

Translation from the Swedish by the author. The manifestation was organised by Amnesty International, Diakonia, Kvinna till Kvinna (Woman to Woman), Save the Children and the Red Cross.

A few words at a manifestation for peace between Israel and Palestine

by

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Esteemed congregation,

It is my task at this manifestation to speak about the law and the State under the rule of law. As a former Judge and Legal Counsel in my own country and as the Legal Counsel of the United Nations for 10 years in the past it is my duty to be clear.

What we have witnessed through the media over the past few days – to the extent that the media have had a possibility to give a correct picture of the events – is a tragedy. It is difficult to imagine the human suffering that has affected many innocent people through the acts of war that have taken place.

But what we have witnessed are also clear violations of international law. An obvious point of departure in an analysis must be that it is wholly unacceptable and a clear violation of international law to indiscriminately fire rockets from a territory against a neighbouring country for the purpose of harming civilians. This must be forcefully condemned. An important task for the future will be to investigate who bears the responsibility for these terrorist acts. It is of particular importance to clarify to what extent other States and their representatives are behind this. The guilty must be held responsible.

At the same time we must in the analysis realise that the parties have had a long time at their disposal to find a solution to the conflict in the Middle East. The State of Israel was founded more than 60 years ago. For more than 40 years Israel has occupied the West Bank and Gaza. This is where the main cause of the conflict lies. A particular revolting feature is that the conflict is cynically fuelled by others.

On 22 November 1967, the Security Council of the United Nations stated in resolution 242 that Israel should withdraw from territories occupied in the recent conflict and emphasised that every State in the area had a right to live in peace within secure and recognized boundaries.

As we all know, this question is still waiting for its resolution. In reality the situation has worsened because of the fact that Israel has systematically allowed settlements on Palestinian territory in spite of the fact that these settlements have been declared

illegal by three of the main organs of the UN, among them the International Court of Justice.

Israel is building walls and fences on Palestinian territory despite the fact that the International Court of Justice has declared this illegal. The report from January last year of the UN Special Rapporteur on the situation of human rights in the occupied Palestinian territories is a frightening reading. (Professor John Dugard in UN doc. A/HRC/7/17)

It is obvious that over the years this has created a sense of desperation on the Palestinian side. Is there even a glimmer of hope at the horizon?

In my opinion, a heavy responsibility for all this rests with the international community. We must direct our attention, in particular, to the Security Council of the United Nations which is the organ within the UN that has the primary responsibility for the maintenance of international peace and security. Of particular importance is that the five permanent members themselves abide by the law and assume their responsibility.

The right of veto is a legal and political reality. But in today's world we could actually expect that the five permanent members agree that nobody should have to suffer because one among them, for ulterior motives, would like to prevent a determined intervention on the part of the Council.

On 8 January, the Security Council adopted a resolution 1860 (2009) in which the Council among other things calls for an immediate, durable and fully respected ceasefire, leading to the full withdrawal of Israeli forces from Gaza. The Council also recalls the vision of a region where two democratic States, Israel and Palestine, live side by side in peace with secure and recognized borders and refers to its resolution 1850 (2008), adopted as late as on 16 December last year.

Surely, many had expected that also the U.S. would vote in favour of the latest resolution. But no! In fact, because of its actions over many years the U.S. bears a great responsibility for the situation in the Middle East. Let us hope that the incoming President can demonstrate the kind of statesmanship that one is entitled to expect from the person who is the leader of the most powerful nation in the world.

The latest news is that the parties to the conflict are rejecting the Security Council's resolution. This should simply not be tolerated by the Council. We have reason to expect that the Council will react quickly and forcefully. The European Union must also pull its act together and take action.

Over the last 20 years I have been deeply involved in the establishment of the War Crimes Tribunals for the Former Yugoslavia and Rwanda, the International Criminal Court, the Special Court for Sierra Leone and the Extraordinary Chambers in the National Courts of Cambodia.

I cannot see that the situation in the Middle East is different from other situations where the State community has come together to ascertain that suspected war crimes are investigated and that those responsible are brought to justice.

At present accusations are made in different directions. No one should be judged without a proper trial. This is precisely why it is important that the accusations are investigated in a professional manner so that all, and not least those directly affected, can have an answer to the question where the responsibility lies. Bringing those directly responsible to justice would also offer a possibility to remove from the scene the actors who may be the reason that the peace efforts fail.

Finally:

In June last year, the members of the InterAction Council of Former Heads of State and Government gathered here in Sweden. The present Chairman is former Prime Minister Ingvar Carlsson. In a Communiqué of 27 June, the 21 members who were present and who represented the whole political spectrum, made among other the following recommendations:

- Acknowledging that the challenges mankind faces must be addressed through multilateral solutions within a rule-based international system;
- Underlining the importance of the Security Council exercising its mandate effectively and decisively in accordance with the responsibility granted to it by the UN Charter;
- Reinforcing that the Palestinian/Israeli conflict remains a primary issue in the Middle East and that only a negotiated political settlement comprising all relevant actors will produce durable peace.

Wise words from an earlier generation! The question that I have often put to myself in later years is why it is so difficult to transfer wisdom and sense from one generation to another. A 2 500 year old quote has stuck in my memory – the final choir from Antigone by Sophocles (495-405 B.C.). Let me also on this occasion end by reading this quotation:

Wisdom is the supreme part of happiness;
and reverence towards the gods must be inviolate.
Great words of prideful men
are ever punished with great blows,
and, in old age,
teach the chastened to be wise.