

15 January 2009

**Statement of Mr. Miguel d'Escoto Brockmann,  
President of the 63rd Session of the General Assembly,  
at the 32nd Plenary Meeting of the 10th Emergency Special Session on the Illegal  
Israeli Actions in Occupied East Jerusalem and the Rest of the Occupied Palestinian  
Territory**

Excellencies,

We meet today under the most urgent, indeed the most desperate, of circumstances. The crisis in the Occupied Palestinian Territory, specifically in the Gaza Strip, has raged for far too long. Too many have died – especially, too many women and children have died. And too many UN workers have been killed and gravely injured, and too many United Nations buildings, including schools and hospitals, have been damaged and destroyed. In fact, just a few hours ago, while the Secretary-General was on an official visit in their country, the Israeli military bombed UNRWA headquarters in Gaza.

We here in United Nations headquarters have remained too passive for too long as the carnage continues. I am responding to the growing number of Member States, particularly those of the Non-Aligned Movement, who have demanded a resumption of the 10th Emergency Special Session of the General Assembly as soon as possible. Every day, we receive messages from Gaza and from around the world asking, indeed pleading, for the UN to stop the violence, protect civilians and attend to the humanitarian needs. Our business here today is urgent.

During this assault, more than 1,000 Palestinians have been killed, one-third of them children. More bodies remain buried under the rubble, out of reach of humanitarian workers because the shelling is too intense – the living would be killed trying to reach the dead. If this onslaught in Gaza is indeed a war, it is a war against a helpless, defenseless, imprisoned population.

The fact that Gaza's population is imprisoned – they cannot leave, they cannot run, they have nowhere to hide from air strikes, artillery, or naval attacks – is particularly important to us in the United Nations, keeping in mind our obligations under Article 1 of our Charter to defend international law.

Israel remains the occupying power in the Occupied Palestinian Territory, including the Gaza Strip, and it has specific obligations under the Geneva Conventions to protect the occupied population. Instead of providing protection as mandated by international law, the occupying power is denying this population, 80 percent of whom are already refugees and more than half of whom are children, the option to seek refuge and find shelter from the war. Gaza's civilians find themselves locked inside a lethal war zone behind a wall surrounding their densely populated territory. They have no means of escape.

We know the history of Israel's failure to protect the occupied Palestinian population. I will not repeat that history here. But we should keep in mind that under the Geneva Conventions, the obligations of an occupying power to provide safety – along with food, water, education, freedom of religion, and more – to the occupied population is no less, in fact is arguably greater than its obligations to protect its own citizens. When an occupying power fails in that obligation, then it becomes the responsibility of the international community as a whole, represented here in the United Nations, to provide that protection.

The Palestinians, as an unlawfully occupied population, enjoy the right of resistance within the constraints of international humanitarian law. The rocket attacks by Palestinians against Israeli towns are illegal. No one, not in Sderot or Ashkelon, not in Rafah or Beit Hanoun, should have to live in such fear.

It is a terrible irony that this onslaught in Gaza, what Israel calls its “war on terror,” has led to the deaths of – so far – 13 Israelis, ten of them soldiers, at least four by so-called “friendly fire.” A terrible irony because during the five months of the ceasefire last year, not a single Israeli was killed.

Already one year ago, well-known Israeli organizations were denouncing the actions of their own Government towards the civilian population of Gaza, whose very lives it was endangering, as a “crime against humanity”.

These Israeli organizations issued the following statement on 21 January 2008 (almost one year ago):

“We, the Israeli organizations signed below, deplore the decision by the Israeli Government to cut off vital supplies of electricity and fuel..., as well as essential foodstuffs, medicines and other humanitarian supplies, to the civilian population of Gaza. Such an action constitutes a clear and unequivocal crime against humanity.”

The identity of these organizations can be seen in Note III of Annex One which contains a legal analysis of Prime Minister's Olmert's statement rejecting Israeli compliance with Security Council Resolution 1860.

The violations of international law inherent in the Gaza assault have been well documented: Collective punishment. Disproportionate military force. Attacks on civilian targets, including homes, mosques, universities, schools.

I remind you, Excellencies, that last week an Israeli air strike against one of our schools, a United Nations school, killed at least 43 people. Many of them were children. And all of them were beleaguered and frightened families seeking shelter from bombs and air strikes. They sought shelter from the United Nations when their homes were bombed, when they were warned to flee an approaching bombing raid but had nowhere else to go, when they faced the most desperate decision any parents are ever forced to make – how to keep their children safe.

Those families turned to us, to the United Nations, and we failed in our obligation to keep them safe.

But there is still another violation – one in which we, as the United Nations, are directly complicit. The blockade of Gaza, which has now been going on for 19 months, has been directly responsible for the widespread humanitarian crisis in Gaza even before the current Israeli assault began. That blockade, imposed by the Occupying Power, is in violation of Article 33 of the Geneva Convention which prohibits collective punishment under any circumstances.

Yet the blockade has been endorsed, at least tacitly, by powerful parties grouped in the Quartet, placing this Organization in a dubious role and in violation of our obligations under the Charter and international law. The General Assembly, as the nerve center of the whole United Nations system, and certainly as its most representative organ, must always be vigilant in its defense of the United Nations Charter.

There appears to a presumption by some that if the Security Council is seized of a matter or has decided to respond to the current crisis in Gaza within the grouping of the Quartet or other Member States, that this body is bound, and must confine itself to supporting and following their lead. Yet in my capacity as President, in your individual capacity as Member States, and all of us together share both an individual and collective responsibility as the United Nations General Assembly to uphold the Charter and ensure compliance with UN resolutions and international law.

In assuming this office I made a solemn commitment and undertook as a priority of the 63rd session the democratization and revitalization of the General Assembly. While it is not my role to prescribe a solution or pretend to settle this long-standing conflict, it is my duty to remind Member States of their and our responsibilities and obligations under the law of the United Nations, and to call to their attention to relevant instruments, reports and findings to assist in the settlement of the dispute on the basis of international law.

It behooves us, then, to consider the implications of the UN's continued presence in the Quartet, and we should take into due consideration the counsel of our own judicial organs – the International Court of Justice, the Human Rights Council, the UN High Commissioner for Human Rights and the UN Special Rapporteurs.

In 2007 the Special Rapporteur for Human Rights in the Occupied Palestinian Territory, Professor John Dugard, took note of the requirements of the Advisory Opinion of the International Court of Justice regarding certain Israeli violations of international law. He noted that while the United States, the Russian Federation and the European Union, three of the four members of the Quartet, all had the right to ignore the Advisory Opinion of the International Court of Justice, that the “position of the United Nations is, however, very different. The International Court of Justice is the judicial organ of the United Nations.”

Dugard went on to say that... “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 endeavor 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.”

Professor Dugard continues: “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 Occupied Palestinian Territory. In 2004 the judicial organ of the United Nations, in its Advisory Opinion, affirmed that Israel’s actions in the Occupied Territory, do indeed violate fundamental norms of human rights and humanitarian law and cannot be justified on grounds of self-defense 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.”

Even without a new Advisory opinion, it is clear that the earlier judgment stands. Israel continues to violate international humanitarian law and human rights law.

We must look seriously at what John Dugard called ‘the very commitment of the United Nations to human rights’. Is it not incumbent upon us to rethink our role in the Quartet, to rethink whether the United Nations itself is, unwittingly, violating key tenets of international law and our own Charter? The UN plays a unique role in the international arena through defining and defending the international normative framework for securing and maintaining international peace. We must ask ourselves if it is not a conflict of interest for the United Nations to participate in the Quartet. Does not UN participation lend credibility to this ad hoc group that has shown itself willing to negotiate compromises that threaten to fundamentally weaken those norms?

It is time to change that. I convened this meeting today at the request of the 118 Member States that make up the Non-Aligned Movement. We meet today recognizing the obligations of the entire United Nations system, of which its most representative and democratic body is the General Assembly, to work, as Article 1 of our Charter defines our purpose, for universal peace, for the principle of equal rights and self-determination of peoples, for human rights and fundamental freedoms.

We are all fully aware that the Security Council passed resolution 1860 last week. But the relentless onslaught continues in Gaza. Gaza is ablaze. It has been turned into a real burning hell.

The Council called for a ceasefire – but the demand was undermined by the insistence that it be both “immediate” and “durable.” This is double-talk. The obligation for an immediate ceasefire is both unconditional and urgent. Our medium-term goal of a “durable” and lasting peace cannot be achieved without addressing the root causes of the conflict.

The resolution called for unimpeded humanitarian assistance – but it was undermined by the absence of a demand to end the now 19-month closure of Gaza’s border crossings by the occupying power in a blockade supported by some of the most powerful members of the Council itself. We all knew such a call, without implementation or enforcement, would be ignored with impunity.

When the Council passed resolution 1860, I stated that we would “closely analyze the resolution and determine whether it is serious, and contemplates the pertinent measures – both to ensure the immediate ceasefire and the unimpeded access to the humanitarian needs of the Palestinian people.”

Little analysis is needed to determine that the Council resolution has failed to bring about either a ceasefire or unimpeded humanitarian access. Obviously, it was never really meant to achieve those objectives. This is clearly not the fault of the majority of the Council members. It is due to the fact that there were some in the Council (and outside of it) bent on betraying their obligation to our Charter. Instead of supporting a strong, clear unequivocal demand for an immediate ceasefire, those forces succeeded in blocking such a demand, and instead allowing the military action to continue, which indeed seems to have been their purpose.

That result – ensuring that the diplomatic efforts allowed the military attacks to continue – matched perfectly the unambiguous goal of the occupying power. On January 4th, the Foreign Minister of Israel stated clearly that “the intensive diplomatic activity of the last few days aims to alleviate the pressure for a ceasefire, and to allow time for continuing the military operation.” I urge you to examine her words closely: she was engaging in diplomatic activities not to reach a quick end to the killing, but to the contrary, “to alleviate the pressure” to reach a ceasefire. That may be the Israeli government’s goal, but it is surely not mine. Nor can it be the goal of the United Nations – not the Security Council and not the General Assembly. Our goal can only be an immediate ceasefire. We must increase, not alleviate, the pressure to bring about that ceasefire.

So far, the Security Council resolution has been rejected by both sides, Israel and Hamas. According to reports, the Hamas rejection appears to be based primarily on the fact that the resolution did not call for lifting the blockade that has caused such devastation among the Gazan people for 18 months, even before the current military assault. While it should not be a basis for rejecting an immediate ceasefire, numerous United Nations and other humanitarian agencies, have recognized the long-term closure of Gaza’s border crossings as not only causing a humanitarian disaster, but as a clear violation of international law, particularly the Geneva Convention’s obligations on occupying powers to protect the occupied population.

The Israeli rejection is clear: The Prime Minister rejected explicitly and unequivocally any legitimacy or authority for the Security Council, stating that “the State of Israel has never agreed that any outside body would determine its right to defend the security of its citizens.” Israel is a Member State of the United Nations; as such, is it not obligated to accept and indeed implement Security Council decisions?

It seems to me ironic that Israel, a State that, more than any other, owes its very existence to a General Assembly resolution, should be so disdainful of United Nation’s resolutions. Prime Minister Olmert’s

recent statement disavowing the authority of Security Council Resolution 1860 clearly places Israel as a State in contempt of international law and the United Nations.

The foreign minister, dismissing the Council resolution altogether, asserted Israel's "right to self-defense." But if Israel's rejection is based on such a claim, it should recognize that according to Article 51 of the Charter, "measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security." Additionally, the right of self-defense lasts only "until the Security Council has taken measures necessary to maintain international peace and security."

The Security Council took the measure it deemed necessary with the passage of Resolution 1860; even if it had been valid, any Israeli self-defense claim terminated at that moment.

All serious efforts to bring about an immediate ceasefire are urgently needed, and I support them all. Numerous agencies of the United Nations, our key allies among the international humanitarian agencies, important human rights defenders around the world, are all calling for an immediate unconditional ceasefire. Regional groups and Member States are joining the call for an immediate ceasefire. People around the world – in the tens and hundreds of thousands – continue to take to the streets, including here in the Host Country of the United Nations as well as inside Israel, to demand an immediate ceasefire. We at the United Nations can do no less.

The Council may have found itself unable or unwilling to take the necessary steps to impose an immediate ceasefire – but outsourcing these efforts to one or two governments or through the Quartet does not relieve the Council of its own responsibilities under the UN Charter. The Council cannot disavow its collective responsibility. It cannot continue to fiddle while Gaza burns.

Passage of the Security Council resolution does not eliminate our responsibility. We in the General Assembly, who represent ALL the nations and peoples of the world, still have a corresponding individual and collective obligation of our own. And we will respond to that obligation.

And so, Excellencies, we come together today, in this 32nd meeting of the 10th Emergency Special Session of the General Assembly, to respond to this most urgent crisis. We are very late. The Governments of Member States that requested this meeting did not intend, and I did not convene this meeting to be a talk-fest, filled with passionate speeches and leading to no action. I convened this meeting in order to place the power and prestige of the General Assembly – the most representative and most democratic component of the United Nations – in motion towards two urgent demands, after which longer-term issues can be considered: an immediate, unconditional ceasefire and immediate unimpeded humanitarian access.

I know that you share my sense of urgency and our collective commitment to make good on our so-far unmet obligations to the occupied people of Gaza. We need serious and expeditious diplomacy, not false promises.

For the people of Gaza, the human catastrophe continues. Twenty days later, people continue to die. Our obligation is clear. We, the United Nations, must call for an immediate and unconditional ceasefire and immediate unimpeded humanitarian access. We, the United Nations, must stand with the people around the world who are calling, and acting, to bring an end to this death and destruction. We must stand with the brave Israelis who came out to protest this war, and we must stand with those in the frightened city of Sderot who called for “Another Voice” to answer the fear of rocket-fire with reconciliation and not war.

We must stand with the hundreds of thousands of people who have stopped the trains, petitioned their governments, poured into the streets around the world, all calling for an end to war. That is our obligation, our responsibility, our duty, as we work, mourning so many deaths, for an immediate ceasefire.

Of course it will be up to the members of the General Assembly as a whole to determine the resolution we should pass. But I believe that our resolution must reflect the urgency of this moment, the urgency of our commitment to end this slaughter. We do not have time for long complicated resolutions, recalling every previous position and reexamining every unfilled mandate. This is the moment for an emergency response.

I hope, and I believe, that our work today will indeed allow us to make good on our founding promise, now so desperately needed by the people of Gaza – and of Sderot – to end this scourge of war.

Thank you.