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**Human Rights Council
Ninth Special Session**

**The Grave Violations of Human Rights in the
Occupied Palestinian Territory
including the recent aggression of the occupied Gaza Strip**



**Statement of Ms. Navanethem Pillay
United Nations High Commissioner for Human Rights**

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.