On May 31st, 2010, Israeli forces intercepted a flotilla on its way to Gaza with humanitarian aid. The interception resulted in the injury of many on board the vessels, and the deaths of nine humanitarian aid passengers.

Following an international outcry over the tragedy, on June 2nd, 2010, the Human Rights Council of the United Nations passed a resolution establishing a fact-finding mission (“Mission”) to investigate the conduct of Israeli forces involved.

The Mission consisted of three judges:

- Judge Karl T. Hudson-Phillips, Q.C., retired Judge of the International Criminal Court and former Attorney General of Trinidad and Tobago (Chairman and head to the Mission)
- Sir Desmond de Silva, Q.C. of the United Kingdom, former Chief Prosecutor of the United Nations-backed Special Court for Sierra Leone
- Ms. Mary Shanthi Dairiam of Malaysia, founding member of the Board of Directors of the International Women’s Rights Action Watch Asia Pacific and former member of the Committee on the Elimination of Discrimination Against Women

There was also a secretariat of experts to support the Mission.

During its investigation, the Mission sought information from and cooperation with the Governments of Turkey and Israel, the two main countries involved, as well as with their Permanent Representatives in Geneva and those of Jordan, the United Kingdom and the United States of America. According to the Mission, the Israeli government refused to recognize or cooperate with the investigation.

The Mission spent months gathering and analyzing information from more than 100 witnesses, including eye witnesses, government officials, medical personnel and forensic experts, and other sources, including written statements, video and photographic evidence.

The Mission evaluated whether Israeli forces had violated international law, and in particular, international humanitarian and human rights law. On September 22nd, 2010, the Mission published its report (“Report”).

After outlining the historical context of the blockade on Gaza, the reasons for its illegality, the facts surrounding the preparation and implementation of the plans for the humanitarian aid flotilla, the Israeli interception with each flotilla vessel, and the manner in which passengers were treated during and after Israeli forces raided them, the Mission came to the following conclusion:

The conduct of the Israeli military and other personnel towards the flotilla passengers was not only disproportionate to the occasion but demonstrated levels of totally unnecessary and incredible violence. It betrayed an unacceptable level of brutality. Such conduct cannot be justified or condoned on security or any other grounds. It constituted grave violations of human rights law and international humanitarian law. Para. 264.

The following are excerpts and notes from the Report, which convey key factual and analytical points that led the Mission to its conclusion.
The Blockade

Given the shocking conditions under which Palestinians in Gaza have been forced to live as a result of the blockade imposed by Israel since June 2007, the Mission emphasized that the blockade violated international law. Furthermore, the Mission determined the Israeli blockade of the Gaza strip was partially motivated by the desire to inflict collective punishment upon Palestinians for electing Hamas. For these reasons, the Mission concluded that the blockade itself violated international law. Therefore, the Mission argued, intercepting the vessels delivering humanitarian aid to the people of Gaza was also a violation of international law and could not be justified.

“The Mission has come to the firm conclusion that a humanitarian crisis existed on the 31 May 2010 in Gaza... Any denial that this is so cannot be supported on any rational grounds. One of the consequences flowing from this is that for this reason alone the blockade is unlawful and cannot be sustained in law.” Para. 261.

The Flotilla

“The stated aims of the Flotilla, as testified by the leaders of the Free Gaza Movement and IHH, were threefold: (1) to draw international public attention to the situation in the Gaza Strip and the effect the blockade; (2) to break the blockade; and (3) to deliver humanitarian assistance and supplies to Gaza.” Para. 79.

“All the passengers on board the ships comprising the flotilla who appeared before the Mission impressed the members as persons genuinely committed to the spirit of humanitarianism and imbued with a deep and genuine concern for the welfare of the inhabitants of Gaza.” Para. 273.

Interception by Israeli Forces

“In response [to radio contact by Israeli Navy], the captains of the various vessels stated that their destination was Gaza and the purpose was to deliver humanitarian aid. They also asserted that the Israeli forces did not have the right to order the vessels to change course and that the blockade referred to was illegal. A representative of the Free Gaza Movement spoke to the Israelis on behalf of the whole flotilla, reiterating that the passengers were unarmed civilians delivering humanitarian aid and that none of the ships that should be considered as any form of threat to Israel. At no stage was a request made by the Israeli Navy for the cargo to be inspected. Contacts with the Israeli Navy continued until around 0200 hours when communication equipment was jammed by the Israeli forces, cutting them off to all external communications.” Para. 109.

Events on board the M.V. Mavi Marmara

“The Mission has found no evidence to suggest that any of the passengers used firearms or that any firearms were taken on board the ship. Despite requests, the Mission has not received any medical records or other substantiated information from the Israeli authorities regarding any firearm injuries sustained by soldiers participating in the raid. Doctors examined the three soldiers taken below decks and no firearm injuries were noted. Further, the Mission finds that the Israeli accounts so inconsistent and contradictory with regard to evidence of alleged firearms injuries to Israeli soldiers that it has to reject it.70” Para. 116.

“Israeli soldiers continued shooting at passengers who had already been wounded… Furthermore, some of the wounded were subjected to further violence including being hit with the butt of a weapon, being kicked in the head, chest and back and being verbally abused. A number of the wounded passengers were handcuffed and then left unattended for some time before being dragged to the front of the deck by their arms or legs. Para. 118.”
“None of the four passengers who were killed [during the first phase], including a photographer who at the time of being shot was engaged in taking photographs and was shot by an Israeli soldier positioned on the top deck above, posed any threat to the Israeli forces.” Para. 120.

“During the shootings on the bridge deck and as it became apparent that a large number of passengers had become injured, Bulent Yildirim, the President of IHH and one of principal organisers of the flotilla, removed his white shirt which was then used as a white flag to indicate a surrender. This does not appear to have had any effect and live firing continued on the ship.” Para. 121.

“The flotilla organisers and other passengers engaged in efforts to request the Israeli forces to provide the necessary treatment to the wounded persons . . . These attempts proved unsuccessful and it was up to two hours before the Israeli forces took out the wounded persons. However, the wounded were required to leave the cabins themselves, or taken outside in a rough manner, without apparent concern for the nature of their injuries and the discomfort that this would cause.” Para. 130.

“The wounded passengers were taken to the front of the top deck where they joined other passengers injured during the operation on the top deck and where the bodies of persons killed during the operation had been left. Wounded passengers, including persons seriously injured with live fire wounds, were handcuffed with plastic cord handcuffs, which were often tied very tightly causing some of the injured to lose sensitivity in their hands. These plastic handcuffs cannot be loosened without being cut off, but can be tightened. Many were also stripped naked and then had to wait some time, possibly as long as two-three hours, before receiving medical treatment. Medical treatment was given to a number of wounded persons on the top deck by the Israeli forces.”76” Para. 131.

“In the process of being detained, or while kneeling on the outer decks for several hours, there was physical abuse of passengers by the Israeli forces, including kicking and punching and being hit with the butts of rifles. One foreign correspondent, on board in his professional capacity, was thrown on the ground and kicked and beaten before being handcuffed. The passengers were not allowed to speak or to move and there were frequent instances of verbal abuse, including derogatory sexual remarks about the female passengers. Passengers were denied access to toilet facilities or made to wait for lengthy periods before being escorted to the toilet and then forced to use the toilet with Israeli soldiers watching and while handcuffed. Some passengers were in serious discomfort as a result, while others used makeshift receptacles, such as plastic bottles and others still were forced to urinate on themselves. The Israeli forces also employed dogs and some passengers received dog bite wounds. Some witnesses who suffer from chronic medical conditions, such as diabetes or heart conditions, were not provided access to their required medicines which were taken by Israeli soldiers.” Para. 134.

“The manner in which plastic handcuffs were attached to the wrists of passengers caused severe pain and discomfort. There was widespread misuse of the handcuffs by the Israeli soldiers who tightened the plastic handcuffs to an extent that caused pain, swelling, a loss of blood circulation in the hands and the loss of sensitivity in their hands and fingers. Most passengers who requested that the handcuffs be loosened were ignored or it resulted in the handcuffs being further tightened. A number of passengers are still experiencing medical problems related to the handcuffing three months later and forensic reports confirm that at least fifty-four passengers had received injuries, transversal abrasions and bruises, as a result of handcuffing on board the Mavi Mamara.” Para. 135.

Events aboard the Challenger 1

“The passive resistance offered by the passengers was met with force. One woman’s head was hit against the deck of the boat and then stepped on by an Israeli soldier. Passengers were handcuffed very tightly with plastic
ties behind their backs, while the woman injured in the face was left unattended.” Para. 139.

**Events aboard the Sfendoni**

“The soldiers attempted to stop a medical doctor from treating the passengers’ injuries, saying that the army medical officer on board would treat them. But since he was masked and armed like the other soldiers, no passengers would consent to be treated by him. The doctor said that they would have to shoot him to prevent him doing his job.” Para. 146.

**Legal Analysis of the Interception**

“Nevertheless, throughout the operation to seize control of the Mavi Marmara, including before the live fire restriction was eased, lethal force was employed by the Israeli soldiers in a widespread and arbitrary manner which caused an unnecessarily large number of persons to be killed or seriously injured. Less extreme means could have been employed in nearly all instances of the Israeli operation, since there was no imminent threat to soldiers; for example in relation to the operation to move down to the bridge deck and seize control of the ship and the firing of live ammunition at passengers on the bow deck of the ship. Even in a situation where three individual soldiers have been injured and detained, the objective of freeing these soldiers does not legitimate the use of force outside applicable international standards and soldiers must continue to respect and preserve life and to minimize injury and damage.” Para. 167

“The circumstances of the killing of at least six of the passengers were in a manner consistent with an extra-legal, arbitrary and summary execution.” Para. 170

“The mass detention of more than 700 passengers and crew on board the six vessels had no basis in law, was arbitrary in nature and is a violation of Article 9 of the International Covenant on Civil and Political Rights.” Para. 176.

“During the period of detention on board the Mavi Marmara the passengers were subjected to treatment that was cruel and inhuman in nature and which did not respect the inherent dignity of persons who have been deprived of their liberty.” Para. 178.

“The Mission is satisfied that the manner in which the handcuffs were used was clearly unnecessary and deliberately used to cause pain and suffering to passengers.” Para. 179.

**At the Port of Ashdod**

“A victim and witnesses provided a vivid description of the circumstances in which one passenger, a Greek national, was severely beaten for refusing to provide his fingerprints to the Israeli authorities. The passenger was dragged along the ground for some distance and then surrounded by a large group of Israeli officials who proceeded to beat him severely, including the deliberate fracture of his leg. His cries for help were ignored, and one witness noted uniformed officials, both male and female, laughing at him. The passenger’s broken leg was not treated until after he had left Israel.” Para. 190.

“One passenger, who made a general protest about the way the passengers were being treated, was told by an Israeli officer: ‘You are in Israel now; you have no rights.’” Para. 192.

“Perhaps the most shocking testimony, after that relating to the violence on the Mavi Marmara, provided to the Mission was the consistent accounts of a number of incidents of extreme and unprovoked violence perpetrated
by uniformed Israeli personnel upon certain passengers during the processing procedures inside the terminal at Ben Gurion International Airport on the day of deportation. These accounts were so consistent and vivid as to be beyond question. An intimidating number of armed soldiers and police were present inside the terminal building. Some passengers said that these officers were “spoiling for a fight”. All passengers had been subjected to multiple searches and were completely under the control of the Israelis by this stage. Most passengers were continuing to refuse to sign deportation documents and some were determined to make a point about the legality of the process by insisting on a court hearing to confirm the deportation. None of the violence described seems to have been justified.” Para. 202.

In enumerating the specific violations of the law, the Mission notes time did not permit an exhaustive compilation of all offences. “However,” the Mission emphasizes, “there is clear evidence to support prosecutions of the following crimes within the terms of article 147 of the Fourth Geneva Convention: willful killing; torture or inhuman treatment; willfully causing great suffering or serious injury to body or health.” In addition, the Mission found that Israel had violated binding international human rights law, including: “right to life (article 6, ICCPR); torture and other cruel, inhuman or degrading treatment or punishment (article 7, ICCPR; CAT); right to liberty and security of the person and freedom from arbitrary arrest or detention (article 9, ICCPR); right of detainees to be treated with humanity and respect for the inherent dignity of the human person (article 10. ICCPR); freedom of expression (Article 19, ICCPR).” Para. 265.

The Report called on Israel to hold those responsible for these violations accountable for their actions:

“The Mission notes that the facts established give rise to a series of violations in law. In accordance with the provisions of the International Covenant on Civil and Political Rights, the victims of such violations have a right to an effective remedy which includes judicial remedies as well as the right to reparations which should be proportionate to the gravity of the violations. In cases of torture, victims should in addition be afforded medical and psychological care. Finally, article 9 (5) of the Covenant provides for a specific right to compensation. As far as the grave breaches of the Fourth Geneva Convention are concerned, these may give rise to individual criminal responsibility.” Para. 258.

“In the past, Israel has not honoured its obligations referred to in the preceding paragraph. It is hoped that on this occasion the Israeli authorities and those concerned will carry out prompt, independent and impartial judicial investigations of violations of international law, including international humanitarian law and human rights law, with a view to bringing the perpetrators to justice.” Para. 259.