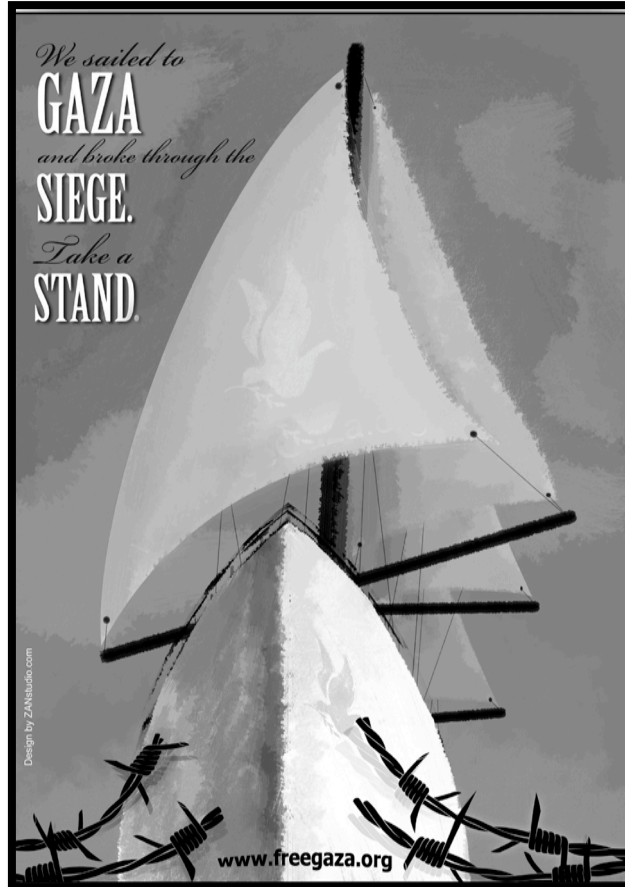


Summary of the UN Human Rights Council's Fact-Finding Mission Report



We have been the only organization to send nine voyages to Gaza, reaching Gaza's port, successfully entering 5 times in 2008. The flotilla organized by a coalition of six was violently stopped May 31, 2010. That action by Israel has caused several countries to step up and start collecting money to send boats...the UK, the US, Belgium, Spain, Switzerland, Italy, Holland, Norway, Ireland...are all planning on sending boats in the Spring of 2011. Your donations and support are vital. Below is the summary of the UN Human

Rights Council Fact-Finding Mission. Read it and pass it around. It is a vitally important document for us all. Thank you for your support and your donations.

On the next three pages is the summary of the report for your use put together by our attorney, Audrey Bomse. The full report can be found at

<http://www.freegaza.org/en/home/56-news/1251-gaza-flotilla-attack-un-report-condemns-israeli-brutality>

The independent international fact-finding mission to investigate the Israeli attack on the Freedom Flotilla included a retired Judge of the International Criminal Court and former Chief Prosecutor of a UN-backed Special Criminal Court. The panel, which the State of Israel refused to recognize or cooperate with, took direct evidence from 112 eyewitnesses, reviewed forensic evidence, inspected the ship, Mavi Marmara, scene of most of the violence, and reviewed countless written statements. Its report issued on 22 September 2010, found:

- **Based on an “overwhelming preponderance of evidence from impeccable sources... a humanitarian crisis existed in Gaza”** on the date the flotilla was attacked by Israeli forces - and still exists today. The Israeli blockade is a matter of increasing concern to the international community, including the UN Security Council, which characterized the situation in Gaza as “not sustainable” and called for the “unimpeded distribution throughout of humanitarian assistance.” **The deplorable situation existing in Gaza “is totally intolerable and unacceptable in the 21st century.”**
- **Because a humanitarian crisis exists in Gaza, Israel’s blockade is unlawful** and “cannot be sustained in law... regardless of the grounds” used as justification. Israel’s blockade is collective punishment, in violation of article 33 of the Fourth Geneva Convention (IV GC) and inflicts civilian damage disproportionate to any military advantage. Since the Freedom Flotilla neither presented an imminent threat to Israel nor was designed to contribute to a war effort against Israel, **intercepting the flotilla “was clearly unlawful” and cannot be justified” as self-defence.**
- Gaza remains occupied territory. Under the IV GC, the flotilla passengers, being civilians, were **protected persons** and Israel cannot use military force against them. Protected persons may not be killed, tortured, ill-treated, suffer degrading treatment or have their property destroyed, unless absolutely necessary for a military operation.
- **Since Israeli interception of the flotilla was unlawful, the use of force by the Israeli military in seizing control of the vessels was also unlawful.** Regardless of whether the operation was legal or not, Israeli forces were obliged to take control in accordance with international human rights law.
- The stated aims of the Freedom Flotilla were to: (1) draw international attention to the situation in Gaza and the effect of the blockade on the people living there; (2) break the illegal blockade; and (3) deliver humanitarian and construction supplies.
- Some people on board the Mavi Marmara were prepared to defend the ship against any boarding attempt. The fact that they engaged in last-minute efforts to fashion rudimentary weapons prior to the Israeli military boarding confirms the Mission’s finding that no weapons were brought on board the ship, certainly no firearms.
- After unsuccessful attempts to board the Mavi Marmara from the sea, which were repelled by passengers using water hoses¹ and throwing various items at the zodiac vessels, the Israeli forces should have re-evaluated their plans, as it became obvious that putting soldiers on board might lead to civilian casualties.
- Instead, Israeli helicopters were brought in and there was live firing from three helicopters onto the top deck prior to the soldiers’ descent. In addition to live fire, Israeli forces used paintballs, plastic bullets, stun grenades and tear gas. A fight ensued between some passengers and the first soldiers to descend, during which three soldiers were captured. They were protected from those who wanted to harm them and received rudimentary medical treatment from doctors on board.
- Israeli soldiers continued shooting live ammunition, beanbags and plastic bullets at passengers who had already been wounded. Soldiers fired live ammunition from the top deck at passengers on the bridge deck below, none of whom posed any threat to Israeli forces, some who were trying

¹ Using water hoses is in accordance with the recommendations of the International Maritime Organization’s circular to ship operators on preventing acts of piracy. Circular Msc.1/Circ.1334, date 23 June 2009.

to take refuge or assisting others to do so. The shooting continued even after a white shirt was raised to indicate surrender.

- During the 45-50 minute operation, nine passengers were killed, more than 24 seriously injured by live ammunition and a large number of others were wounded by plastic-coated steel bullets, beanbags and paint balls.

“The circumstances of the killing of at least six of the passengers were consistent with extra-legal, arbitrary and summary execution.” Forensic analysis shows that two passengers killed on the top deck were shot at close range while lying on the ground. Furkan Dugan, a 19-year-old US citizen, was filming with a small video camera when he was shot five times in the back of his body, except for the face wound, which forensic analysis indicates was delivered at point blank range while he was lying on his back.

- More than 30 passengers needed immediate medical attention. Pleas in Hebrew and English to Israeli forces to provide necessary treatment were ignored, and it was two hours before they were treated. Wounded passengers, including those injured by live fire, were handcuffed.
- Initially, when the soldiers met significant resistance, they may have believed in an immediate threat to life or serious injury. This might have justified the use of firearms against specific passengers. **However, the Israeli soldiers throughout the operation used lethal force “in a widespread and arbitrary manner which caused an unnecessarily large number of persons to be killed or seriously wounded.”** A well-trained force, such as the Israeli military, should have successfully contained a relatively small group of passengers armed with sticks and knives, and secured the ship without the loss of life or serious injury to either passengers or soldiers. “Once the order to use live fire had been given, no one was safe.”
- After the Mavi Marmara was seized, the vast majority of passengers and crew were handcuffed and forced to kneel on the various decks for hours in harsh conditions, some enduring physical abuse, including kicking, punching and hitting with rifle butts. There was widespread misuse of handcuffs by the soldiers who tightened the plastic handcuffs, causing pain, swelling and loss of feeling and sometimes long-lasting neurological damage. “The handcuffs were deliberately used to cause pain and suffering.” The manner in which passengers were treated “was cruel and inhuman in nature... **“Insofar as these abuses amounted to deliberate punishment or were an attempt to intimidate them for participation in the flotilla and/or activities to prevent the interception of the flotilla, the treatment tended towards torture.”**”
- Passengers on the other five boats in the flotilla engaged in passive resistance. Israeli soldiers fired stun grenades, paintballs and rubber bullets as they boarded, hitting several passengers and tasing others. The force used by the Israeli soldiers in intercepting the Challenger 1, Sfendoni and Eleftheri Mesogios “was unnecessary, disproportionate, excessive and inappropriate...”

Since the Israeli interception of the flotilla was unlawful, detaining over 700 passengers and crew, first on board the vessels, then at Ella prison, was also unlawful; it had “no basis in law [and] was arbitrary in nature.” In taking control of the various boats, the Israeli forces committed grave violations of international human rights law, including wilful killing, torture or inhuman treatment and causing great suffering or serious injury to body or health...”

- None of the foreign nationals was ever charged with any offense or brought before a judge. While the detention phase purported to proceed within a framework of legality, pervasive hostility towards the passengers was shown, allowing abuse to take place” at the port of Ashdod, at the prison and at the airport, which **“violated basic standards of civilized treatment of detainees.”**
- **“Extreme and unprovoked violence perpetrated by uniformed Israeli personnel”** was evident at Ben Gurion Airport, as passengers protested their deportation. “None of the violence [which included beatings, chokings and baton charges] seems to have been justified... Military and police personnel at the airport exhibited serious and unprofessional lapses of military discipline while

commanding officers failed to intervene promptly. Much of the behaviour was surely criminal under domestic Israeli law.”

Overall, **“[t]he conduct of the Israeli personnel toward flotilla passengers was not only disproportionate to the occasion but demonstrated levels of unnecessary and incredible violence, constituting grave violations of human rights law and international humanitarian law.”**

- The Israeli authorities confiscated large amounts of cash and personal belongings, including hundreds of laptop computers, mobile phones, and much photographic and video recording equipment, and clothing. There was no system in place to properly record items confiscated or identify personal effects in order to return them to the rightful owners.
- Among the items confiscated and not returned by the Israeli authorities is massive video and photographic footage recorded by passengers, including many professional journalists on the flotilla who documented the Israel assault. The Israeli authorities have released a very limited amount of this footage for public access, in an edited form, but the vast majority has remained in the private control of the Israeli authorities. **“[T]his represents a deliberate attempt by the Israeli authorities to suppress or destroy evidence... Retaining unlawfully seized property remains a continuing offense, and Israel is called upon to return such property now.”**

The facts establish that the victims have a right to an effective remedy, including reparations and compensation. **The grave breaches of the Fourth GC “may give rise to individual criminal responsibility.”**

“[T]here is clear evidence to support prosecutions of the following crimes... wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health.”

Finally, the Fact-Finding Mission (FFM) considered humanitarian organizations that wish to intervene in situations of long-standing humanitarian crisis where the international community is unwilling to take positive action. While it distinguished between activities taken to alleviate the crises and action to address the causes creating the crisis (i.e., political action), **the FFM classified both activities as forms of humanitarianism and called for recognition of “an agreed form of intervention” by civil society in humanitarian crises.**

NOTE: The Uribe Panel of Inquiry, established by the UN Secretary-General, is tasked merely to receive and review the reports of the national investigations by Turkey and Israel (the Turkel Committee). Its mandate is not to review possible violations of international law, but “to recommend ways of avoiding similar incidents in the future.” Rather than concern itself with investigating possible criminal behaviour and justice for the victims, the ultimate goal of the Uribe Panel is to “positively affect the relationship between Turkey and Israel...”²

As the Human Rights Council Fact-Finding Mission observed, **“public confidence in any investigative process ... is not enhanced when the subject of the investigation either investigates himself or plays a pivotal role in the process.”**

² Daily press briefing by the Office of the Spokesperson for the Secretary-General, 2 August 2010.