.org/ga/president/63/interactive/protect/conceptnote.pdf>

## **The People are the Sovereign**

### **Concept Note on Responsibility to Protect**

by Office of the President  
of the General Assembly

The five main documents in which responsibility to protect has been articulated are the High Level Panel’s “Report on Threats, Challenges and Change”; the Secretary-General’s Report “In Larger Freedom”; the Outcome Document of the World Summit 2005; UN Security Council Resolution 1674; Secretary-General’s Report on “Implementing the Responsibility to Protect.” None of these documents can be considered as a source of binding international law in terms of Article 38 of the Statue of the International Court of Justice which lists the classic sources of international law.

At the negotiations on the World Summit Outcome Document, the then U.S. Permanent Representative John Bolton stated accurately that the commitment made in the Document was “not of a legal character.” The Document is carefully nuanced to convey the intentions of the member states. Paragraph 138 when it deals with the individual state’s responsibility to its own people is clear in its commitment. When it comes to the international community helping states, the phrase used is a general appeal – “should as appropriate.” Paragraph 139 continues this nuanced approach. The language is clear and unconditional when it speaks of “the international community through the UN” having the “responsibility to use appropriate diplomatic, humanitarian and other peaceful means in accordance with Chapters VI and VIII of the Charter.” The Document is very cautious when it comes to responsibility to

take action through the UN Security Council under Chapter VII. Paragraph 139 uses at least four qualifiers. Firstly, the Heads of State merely reaffirm that they “are prepared” to take action, implying a voluntary, rather than mandatory engagement. Secondly, they are prepared to do this only “on a case by case basis,” which precludes a systematic responsibility. Thirdly, even this has to be “in cooperation with regional organizations as appropriate.” Fourthly, this should be “in accordance with the Charter” (which covers only immediate threats to international peace and security). Finally, the Heads of State emphasize “the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law (emphases ours). It is therefore, amply clear, that there is no legally binding commitment and the General Assembly is charged, in terms of its responsibility under the Charter to develop and elaborate a legal basis.”

It is the great anti-colonial struggles and the anti-apartheid struggles that restored the human rights of populations across the developing world and therefore were the greatest application of responsibility to protect in world history. Their success probably led to more humane governance in Europe and thereby, at least indirectly, increased the protection of European populations also. Colonialism and interventionism used responsibility to protect arguments. National Sovereignty in developing countries is a necessary condition for stable access to political, social and economic rights and it took enormous sacrifices to recover this sovereignty and ensure these rights for their populations. As the U.S. Declaration of Independence says, the people have the right to get rid of their government when it oppresses them and has thereby failed in its responsibility to them. The people have inalienable rights and are sovereign. The concept of sovereignty as responsibility either means this and therefore means nothing new or it means something without any foundation in international law, namely that a foreign agency can exercise this responsibility. It should not become a “jimmy in the door of national sovereignty.” The concept of responsibility to protect is a sovereign’s obligation and, if it is exercised by an external agency, sovereignty passes from the people of the target country to it.

The people to be protected are transformed from bearers of rights to wards of this agency.

The international community cannot remain silent in the face of genocide, ethnic cleansing, war crimes, and crimes against humanity. But the UN response should be predictable, sustainable and effective without undermining the UN's credibility based on consecrated cornerstone values enshrined in the UN Charter. Therefore, it is the preventive aspects of responsibility to protect that are both important and practicable but these need both precise understanding and political will. Genuine economic cooperation in an enabling international environment would do much to prevent situations calling for responsibility to protect. This requires an urgent reform of international economic governance, specifically of the Bretton Woods Institutions with their procyclical advice, including shifting to cash crops and eliminating subsidies. Political will is needed for coordinated international action focused on development in order to implement the Monterrey Consensus, the Millennium Development Goals and the consensus Outcome of the High Level UN Conference on the World Financial and Economic Crisis and its impact on development. In the Human Rights Council and the Peace-building Commission we possess important instruments for capacity building and prevention.

On the other hand the elements of a so called timely and decisive response are far more problematic. Articles 2.4 and 2.7 of the Charter prohibit the use of force. Article 24 confers on the UN Security Council responsibility to maintain peace and Article 39 to determine any threat, breach of peace or aggression and measures to restore peace. Article 41 spells out breaking diplomatic relations, sanctions, and embargoes. If these fail Article 42 empowers force. None of these would cover responsibility to protect unless the situation is a threat to international peace and security. The Security Council's powers are not directed even against violations of international legal obligations but against an immediate threat to international peace and security. Collective security is a specialized instrument for dealing with threats to international peace and security and not an enforcement mechanism for international human rights law and international humanitarian law. The discretion given to the Security Council to decide a threat to international peace and

security implies a variable commitment totally different from the consistent alleviation of suffering embodied in the responsibility to protect. The Security Council has not been willing to relinquish to the International Criminal Court its power to determine crimes of aggression.

In case a responsibility to protect type of situation becomes a threat to international peace and security, the question of the veto will arise. The veto ensures that any breach committed by a permanent member or by a member state under its protection would escape action. Member states, therefore, need to decide whether “a mutual understanding” among permanent members “to refrain from employing or threatening to employ the veto” in responsibility to protect situations is adequate or whether an amendment of the Charter is necessary. A “mutual understanding” implies no enduring obligation and therefore has no legal force. The problem is that if a veto has been cast, the General Assembly cannot overturn it; even without it, the General Assembly cannot take up a matter that is on the agenda of the Security Council. The International Law Commissions draft Articles and the Third Report on responsibility of International Organizations states that internal rules provide no excuse for failing to discharge its obligations. If internal rules and the Charter [Article 27 (3) on the veto] prevent exercising any future responsibility to protect then should the veto go in such cases or should the responsibility be abdicated? The existence of the veto and the erosion of globalization strengthen the Westphalia paradigm as against the individual rights centered paradigm of responsibility to protect. Neither do the Councils procedures have any provision for due process of law nor are its decisions subject to judicial review. Moreover member states need to consider whether, as Secretary-General Kofi Annan used to say, the political basis for Security Council decision making is far too narrow. The provisions of the Genocide Convention provide for a State to approach the appropriate organs of the United Nations to take action to prevent and suppress genocide, as well as actions in preparation thereof. It is the veto and the lack of UN Security Council reform rather than the absence of a responsibility to protect legal norm that are the real obstacles to effective action (in an article on the Rwanda genocide Under Secretary-General Ibrahim Gambari reached a similar conclu-

sion).

Similarly, is it enough to simply ask member states to become parties to the Rome Statute of the International Criminal Court? Is it not also essential to have a definition of aggression under the Rome Statute in order to deter adventurism before the responsibility to protect can be developed? Moreover, the International Criminal Court remains accountable to the Security Council in the sense that the Council has the power to delay consideration of a case by a year and then another year, indefinitely.

In case peremptory norms are breached, the International Law Commission's draft Articles on State Responsibility specify two sets of consequences: 1) a positive obligation of States "to cooperate to bring the serious breach to an end through lawful means" [Article 41 (i)] and 2) not to recognize as lawful a situation created by the breach and not to render aid in maintaining that situation [Article 41 (ii)]. The use of military force is expressly excluded from the realm of possible counter measures. Article 50 (i) (a) categorically says that counter-measures shall not affect "the obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations." It is for member states to consider if responsibility to protect in its non coercive dimensions adds anything to the International Law Commission's Articles or to the provisions of international human rights law and international humanitarian law.

The International Court of Justice has ruled that "where human rights are protected by International Conventions, that protection takes the form of such arrangements for monitoring or ensuring the respect for human rights as are provided for in the Conventions themselves. The use of force could not be the appropriate method to monitor or ensure such respect." Can any troops wage a war for human rights without causing more harm than the violations they set out to correct? In terms of the suffering of the population would this also not be true of sanctions that cause the deaths of the most vulnerable – women and children – from malnutrition and lack of medicines? Will not an association with the use of force also compromise and weaken International humanitarian law? In terms of the actual resource situation when there are not enough troops available even for vital peacekeeping, would there be any

capacity for rapid deployment or preventive deployment?

His Holiness Pope Benedict XVI spoke of responsibility to protect in the General Assembly in April 2008 but he emphasized that the “juridical means” employed should be those “provided in the UN Charter and in other international instruments.” These do not include the use of military force. The Pope also said that “the principles under girding the international order” must be respected. These principles include sovereignty and exclude the use of force. Jesus’ emphasis on redistribution of wealth to the poor and on nonviolence reinforces the right perspective on responsibility to protect.

On any early warning mechanism, apart from UN Secretariat accountability and General Assembly oversight, member states would need to consider whether the Secretariat should take any action at all before the UN General Assembly has developed the concept and elaborated its legal basis.

Finally any decision taken by the General Assembly would need to ensure that it does not inadvertently or even remotely, in the words of Jurgen Habermas, “break the civilizing bounds which the Charter of the United Nations placed with good reason upon the process of goal realization.”

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## EDITORIAL STAFF

Ronda Hauben

William Rohler

Norman O. Thompson

Michael Hauben (1973-2001)

Jay Hauben

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