

22 January 2009

**Statement of Mr. Miguel d'Escoto Brockmann,  
President of the 63rd Session of the General Assembly,  
to the New York City Bar Association**

Madame President,  
Distinguished Members of the New York City Bar Association – Friends All,

Thank you for this opportunity to meet with you informally to discuss the ongoing work of the United Nations General Assembly. The first four months of the sixty-third session of the Assembly have been unusually active and have reminded me of the central role of the United Nations in the development of international law and in the promotion of the rule of law.

As you may be aware, I have dedicated my presidency to the dispossessed of the world and my priorities reflect a determination to bridge the widening gap between the rhetoric and the reality of efforts to end the poverty, violence and injustice that afflict half of the world's people. This, in turn, requires a revitalized, credible and assertive General Assembly – the G-192 as I sometimes refer to it. Towards this end, I have made the democratization of the United Nations the fundamental and overarching objective of my tenure.

How do these twin concerns – to democratize the UN system and to bring peace and security to the dispossessed – guide the work that we have undertaken in the last four months, and that we will press further in the eight months remaining?

Before we open the floor to discussion, I would like to comment on three areas of concern that illuminate the challenges we face, the urgency of democratization, and the path we are following. These are the UN response to the global financial and economic crisis; the crisis in Gaza within the framework of Responsibility to Protect; and the existential dimensions of global climate change.

**THE GLOBAL FINANCIAL AND ECONOMIC CRISIS**

First, in the area of economic cooperation and governance of the international financial and monetary system, we have been seized, from the beginning of this Presidency, with the need for all nations to come to grips quickly with the global financial and economic crisis.

In particular, we have been concerned with the impact of the crisis on developing countries, and on the poor everywhere.

Almost by definition, the developing countries are those that lack the financial resources, and sometimes the necessary training, to adopt the stimulative or counter-cyclical policies that the wealthier

countries have been able to adopt to dampen the impact of the crisis. Worse, the policies adopted by the wealthier nations may increase the negative impact on the developing countries, especially if the stimulative policies serve to reverse course on trade liberalization and increase subsidies to industries that compete with developing country imports.

The need for the democratization of international financial, monetary and trade institutions is increasingly important as we attempt to orchestrate the political will and public support for change. We clearly need to look at the world community as a whole, in a spirit of solidarity, recognizing that the success of the developed, emerging and developing countries are all bound together.

The world's institutions for global economic cooperation are plainly inadequate to deal with the circumstances we currently face. The IMF and the World Bank have been all but a cipher in the present crisis, their early warning systems and financial resources woefully inadequate to prevent or alleviate the effects of the global crisis.

Contrary to the original vision of the UN Charter, a legal covenant, these specialized agencies, and the many others that have been developed since 1945, have been managed completely outside the UN system, with rules of governance that are, to say the very least, no longer congruent with global realities.

To address these inadequacies, I have convened a Commission of Experts, led by Nobel laureate in Economics, Dr. Joseph Stiglitz, to examine the causes and consequences of the current financial and economic crisis for the developing nations, to assess the instruments and resources available, and to make recommendations on a wide range of coordination, regulatory, macro-economic, and systemic governance issues.

There is broad recognition among world leaders that we are at an inflection point in the evolution of the global financial system. The current crisis calls us all to return to fundamentals and to define new principles of international policy and organization. These are essential, not only to overcome the effects of crisis in the least disruptive and most equitable manner, but also to address the underlying structural causes of the recurrence of debilitating national, regional and global crises.

In this connection, I am intrigued by the strong call of German Chancellor Merkel and French President Sarkozy for the formation of an "economic security council" with powers and resources on a par with the UN Security Council. I am also heartened by their call for an injection of moral and ethical principles in our economic governance.

At the root of all these multiple, converging economic and financial crises, what we find is a profound moral crisis. Humanity seems morally bankrupt as a consequence of having enthroned greed, selfishness and social and environmental irresponsibility for too long. We need a new system that has people at the center – with solidarity as its driving force.

In response to the welcome call of the European leaders for a new "economic security council," I would only note that the Charter of the United Nations already contains detailed instructions for the

creation of such a council – the Economic and Social Council – which of course today is only a wispy shadow of what both the framers of the Charter, and what Chancellor Merkel and President Sarkozy, have proposed. Today, the EcoSoc has no budget, no defined relationship with the UN specialized agencies it was intended to oversee, and virtually no relevance to ongoing efforts to contain the crisis and address its root causes.

The General Assembly is the natural, necessary and indispensable forum for this task, and ECOSOC can and should be its instrument for playing an on-going role in developing and coordinating the international financial and economic system. The General Assembly alone has the authority to provide legal sanction and legitimacy to any process of reform that aims to serve the community of nations as a whole.

The role of the Commission of Experts I have organized is to provide the factual and analytical basis for the General Assembly in its deliberations on the economic crisis, and to provide a foundation for a global conference at the highest level that 154 nations, including the G-20, agreed to convene this year to assess the global crisis and its impact on development.

In their meeting at Doha, Qatar, which ended on December 2, 2008, these nations mandated me to organize the Conference, and to define its modalities.

In view of the urgency of decisive action to reduce the impact of the crisis on the world's most vulnerable populations, it is my intention to call the conference during the first half of this year, and I will begin consultations with the Member States concerning the modalities in the coming days.

#### THE GAZA CRISIS AND THE Responsibility to Protect

Over the past 63 years the United Nations has created a rich and powerful body of international law that has greatly facilitated world economic growth, the protection of human rights and the possibility of peaceful interaction between and among states.

Our challenge now, especially in the area of human security, and the protection of fundamental human rights, is the universal implementation of these laws. However, the international community has been stymied, time and again, by the distorted evolution of the UN system for collective security. Here, as in the case of governance over the world's economic system, a handful of countries – often, a single country – have arrogated to themselves, or to itself, the right to block effective action by the community as a whole.

To my mind, the intolerable consequences of this situation have been clearly demonstrated once again in the context of the recent crisis in Gaza.

Since at least 1948, the UN has accepted a special mandate for the protection of the refugees and displaced persons created at the time of the recognition of the State of Israel.

Today that humanitarian mandate continues, with minimal effectiveness, as we have seen the use of tactics and weapons in the Gaza territory that can only have been chosen to impose high civilian costs.

This use of violence against unarmed civilian populations, and indeed against facilities and personnel of the UN system itself, in order to achieve political objectives has a name – indeed it has long been called terrorism.

The idea that terrorism is a novel form of warfare, or that it is unique to so-called non-state actors, is a fiction that requires a deliberate suppression of historical memory to be believed.

Terrorism – the deliberate targeting of innocents for political purposes – has been practiced in some way by nearly every people at some time in its history, and often in many different ways over time.

In the early days of the nuclear age, men like Winston Churchill and John F. Kennedy did not hesitate to call thermo-nuclear weapons what they are – weapons of terror. As former Secretary of State George Shultz has reminded us, Ronald Reagan and Mikhail Gorbachev were united in their belief that it was unconscionable for the fate of the earth to be ruled by what they both regarded as a balance of terror.

The resort to conventional force can itself be a form of terror, especially whenever the civilian casualties and destruction of social infrastructure are intended to create enough “shock and awe” to induce a mental state of capitulation.

Terror as an instrument of policy must be opposed in all its manifestations, and in all circumstances, whether it is used by great nations or small, or indeed, whether it is used by oppressors or by the oppressed.

In the case of the peoples of Israel and Palestine, we need to condemn and actively oppose terrorism, whether it is directed at Israel or at the Palestinian territories, and we must take more deliberate action to demand of the parties a more effective effort to address the root causes of the enduring crisis.

Here, I believe that the UN General Assembly has been forced to play a role that should have been undertaken by the Security Council – denouncing actions that are in wanton disregard for minimum standards of international humanitarian law and that openly target the UN presence and role, and organizing collective action to induce a cease-fire and to begin the necessary work of constructing the pathway to long-term peace.

As the world watched between December 27, 2008 and January 17, 2009, more than 1,000 innocent civilians were killed, as against a much smaller number of combatants in the Gaza territory. By any accepted international standard, this act qualifies as a mass atrocity.

Just three years earlier, following the UN-sponsored World Summit sponsored, all the Heads of state and governments participating the 60th session of the General Assembly September 14-16, 2005, unanimously agreed to the “Responsibility to Protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.”

In the resolution adopted on that occasion, the Member States stressed “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 implication, bearing in mind the principles of the Charter and international law.”

Does the Responsibility to Protect not apply in the case of Gaza? There are those, I am sure, who will argue that the Responsibility to Protect applies only in cases where States take action against their own people, and that because Gazans are not a part of Israel, and indeed have no state of their own, the norm does not apply.

But surely this is specious – and fraudulent – reasoning. The Responsibility to Protect, if it adds anything new to existing norms, provides a rationale for intervention outside the traditional pathways of the Charter in cases where access to the affected party or parties is blocked by a Member State of the United Nations. This was unarguably the case in the recent crisis in Gaza, as numerous international observers and international relief agencies were forcibly barred access by the Israeli military.

Democratization of the UN system is palpably urgent in the case of our broken mechanisms of collective security, and especially to overcome the ability of any one of a handful of nations to block effective community action to protect vulnerable populations.

Whatever else it may come to mean, democratization of the UN system must mean transparency and accountability in decision-making; effective mechanisms for action, including anticipatory action, by the world community to prevent atrocities; and more representative rights of voice and vote in global deliberations.

## THE EXISTENTIAL CRISIS OF GLOBAL CLIMATE CHANGE

I want to close my brief remarks this afternoon with an observation and a challenge.

Of all the crises we face in the world community, nothing concerns me as much as the now well-advanced destruction of Mother Earth. Nothing we have undertaken in the reform of global economic and political institutions will have much significance if we are not able to develop an effective response to the crisis of global climate change. Again, it requires universal responsibility and cooperation.

Here I think the themes of democratization and rule of law take on an even greater, potentially decisive significance: finding the legal and institutional resources for mobilizing effective actions is a work that need not wait for harmonious coordination among the member states, desirable and necessary as that may be.

The critical work of identifying and opposing all activities that degrade our natural resources and destroy the prospects for life is as much a local task as it is a global task. Indeed, here nearly all the impetus for global action has been from the bottom up.

So I will pose my challenge in the form of a question: What has the legal profession in the United States undertaken, and what do you plan to do going forward, to enable citizens of the United States and of the world, to mobilize for effective action to prevent the activity and overcome the effects of global warming?

I ask this question not only as a citizen of the world, but also in my capacity as President of the General Assembly, knowing that all shoulders must be put to the wheel to solve this existential problem, and believing as well that all of us have something important to contribute, and those of us who enjoy a privileged position bear an extra obligation to become engaged.

Thank you. I look forward now to a candid and lively discussion.