



Opening Remarks of the Secretary-General of Asian-African Legal Consultative Organization H. E. Prof. Dr. Rahmat Mohamad on the Seminar “Gaza Blockade and its International Legal Implications”, held on 16th July 2010, from 4:30 PM to 6:PM, at AALCO Secretariat, New Delhi.

Excellencies,

Distinguished Guests,

Ladies and Gentlemen,

It gives me, indeed, great pleasure to extend a warm welcome to all the distinguished guests and participants to this significant and timely seminar on: *“The Blockade of Gaza and its International Legal Implications”*.

The Israeli-Palestine conflict, as you all know, has a long history. The Blockade of Gaza, a very critical aspect of the Israeli/Palestinian conflict, was put into place by Israel in June 2007. The Gaza blockade has left more than 1.4 million Palestinian men, women and children trapped in the Gaza Strip. The blockade has effectively restricted vital supplies such as food, medicine and fuel to "bare subsistence levels", creating a variety of traumatizing challenges to the normalcy of daily life in Gaza. As a form of collective punishment, Israel's continuing blockade of Gaza represents a flagrant violation of international law.

The Israeli military attack on Gaza-bound humanitarian ships, *the Freedom Flotilla*, on international waters on Monday 30 May 2010 is only the recent episode in the Israeli/Palestine conflict. Surely, this tragedy has rocked the conscience of the international community. As with every flare-up of the Israeli/ Palestinian conflict, the air is thick with accusations of violations of international law with both sides claiming the protection of international law. This seminar is intended to explore the many international

legal issues raised by the Flotilla tragedy within the broader legal context of Israel's blockade of the Gaza Strip and the suffering of civilians there. But, before we go any further, it is indispensable that the facts surrounding the incident are set at right, though some of them are a matter of dispute.

Gaza has been under an illegal and internationally condemned blockade since June 2007. Israel maintains its Gaza siege in its full fury, allowing only barely enough food and fuel to enter to stave off mass famine and disease causing a humanitarian catastrophe. Such a policy of collective punishment, initiated by Israel to punish Gazans for political developments within the Gaza strip, constitutes a continuing flagrant and massive violation of international humanitarian law as laid down in Article 33 of the Fourth Geneva Convention. Besides this, the normality of Palestinian life has also been jeopardized by intense episodes of Israeli assault from time to time. For example, from 27 December 2008 to 18 January 2009, the inhabitants of Gaza were subjected to a devastating Israeli military offensive – Operation “Cast Lead” which saw the killing of at least 1,383 Palestinians, including hundreds of civilians. Many thousands of homes were destroyed or severely damaged, as were the electricity and water systems.

The 31 May 2010 Flotilla incident whereby Israeli armed forces raided an international convoy of ships seeking to break the blockade on the Gaza Strip, killing 9 peace activists, has once again shifted attention to the fate of the Palestinian enclave of 1.4 million people. The incident has provoked widespread outcry over the boarding of the ships and Israeli use of force on the one hand, and Israeli assertions of the right to self-defence on the other.

As regards the Israeli naval attack on the Freedom Flotilla, one can easily argue that it was illegal in that these ships were on a humanitarian mission carrying supplies indispensable for the survival of the civilian population of Gaza. The alleged military objective of preventing the importation of weaponry does not arise and hence, hold water. Even if it were, international law does require that any use of force is proportionate. Moreover Israel can not establish a blockade in circumstances where there

is no proper international conflict and where civilian population is enduring hardships on a catastrophic scale.

It is well-known that the United Nations Charter prohibits all uses of force that cannot be justified as self-defence against a prior armed attack and the blockade of Gaza should be unlawful on this account alone. It is equally well-known that international human rights law protects the right to life, and United Nations standards on the use of force and firearms by law enforcement officials set strict guidelines on the response by military and police in law enforcement situations.

Questions have also been raised about the violation of international maritime law by Israel's actions, since the flotilla was around 80 miles from Gaza's coast when Israeli commandos boarded it. The position of the vessels in waters regarded as "the high seas" is well settled in international law in that, vessels on the high seas are subject to the jurisdiction of the flag state of that vessel and that freedom of navigation is guaranteed to them. Hence, it is almost impossible for Israel to justify the boarding of ships and its subsequent attack on unarmed peace activists.

This incident also places renewed attention on the Blockade of Gaza, which has been described as a breach of the Fourth Geneva Convention which strictly prohibits intentionally starving the civilian population and requires that humanitarian supplies essential to survival must be allowed to pass, albeit subject to certain controls by the blockading power. To maintain a population at a level just above the bare minimum needed for survival could never seriously be thought to be consistent with neither the letter of the laws nor its spirit. It is in this sense that Richard Falk, the UN Special Rapporteur for the Occupied Palestinian Territories , has described the blockade of Gaza as a "*crime against humanity*".

Having briefly described the critical international legal issues involved in the Flotilla incident, I would like to frame these issues in the form of questions, which in my view, represent the core legal aspects of the entire episode. In other words, in order to ascertain

the legality of the actions of Israel, answers need to be found for the following questions which are, I must confess, not exhaustive.

1. Does international law permit a naval blockade to be imposed and if so, under what circumstances? [Does Israel's blockade of the Hamas-controlled Gaza Strip and its enforcement of the blockade compatible with international law?]
2. Did Israel have the right to engage the Freedom Flotilla in high seas where freedom of navigation is allowed under the law of the sea?
3. Was the enforcement action – Israeli commandos boarding and attempting to take control of the ship through the use of weapons including live ammunition fire – legal under international law in terms of the principle of proportionality?
4. Did Israel violate international humanitarian law, particularly the fourth Geneva Convention, by its military blockade imposed on Gaza which represent a kind of collective punishment against the civilian population of Gaza?

In an effort to find answers to these questions, we have invited a range of eminent speakers and scholars in this field, whose knowledge and expertise, I am sure, would contribute to fruitful discussions on the topic. Among the panel of eminent persons are:

H.E. Mr. Adli Shaban Hassan Sadeq, the Ambassador of the State of Palestine in India;
H.E. Dr. Mohamed Abdel Hamid Higazy, Ambassador of the Arab Republic of Egypt in India;
H.E. Mr. M. Levent Bilman, the Ambassador of the Republic of Turkey in India;
H.E. Dr. Ahmed Salem Saleh Al-Wahishi, the Chief Representative of League of Arab States in India; and
Prof. Achin Vanaik, Head, Department of Political Science, University of Delhi.

Let me take this opportunity to express my sincere thanks to all the eminent speakers for readily agreeing to come and share their valuable insights with us.

I would like to make it clear that the holding of this seminar reaffirms AALCO's solidarity with and support for the people of Palestine in their quest for peace and justice and the realisation of their legitimate goals and aspirations. It is my earnest feeling that this seminar provides an opportunity for this august audience to acquaint themselves with the harsh socio-economic and humanitarian condition of Gaza and to ponder upon the legal questions generated by the Flotilla tragedy. I sincerely hope that our eminent panelists would enlighten us on various aspects of this issue and thereby, advance our frontiers of knowledge on the subject matter being discussed.

Ladies and gentlemen, thank you again for the opportunity to share these opening remarks with you and I too, am very eager to listen to, and learn from, our eminent speakers.

May I wish the Seminar a fruitful exercise.

Thank you.