

ANNEX TWO

The following three documents include relevant excerpts from various reports by the Special Rapporteur of the Commission on Human Rights, John Dugard;

and the statements by the Special Rapporteur to the Human Rights Council, Richard Falk and the UN High Commissioner Ms. Navanethem Pillay delivered to the Special Session of the UN Human Rights Council on the 9 January 2009 .

Document One: Report: E/CN.4/2006/29 of 17 January 2006

Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in Palestinian territories occupied since 1967

“QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE”

Some relevant excerpts include paragraphs 54 and 55. See below:

54. In reporting to the Commission and appealing to the United Nations to provide protection to the Palestinian people, the Special Rapporteur is aware of the fact that the organs of the United Nations are divided over the approach to be adopted to the occupied Palestinian territory. On the one hand, the Commission, the General Assembly and ICJ are concerned about the violation of human rights and international humanitarian law in the territory, as manifested in numerous resolutions and in the 2004 advisory opinion of ICJ. On the other hand, the Security Council and the United Nations as a participant in the Quartet are engaged in a strategy of political appeasement, in which respect for human rights, international humanitarian law and the rule of law have less importance. The Security Council has yet to approve the International Court's advisory opinion and studiously avoids any reference to it.²³ The Quartet, comprising the United Nations, the European Union, the Russian Federation and the United States of America, to which primary responsibility for dealing with the Palestinian issue has been delegated, likewise studiously avoids any reference to the advisory opinion and, while making reference to the consequences of the wall, settlements and restrictions on movement, carefully refrains from recognizing the serious violations of human rights to which Palestinians are subjected or to the de-Palestinization of Jerusalem.²⁴ The main explanation for the anodyne declarations made by the Security Council and the Quartet is to be found in the refusal of the United States to accept the advisory opinion of ICJ or to acknowledge the full suffering of the Palestinian people. Another explanation is to be found in the continued adherence of the Security Council and the Quartet to the road map. The road map²⁵ is a "performance-based and goal-driven road map" drawn up in 2003. Today it is hopelessly out of date. First, it is premised on the attainment of a "final and comprehensive permanent status agreement that ends the Israeli-Palestinian conflict in 2005" and such an agreement is not even in sight at the end of 2005. Secondly, it largely predates the construction of the wall, which has come to symbolize Israeli territorial expansion and oppression in the occupied Palestinian territory. Thirdly, it takes no account of the advisory opinion of ICJ, handed down in July 2004, which today constitutes the authoritative statement on the law governing the Israel-Palestine conflict and which has been recognized as such by three of the members of the Quartet. Fourthly, both Israel and the Palestinian Authority have failed to comply with the essential requirements of the road map. In these circumstances, it is suggested that there is a need for a new road map which takes account of present political realities and is anchored in respect for human rights and the rule of law in the resolution of the conflict.

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55. In the prevailing circumstances the Special Rapporteur can do no more than:

(a) Alert the Commission and the United Nations to the serious situation in the occupied Palestinian territory resulting from the continuing violation of human rights and humanitarian law;

(b) Appeal to the Commission and the United Nations to extend protection to the Palestinian people;

(c) Suggest to the Quartet that in future it adopt a position on the Israel-Palestine conflict that takes more account of human rights violations in the occupied Palestinian territory and the refusal of Israel to comply with the advisory opinion of ICJ; and that it revise the road map in accordance with these considerations.

Document Two: Report: A/HRC/4/17 of 29 January 2007

Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied since 1967

“IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED ‘HUMAN RIGHTS COUNCIL’”

Some relevant excerpts include paragraphs 53, 54, 56, 57 and 63. See below:

53. Israel is not alone to blame for the crisis in the OPT. Since the election of Hamas in January 2006, the United States, the European Union and other States, have likewise withheld funds from the Palestinian Authority by reason of its failure to recognize Israel, renounce violence and accept obligations previously assumed towards Israel. The decision of the United States Treasury to prohibit transactions with the Palestinian Authority has, moreover, resulted in banks refusing to transfer money to the PA. To aggravate matters the Quartet has gone along with this policy of political and financial isolation. In order to mitigate the crisis, the EU has set up a Temporary International Mechanism, endorsed by the Quartet, for the relief of Palestinians employed in the health sector, the uninterrupted supply of utilities, including fuel, and the provision of basic allowances to meet the needs of the poorest segment of the population. Although the EU disbursed US\$ 865 million to the Palestinians in this way in 2006 - an increase of 27 per cent compared to EU funding in 2005 - it has not resulted in the payment of salaries to most Palestinians employed in the public sector. Health-care workers and teachers have received some payments, but well short of their full salaries, and pensioners and social hardship cases have also received an allowance. However, owing to the withholding of tax revenues due to the PA by Israel, most government employees remain unpaid and are experiencing difficulty in paying their basic expenses, such as rent and electricity.

54. In effect, the Palestinian people have been subjected to economic sanctions - the first time an occupied people have been so treated. This is difficult to understand. Israel is in violation of major Security Council and General Assembly resolutions dealing with unlawful territorial change and the violation of human rights and has failed to implement the 2004 advisory opinion of the International Court of Justice, yet it escapes the imposition of sanctions. Instead, the Palestinian people, rather than the Palestinian Authority, have been subjected to possibly the most rigorous form of international sanctions imposed in modern times.

Other important paragraphs:

X. INTERNATIONAL ACCOUNTABILITY AND RESPONSIBILITY

56. On a recent visit to the Occupied Palestinian Territory and Israel, the High Commissioner for Human Rights stressed the need for the accountability of Israelis and Palestinians for the violation of international humanitarian law and human rights law. Palestinians who launch Qassam rockets into Israel, killing and injuring civilians and damaging property, should be held individually accountable - that is prosecuted. But so should Israelis who have committed violations of international humanitarian law on a much greater scale. Despite the fact that Israel - unlike Palestine - has a sophisticated and advanced criminal justice system, prosecutions are very rare.

Civil claims were impossible before the Israeli Supreme Court on 12 December 2006 overturned a law that prevented Palestinians from seeking compensation from Israel for damages from Israeli army activities in the OPT. Palestinians harmed in "non-belligerent" army operations in the OPT may now sue for redress. This ruling, however, does not alter the prohibition on compensation to Palestinians harmed in combat operations or to Palestinians belonging to "terrorist organizations" - such as Hamas.

57. Individual criminal accountability is no substitute for State responsibility. A State that violates international law by destroying the property of another State used for humanitarian purposes in an occupied territory may be held responsible by the injured State in accordance with the traditional principles of State responsibility. Moreover a State that systematically violates a peremptory norm of general international law may incur responsibility to the international community as a whole for such conduct; and be subject to an international claim for reparation at the instance of any State prepared to make such a claim.¹² Many States, particularly European States, have suffered damages as a result of Israeli attacks on their humanitarian assistance projects in the OPT. Moreover Israel has systematically violated peremptory norms of international law in the OPT, ranging from the denial of self-determination to serious crimes against humanity. States may well consider bringing claims against Israel under the rules governing State responsibility in order to induce it to comply with its obligations in the fields of human rights and humanitarian law.

...and:

XII. CONCLUSION: ISRAEL, PALESTINE AND THE FUTURE OF HUMAN RIGHTS

63. The Occupied Palestinian Territory is of special importance to the future of human rights in the world. Human rights in Palestine have been on the agenda of the United Nations for 60 years; and more particularly for the past 40 years since the occupation of East Jerusalem, the West Bank and the Gaza Strip in 1967. For years the occupation of Palestine and apartheid in South Africa vied for attention from the international community. In 1994, apartheid came to an end and Palestine became the only developing country in the world under the subjugation of a Western-affiliated regime. Herein lies its significance to the future of human rights. There are other regimes, particularly in the developing world, that suppress human rights, but there is no other case of a Western-affiliated regime that denies self-determination and human rights to a developing people and that has done so for so long. This explains why the OPT has become a test for the West, a test by which its commitment to human rights is to be judged. If the West fails this test, it can hardly expect the developing world to address human rights violations seriously in its own countries, and the West appears to be failing this test. The EU pays conscience money to the Palestinian people through the Temporary International Mechanism but nevertheless joins the United States and other Western countries, such as Australia and Canada, in failing to put pressure on Israel to accept Palestinian self-determination and to discontinue its violations of human rights. The Quartet, comprising the United States, the European Union, the United Nations and the Russian Federation, is a party to this failure. If the West, which has hitherto led the promotion of human rights throughout the world, cannot demonstrate a real commitment to the human rights of the Palestinian people, the international human rights movement, which can claim to be the greatest achievement of the international community of the past 60 years, will be endangered and placed in jeopardy.

Document Three: Report: A/HRC/7/17 of 21 January 2008

Report of the Special Rapporteur of the Commission of Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied since 1967

“HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES”

Some relevant excerpts include paragraphs 52, 53 and 54. See below:

52. Since 2004, the Advisory Opinion has been ignored by the Security Council. While the General Assembly⁴⁰ and Human Rights Council⁴¹ have passed several resolutions reaffirming the Opinion, no attempt has been made by the Security Council to compel Israel to comply with the Opinion or to remind States of their obligation to ensure compliance by Israel with the Fourth Geneva Convention. The reason for this is not hard to find. The Security Council is prevented from giving its backing to the Opinion by the United States which has refused to accept it. Similarly the United States prevents the Quartet from taking steps to implement the Opinion. No statement issued by the Quartet has ever acknowledged the Opinion.⁴²

53. Although the Advisory Opinion of the International Court of Justice is an authoritative statement of the applicable law and is designed to contribute to the framework for peace in the Middle East, it is not legally binding on States. In law, the United States is well within its right to refuse to accept the Opinion in the Quartet. The same applies to the Russian Federation and the European Union - although both have compromised themselves by giving approval to the Opinion by supporting General Assembly resolution ES-10/15 and subsequent resolutions. The position of the United Nations is, however, very different. The International Court of Justice is the judicial organ of the United Nations. Moreover the General Assembly has by an overwhelming majority repeatedly given its approval to the Opinion. This means that it is now part of the law of the United Nations. As such the representative of the United Nations in the Quartet - the Secretary-General or his representative - 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 the Opinion. If the Secretary-General (or his representative) is politically unable to do so he has two choices: either to withdraw from the Quartet or to explain to his constituency - "we the peoples of the United Nations" in the language of the Charter - 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. The first course is possibly unwise at this time as this would deprive the United Nations of a role in the peace process. This makes the second course essential.

54. For 40 years the political organs of the United Nations, States and individuals have accused Israel of consistent, systematic and gross violations of human rights and humanitarian law in the OPT. In 2004 the judicial organ of the United Nations, in its Advisory Opinion, affirmed that Israel's actions in the OPT do indeed violate fundamental norms of human rights and humanitarian law and cannot be justified on grounds of self-defence or necessity. If the United Nations is serious about human rights it cannot afford to ignore this Opinion in the deliberations of the Quartet, as it is an authoritative affirmation that Israel is in serious breach of its international commitments. Failure to attempt to implement, or even to acknowledge, an advisory opinion dealing with international humanitarian law and human rights law, brings the very commitment of the United Nations to human rights into question.



**STATEMENT OF SPECIAL RAPORTEUR FOR THE PALESTINIAN TERRITORIES
OCCUPIED SINCE 1967 FOR PRESENTATION TO THE SPECIAL
SESSION OF THE HUMAN RIGHTS COUNCIL ON THE SITUATION IN THE GAZA
STRIP, 9 JANUARY 2009**

**STATEMENT OF SPECIAL RAPORTEUR FOR THE PALESTINIAN TERRITORIES
OCCUPIED SINCE 1967 FOR PRESENTATION TO THE SPECIAL SESSION OF THE
HUMAN RIGHTS COUNCIL ON THE SITUATION IN THE GAZA STRIP, 9 JANUARY
2009**

- 1. This statement focuses on the impact of Israel's continuing Gaza military campaign, initiated on 27 December 2008, on the humanitarian situation confronting the 1.5 million Palestinians confined to the Gaza Strip. In accordance with the undertaking of the mandate, it confines its comments to issues associated with Israel's obligations as occupying power to respect international humanitarian law (IHL), which refers mainly to the legal obligations contained in the Fourth Geneva Convention of 1949, which sets forth in some detail the legal duties of Israel as the occupying power. The essential obligations of IHL are also considered to be binding legal duties embedded in customary international law. This statement touches on issues of international human rights law (IHR), as well as the implications of severe and sustained violations of either IHL or IHR as raising issues of international criminal law (ICL). It is also necessary to assess the underlying Israeli security claims that the military incursion into Gaza was a 'defensive' operation consistent with international law and the United Nations Charter, and that no 'humanitarian crisis' existed making the scale and nature of the military force used allegedly 'excessive' and 'disproportionate.'**
- 2. Although Israel has contended that it is no longer an occupying power, due to its withdrawal of its forces from within Gaza, it is widely agreed by international law experts that the continued Israeli control of borders, air space, and territorial waters is of a character as to retain Israel status legally as occupying power.**
- 3. The quality of this report is undoubtedly diminished by the absence of first-hand observations of the pre-existing humanitarian situation existing in Gaza, which was to be the objective of a mission undertaken by the Special Rapporteur to gather information for use in making a report to the regular session of the Human Rights Council (HRC) scheduled for March, 2009. This mission was aborted when the Special Rapporteur was denied entry to Israel on 14 December 2008, detained for some 15 hours in a holding cell at Ben Gurion Airport, and expelled on the next day. Such treatment of a UN expert on mission would seem to raise serious issues for the Organization as a whole, bearing on the duties of a member state to cooperate, and to deal with those carrying out UN work with appropriate dignity. It is to be hoped that the government of Israel can be persuaded to reconsider its policy of exclusion that has hampered the work of this mandate. This concern about**

exclusion has been compounded during the period preceding the Israeli attack upon Gaza, as well during the military operations, by denying access to foreign journalists, a policy that has been successfully challenged in Israeli courts, but as yet with no tangible results. As noted in the New York Times, Israel denies media representatives access to the humanitarian impacts of its military operations in Gaza while encouraging journalists to view any harmful effects of the rocket attacks on civilians in Israel. Even requests by the International Committee of the Red Cross to investigate scenes of supposed humanitarian abuse have so far been refused, e.g. to visit the site of military action in the Gazan town of Zeitan that reportedly killed by deliberate action 60 members of the Samouni family, including several children. This issue of access is crucial for the work of Special Rapporteurs and deserves the attention of the HRC, and of the United Nations generally.

4. The rationale for this Special Session is the existence of a humanitarian emergency in Gaza, a set of conditions that has been questioned in many public settings by the Israeli foreign minister, Tzipi Livni. Ms. Livni contends there is no need for a 'humanitarian truce' because there is no humanitarian crisis. She asserts that Israel has allowed shipments of food and medicine to cross the border, but as UNRWA and other UN officials have observed, these shipments will not alleviate hunger and nutritional difficulties unless distribution becomes possible, which is not the case given the war conditions prevailing in most of the Gaza Strip. To what slight extent this dire circumstance can be addressed by the three hour pause in combat operations announced by Israel on 7 January remains to be seen. Beyond the immediate crisis some underlying features should be noted: about 75% of the population lacks access to sanitary water and has no electric power. Such conditions are superimposed on the circumstances of Gazans resulting from the prolonged blockade that had deteriorated the physical and mental health, and the nutritional status, of the population of Gaza as a whole, leaving some 45% of children suffering from acute anemia. Interference in the supply of medicines and health equipment, and border closures, had made it impossible for many Gazans to receive or continue treatment for life-threatening conditions. It was also reliably concluded that up to 80% of Gaza was living under the poverty line, that unemployment totals approached 75%, and that the health system was near collapse from the effects of the blockade. This set of conditions certainly led impartial international observers and civil servants to an uncontested conclusion that the population of Gaza was already experiencing a humanitarian crisis of grave magnitude *prior* to 27 December.

5. The use of force by an occupying power against the security threats emanating from a population under occupation is permissible within the constraints set by international law. Israel claims that its current military campaign is reasonable and necessary given the scale and severity of the rocket attacks directed at Israeli civilian populations living in the South Israel towns of Sderot and Ashdod, and attributed to Hamas. There are several issues that would need to be resolved in evaluating this claim that have not been adequately discussed to date in either diplomatic settings or by the media.

6. It should be pointed out unambiguously that there is no legal (or moral) justification for firing rockets at civilian targets, and that such behavior is a violation of IHR, associated with the right to life, as well as constitutes a war crime.

At the same time, the nature of the offense must be evaluated with the context of its occurrence, including the relevance of the temporary ceasefire that had held since June 2008 until seriously disrupted by a lethal Israeli attack on Palestinian militants in Gaza on 4 November 2008. For the year prior to 27 December, not a single Israeli death resulted from rockets fired from Gaza. Further, since June of 2008 a ceasefire had been observed by both sides, with some infractions taking place, but without altering the willingness of both sides to uphold the ceasefire. During this period Israel had been expected to lift, or at least ease the blockade that had imposed severe hardships on the entire population of Gaza, especially through restraints on the supply of food, medicine and medical equipment, and fuel, but failed to do so. The acute harm done to civilian Gaza has been repeatedly pointed out by leading UN officials on the ground, including the commissioner-general of the UN Relief and Works Agency (UNRWA) that is most directly engaged with the daunting task of meeting the humanitarian needs of Gazans.

7. This blockade in effect for a period of 18 months was unlawful, a massive form of collective punishment, and as such in violation of Article 33 of the Fourth Geneva Convention, and also a violation of Article 55, which requires that the occupying power ensure that the civilian population has sufficient food and that its health needs are addressed. Such blockade does not alter the unjustifiable character of the rocket attacks, but it does suggest two important conclusions from a legal perspective: first, that the scale of civilian harm resulting from Israeli unlawful conduct was far greater than that of Palestinian unlawful conduct; secondly, that any effort to produce a sustainable ceasefire should ensure that Israel as well as Hamas respect IHL, which most concretely means that interferences with the access of goods for the maintenance of normal civilian life must end, and cannot be reestablished as a retaliatory measure if some sort of rocket attack occurs in the future. Similarly, if Israel should impose such constraints in the future, it would not provide any legal cover for resumed rocket attacks or other forms of Palestinian violence directed at Israeli civilians. There are some difficulties in attributing responsibility for all rocket attacks to Hamas. There are independent militias operating in Gaza, and even prior to Hamas, governing authorities were unable to prevent all rocket firings despite their best efforts to do so.

8. The Israeli military campaign was also justified by Israeli leaders as an 'inevitable' and 'unavoidable' response to the persistence of the rocket attacks. Here again it is important to examine the factual setting of Israel's justifications, which go to the reasonableness of such action and its defensive character. **Most accounts of the temporary ceasefire indicate that it was a major Israeli use of lethal force on November 4, 2008 that brought the ceasefire to a de facto end, leading directly to increased frequency of rocket fire from Gaza. It is also relevant that Hamas repeatedly offered to extend the ceasefire, even up to ten years, provided that Israel would lift the blockade. These diplomatic possibilities were, as far as can be assessed, not explored by Israel,** although admittedly complicated by the contested legal status of Hamas as the de facto representative of the Gazan population. This has legal relevance, as a cardinal principle of the UN Charter is to make recourse to force a matter of last resort, making it obligatory for Israel to rely in good faith on nonviolent means to end rocket attacks.

9. It is also important under international law to determine the extent to which the

reliance on force is proportionate to the provocation and necessary for safeguarding security. Here, too, the Israeli arguments seem unpersuasive. As mentioned above, the rocket attacks, although unlawful and potentially dangerous, had caused little damage, and no loss of life. **To mount a major military campaign against an essentially defenseless society already gravely weakened by the blockade accentuates the disproportion of reliance on modern weaponry in combat situations where military dominance was largely uncontested.**

It seems significant that Palestinian casualty totals at this time are estimated to be 640 killed, some 2800 wounded, included many critically, with civilian victims set at about 25% by qualified observers. In contrast, according to the latest reports, four Israeli soldiers have died, apparently all as a result of 'friendly fire,' that is by Israeli firepower wrongly directed. **The one-sidedness of casualty figures is one measure of disproportion. Another is the scale of devastation and the magnitude of the attacks.** It is obvious that the destruction of police facilities, as well as many public buildings, in crowded urban settings represents an excessive use of force even if Israeli allegations are accepted at face value. As discrediting as is the reliance on disproportionate force, is the lack of connection between the alleged threat associated with Gaza rockets and the targets of the Israeli attacks, giving added weight to the claims that the Israeli use of force is a form of 'aggression' prohibited by international law, and certainly excessive in relation to criteria of 'proportionality' and 'necessity.'

10. There have also been a variety of allegations made by qualified observers of Israeli reliance on legally unacceptable targets and on legally dubious weaponry that violate the customary international law prohibition on weapons and tactics that are 'cruel' or cause 'unnecessary suffering.' Among the targets viewed as unlawful under IHL: Islamic University, schools, mosques, medical facilities and personnel (including ambulances). Among weapons that are legally dubious under IHL: phosphorous gas in shells and missiles that burn flesh to the bone; dense inert metal explosives (so-called DIME) that cut victims to pieces, and raise risk of cancer for survivors; depleted uranium associated with deep-penetrating, so-called 'bunker buster' bombs used against Gaza tunnels, possibly causing radiation sickness for anyone exposed over a period of centuries.

11. This dimension of 'unnecessary suffering' associated with the Israeli campaign has an important feature that has not been given attention. In many contemporary situations of warfare large number of civilians seek to escape from harm by moving away from immediate danger, becoming 'internally displaced persons' or 'refugees.' But Israel through its rigid control of exit, directly and indirectly, has denied the civilian population of Gaza the option of becoming 'refugees,' never an option of choice, but reflective of desperation. Its denial tends to lend credibility that the population of Gaza is essentially imprisoned by Israeli occupation policy. From the perspective of IHL this foreclosure of a refugee option for Gazans is a serious aggravation of the dangers posed for a civilian population, and underscores the gravity of the humanitarian crisis that has existed in Gaza since 27 December. Since the military campaign this situation has dramatically worsened. The comment by a Red Cross spokesperson in Gaza City is expressive of the general understanding: "The size of the operations and the size of the misery on the ground is just overwhelming..."

12. From the perspective of the Mandate for oPt the following recommendations seem worthy of the attention at this Special Session:

(1) To request restoring access for Special Rapporteur to the occupied Palestinian territories as an essential feature of UN monitoring role;

(2) To seek General Assembly initiatives with respect to investigating allegations of war crimes;

(3) To propose long-term truce based on cessation of rocket launchings from Gaza and unconditional lifting of blockade;

(4) To request an Advisory Opinion from the International Court of Justice to assess the legal status of Israeli control in Gaza subsequent to Israeli 'disengagement' in 2005.



**Statement of Ms. Navanethem Pillay,
United Nations High Commissioner for Human Rights
to the Ninth Special Session of the Human Rights Council on The
Grave Violations of Human Rights in the Occupied Palestinian
Territory including the recent aggression of
the occupied Gaza Strip**



Geneva, 9 January 2009

Mr. President,
Distinguished Members of the Human Rights Council,
Excellencies,
Ladies and Gentlemen,

I welcome this special session of the Human Rights Council and thank you for this additional opportunity to express my deepest concern over the situation in the Gaza Strip. Reports of attacks across the border between Israel and Lebanon compound the international community's alarm regarding an escalation of violence in the Middle East. The conflict has already caused the loss of hundreds of lives, a rapidly mounting score of injured civilians, the systematic destruction of basic means of subsistence, as well as the dangerous pollution of water resources and the degradation of indispensable services. The situation is intolerable. The ceasefire called for by the UN Security Council must be implemented immediately. Violence must stop.

Let me stress unequivocally that international human rights law applies in all circumstances and at all times. In particular, the right to life should be protected even in the course of hostilities. Belligerents must also abide by international humanitarian law, which upholds the inviolability of non-combatants.

Let me also underscore that while indiscriminate rocket attacks against civilian targets in Israel are unlawful, Israel's responsibility to fulfill its international obligations is completely independent from the compliance of Hamas with its own obligations under international law. States' obligations, particularly those related to the protection of civilian life and civilian objects, are not subject to reciprocity.

Furthermore, under both international human rights law and international humanitarian law, the effective control of the Gaza Strip that Israel exercises places responsibilities on Israel for the welfare of the civilian population there.

I emphasize that article 33 of the Fourth Geneva Convention prohibits collective penalties, or collective punishment of the civilian population. Likewise, all measures of intimidation or of terrorism are prohibited.

I also wish to stress that the three cardinal principles of international humanitarian law, namely proportionality, distinction, and precaution, fully apply in the context of this conflict, as they do in any other war situation. The first principle prohibits attacks that may be expected to cause such loss of civilian life or injury to civilians that would be excessive in relation to the anticipated military advantage. The second principle imposes on belligerents the obligation to distinguish between civilians and combatants, and between civilian objects and military objectives. Attacks may only be directed against combatants or legitimate military objectives. The last norm binds parties to a conflict to take all feasible precautions to avoid, or at least minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.

Distinguished Members of the Human Rights Council,

Harm to civilians caused by rockets fired from the Gaza Strip into Israel is unacceptable. Retaliatory air strikes by Israeli forces exact an unbearable toll in lives and livelihoods, as civilians and civilian infrastructure are constantly exposed to extreme danger in an area that is one of the most densely populated in the world.

I also wish to underline that action on the part of Israel's opponents that may deliberately put civilians at risk in the Gaza Strip is prohibited under international law. This would include the use of people as human shields.

The vicious cycle of provocation and retribution must be brought to an end.

I join the Secretary-General in deploring Israel's totally unacceptable strikes against clearly marked UN facilities where civilians were taking shelter. Scores, including children, were killed or wounded in these attacks. As the Secretary-General noted, the locations of all UN facilities have been communicated to the Israeli authorities. Despite such knowledge, Israel defied the UN request for protection. The killing and wounding yesterday of UN workers led to the UN's decision to suspend its relief operations in the Gaza Strip. Forcing international relief providers to withdraw services in order to protect their staff will undoubtedly increase the vulnerability of civilians. I wish to take this opportunity to praise the remarkable work that UN relief workers and other colleagues have carried out until now under extremely difficult and dangerous circumstances.

Mr. President,

The ceasefire decided by the Security Council must be given effect in order to allow, at a minimum, the delivery of desperately needed humanitarian assistance to the civilian population in the Gaza Strip and the evacuation of the wounded. Moreover, safe passage for civilians who wish to leave the conflict zone must also be granted.

The current crisis follows an 18-month air, sea and land blockade enforced through military means by Israel. The blockade had already caused a massive destruction of

livelihoods and significant deterioration of infrastructure and basic services in the Gaza Strip.

The conflict has now exacerbated shortages of food and medicines. Inadequate medical equipment and supplies, as well as the inability of Gaza's besieged doctors and other medical workers to reach or sufficiently treat the victims, compound an extremely dire situation. The International Committee of the Red Cross has accused Israel of both failing to meet its obligations to help wounded civilians in one specific location in Gaza City, and of preventing the ICRC and the Palestinian Red Crescent from providing assistance to the wounded.

Furthermore, the World Health Organization has reported that several medical workers have been killed while attempting to carry out their duties.

I strongly urge the parties to the conflict to fulfill their obligations under international humanitarian law to collect, care for and evacuate the wounded and to protect and respect health workers, hospitals, medical units and ambulances.

Schools, hospitals, electric power, water supply and sewage networks, which had already reached breaking point during the blockade, must not be further jeopardized by continued strikes. The impossibility of obtaining basic services and the collapse of the civilian infrastructure is exposing an increasingly large proportion of the population to additional risks. Such conditions constitute egregious violations of human rights, including basic economic rights.

Clearly, a three-hour suspension of hostilities allowed by Israel does not allow humanitarian deliveries and services to reach all those who desperately need them.

Excellencies,

Accountability must be ensured for violations of international law. As a first step, credible, independent, and transparent investigations must be carried out to identify violations and establish responsibilities. Equally crucial is upholding the right of victims to reparation. I remind this Council that violations of international humanitarian law may constitute war crimes for which individual criminal responsibility may be invoked.

I stress the need to deploy human rights monitors in both Israel and the Occupied Palestinian Territory who can independently document violations of international human rights and humanitarian law that may have been perpetrated. I also urge that Special Procedures mandate holders be granted unrestricted access to Gaza and the West Bank.

Likewise, the press and nongovernmental organizations should be allowed access into the affected areas in order to inform and assist the public. In this respect, I welcome the recent decision by the Supreme Court of Israel to allow some foreign journalists to enter the Gaza Strip. In its judgment the Court emphasized that freedom of expression, and the freedom of the press to provide information, as well as the right of the public to receive it, do not disappear in time of war. Significantly, the Court further stated that these freedoms and rights acquire an additional value in time of conflict.

Indeed, it is at such times that rights and freedoms must be kept in sharp focus. Thus, I urge all parties concerned to hold human rights at the centre of any discussion aimed at alleviating the tragic situation in the Middle East. I reiterate that human rights must be upheld irrespective of whether the parties reach a political settlement of their dispute.

This special session of the Human Rights Council must provide the basis for opening a much-needed discussion among all parties concerned. I am available to facilitate such discussion which, due to its importance, urgency and necessity, should be placed above politically-charged, partisan considerations. Protection of civilians, humanitarian access, human rights monitoring, the independent scrutiny of the press, and accountability, remain of paramount importance and should be tackled in the framework of rights, obligations, and responsibilities to which they belong.

Surely, the many victims of the conflict in the Middle East, those whose rights are abused on a daily basis, deserve the international community's commonality of purpose and resolve.

Thank you.