

**STATEMENT BY H.E. PROFESSOR DR. RAHMAT BIN MOHAMAD,
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CONFERENCE ON THE REVIEW OF THE EFFECTIVE LEGAL AND JUDICIAL MEASURES
TAKEN REGARDING WAR CRIMES AND CRIMES OF GENOCIDE IN GAZA,
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Distinguished Delegates, Ladies and Gentlemen

At the outset, let me take this opportunity on my personal behalf and on behalf of the Asian-African Legal Consultative Organization (AALCO) to profoundly thank the organizers of this Conference, in general, and H.E. Mr. Saeed Mortezaei, Hon'ble Prosecutor General, (Tehran) Islamic Republic of Iran, in particular, for inviting me to attend this meeting and deliver a statement on this very important topic.

I also extend my heartfelt gratitude to the Government of the Islamic Republic of Iran for extending excellent hospitality and arrangement for this Conference in this beautiful city of Tehran. The organizers deserve special appreciation for choosing a topic of contemporary relevance for deliberation.

Excellencies, Distinguished Delegates, Ladies and Gentlemen,
Allow me to present a brief overview of AALCO-Asian-African Legal Consultative Organization. AALCO was established in the year 1956 as a tangible outcome of the historic Bandung Conference, held in Indonesia, in April 1955. Presently, it comprises of 47 Member States from Asia and Africa with its headquarters in New Delhi. Its main objectives include, among others, to serve as an advisory body to its Member States in the field of international law and as a forum for Asian-African co-operation in legal matters of common concern and to consider and deliberate on issues related to international law that may be referred to the Organization by the Member States and to make such recommendations to governments as deemed necessary.

Deportation of Palestinians and Other Israeli Practices Among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law Particularly the Fourth Geneva Conventions of 1949 is one of the important agenda items on AALCO's agenda. This topic was taken up, at the initiative of the Government of the Islamic Republic of Iran at the AALCO's Twenty-Seventh Session which was held in Singapore (1988). The Government of Islamic Republic of Iran, after a preliminary exchange of views had submitted to the AALCO Secretariat a Memorandum, and the Secretariat was called upon to study the legal consequences of the deportation of Palestinians from occupied

territories. The topic was seriously deliberated at the successive annual sessions and resolutions were adopted. The delegations attending the annual sessions highlighted the violations of international law, particularly international humanitarian law and human rights law committed by the Government of Israel in the Occupied Palestinian Territories (OPT).

The AALCO Secretariat reports prepared annually on this topic had comprehensively documented the violations of international law, particularly international humanitarian law in the OPT. Israel is administering over four decade long military occupation of the Palestinian territories in violation of international law. Israel, as an occupying Power is duty bound to follow the rules of international humanitarian law, particularly, the Fourth Geneva Convention concerning the Protection of Civilian Persons in Time of War, 12 August, 1949. However, it has violated almost every provision of the Convention. There are numerous United Nations Security Council and General Assembly Resolutions condemning Israeli occupation of the Palestinian territories and legal obligation of Israel to withdraw from Palestinian territories. Further, international community almost unanimously recognizes the right to self-determination of the Palestinian people. It may be recalled that the International Court of Justice (ICJ), rendered its Advisory Opinion in the case (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Request for advisory opinion)*) and held that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law. In pursuance to this Opinion of the Court the United Nations General Assembly Tenth Resumed Emergency Special Session on 20 July 2004, overwhelmingly adopted a resolution demanding Israel to comply with the ICJ Advisory Opinion. Despite the overwhelming unanimity, legally, in the form of the Advisory Opinion of the International Court of Justice and the United Nations General Assembly Resolution against the construction of the wall, Israel is still defying world opinion and is continuing its flagrant violation to International Law, International Humanitarian Law, and UN Resolutions.

Excellencies, Distinguished Delegates, Ladies and Gentlemen,
Israeli disengagement from Gaza in 2005 was considered as a major milestone in the Middle East peace process and the creation of an independent Palestinian State. However, the Israeli government's plan to remove troops and Jewish settlements from the Gaza Strip did not end Israel's occupation of the territory. Israeli forces are keeping control over Gaza's borders, coastline and airspace, and reserve the right to launch incursions at will. Israel continues to wield overwhelming power over the territory's economy and its access to trade. However, Gaza is only a small fraction of the land it occupied in the 1967 war. Unless Israel can guarantee a withdrawal from other occupied territories, the Gaza

pullout, with all its conditionalities, will remain meaningless for Palestinians. For the Palestinians, Gaza is nothing without full Israeli withdrawal from all occupied territories and without the right of Palestinian refugees to return to their homes in Israel.

In its clear violation of responsibility under international human rights and humanitarian law to protect the civilian population and civilian installations in Gaza, the Israel forces recently unleashed atrocities amounting to war crime in Gaza, killing numerous innocent civilians, most of them women and children. Israel forces destroyed the infrastructure of Gaza, including schools.

Let me briefly discuss on some of the international responses to this crisis.

Taking note of the situation, UN Security Council resolution 1860 (2009) adopted on 8 January 2009 by a vote of 14 in favour with the United States abstaining, stressed the urgency of and called for an “immediate, durable and fully respected ceasefire, leading to the full withdrawal of Israeli forces from Gaza” and expressed its grave concern at the escalation of violence and emphasized that Palestinian and Israeli civilian populations must be protected in the densely packed territory. Also, Tenth emergency special session of the UN General Assembly on 16 January 2009 adopted a *resolution (ES-10/18) supporting the immediate ceasefire according to Security Council resolution 1860 (2009)* which demanded full respect for Security Council resolution 1860 (2009), including its urgent call for an immediate, durable and fully respected ceasefire, leading to the full withdrawal of Israeli forces from the Gaza Strip.

Further, the Human Rights Council on 12 January 2009 and on 26 March 2009 adopted resolutions on the grave violations of human rights in the Occupied Palestinian Territory including the recent aggression of the occupied Gaza Strip and condemned the Israeli military attacks and operations in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip, which have resulted in the killing and injury of thousands of Palestinians civilians, including a large number of women and children. The Human Rights Council also appointed Richard J. Goldstone, former Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, to lead an independent fact-finding mission to investigate international human rights and humanitarian law violations related to the recent conflict in the Gaza Strip. United Nations also instituted a Board of Inquiry to review and investigate several incidents in the Gaza Strip between 27 December 2008 and 19 January 2009 and in which death or injuries occurred at, and/or damage was done to, United Nations premises or in the course of United Nations operations.

It is noteworthy that Minister of Justice of the Palestinian National Authority on 22 January 2009 on behalf of the Palestinian National Authority, lodged a

declaration pursuant to Article 12(3) of the Statute with the Registrar of the International Criminal Court.

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An analysis of the incidents that unfold in the recent crisis in Gaza strengthen the view that the implementation of international law to a great extent is selective in nature. Israel could commit war crimes in Gaza with impunity despite international community acknowledging that Israel violated basic principles of international humanitarian law. However, the efforts of the international community were a failure and could not stop Israel from committing war crimes.

I would like to emphasize on the latest report of Professor Richard Falk, UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, which focused on the main international law and human rights issues of the attacks by Israel on Gaza. He challenges the widespread emphasis on whether Israeli force was disproportionate in relation to Palestinian threats to Israeli security, and focuses on the question of whether Israeli force was legally justified at all. He concludes that such recourse to force was not legally justified given the circumstances and diplomatic alternatives available, and was potentially a crime against peace. The Special Rapporteur also gives relevance to the pre-existing blockade of Gaza, which was in massive violation of the Fourth Geneva Convention, suggesting the presence of war crimes and possibly crimes against humanity and suggests the unlawfulness of disallowing civilians in Gaza to have an option to leave the war zone to become refugees.

Despite innumerable United Nations Security Council and General Assembly Resolutions and ICJ decisions on this area, the creation of an independent and sovereign Palestine State, free of all occupation, still remains a distant dream. Because of the lack of will power to implement the UN Resolutions, illegal occupation continues and Israel continues with its violation of international law, international humanitarian and human rights law.

AALCO, as an inter-governmental organization, will continue its effort to consolidate the views of Member States to create legal support for Palestinian right of self determination. AALCO as the only regional organization of its kind in the Asian-African continents will serve as a forum to discuss and deliberate upon the legal measures needed to protect the Palestinian rights and with the support of the Member States and UN Bodies and regional organizations, namely, Organization of Islamic Conference (OIC), and League of Arab States, will make every effort to promote Asian-African solidarity on this very pertinent topic.

Thank you all for giving a very patient hearing.