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Gaza blockade must be lifted following UN panel finding on flotilla raid

Amnesty International today welcomed a UN panel's finding that the Israeli military used excessive force in the interception of a Gaza-bound aid flotilla on 31 May 2010, and again urged Israel to end the collective punishment of Gaza's 1.5 million residents by completely lifting its four-year siege on the Gaza Strip.

The report concludes that the Israel Defense Forces (IDF) used excessive force in the takeover of one of the ships, the *Mavi Marmara*, and concurs with Amnesty International's assessment that Israel has failed to account for the deaths of nine Turkish nationals in the raid. The UN Panel of Inquiry, which was led by Sir Geoffrey Palmer and reviewed the Israeli and Turkish investigations into the incident, notes that "forensic evidence showing that most of the deceased were shot multiple times, including in the back, or at close range has not been adequately accounted for in the material presented by Israel."

An International Fact-Finding Mission established by the UN Human Rights Council to examine the Israeli interception concluded in its September 2010 report that the IDF used "unnecessary, disproportionate, excessive and inappropriate" force during the raid on the *Mavi Mamara*, and that "at least six of the killings can be characterised as extra-legal, arbitrary and summary executions". It also concluded that at least 24 passengers on the *Mavi Mamara* were seriously injured by live ammunition fired by Israeli forces.

As noted by the Fact-Finding Mission's September 2010 report, the right to an effective remedy should be guaranteed to all victims. The Palmer report recommends that Israel issue "an appropriate statement of regret" and compensate the families of the deceased and those injured in the raid. Amnesty International stresses, however, that an apology and compensation are only two elements of victims' right to an effective remedy, which also includes accountability through criminal prosecutions where sufficient evidence is available.

Amnesty International has condemned the comprehensive closure regime imposed by Israel on the Gaza Strip since June 2007 as collective punishment, in violation of Israel's obligations as an occupying power under international humanitarian law. The question of the legality of this closure regime, often referred to as the Gaza "blockade", was not directly addressed by the Palmer report, which focused on the naval blockade of Gaza. The report does, however, note that the humanitarian situation in Gaza is "unsustainable", and it calls on Israel to "continue with its efforts to ease its restrictions on movement of goods and persons to and from Gaza".

Amnesty International believes that this recommendation is insufficient. Gaza's 1.5 million residents should not simply be seen as recipients of humanitarian assistance, but as people with rights to health, education, work, an adequate standard of living, and freedom of movement, all of which continue to be violated by the Israeli-imposed siege. Israel should completely lift its illegal siege on Gaza, which violates the prohibition on collective punishment in the Fourth Geneva Convention. This means allowing exports as well as imports, fully opening all the crossing points under Israeli control, allowing Gazans to use arable land inside the Strip currently off limits due to the open-fire rules employed by the IDF in the "buffer zone", allowing Palestinian fishermen access to their coastal waters, and allowing

travel between Gaza and the West Bank, which are considered as one territory under the Oslo Accords and international humanitarian law.

The Palmer report's finding that the naval blockade is lawful should not be interpreted to mean that the entire closure regime imposed on Gaza is legal. As the occupying power in Gaza, Israel has an obligation to protect all those under its jurisdiction. Amnesty International has condemned the firing of indiscriminate rockets from Gaza into Israel as war crimes, and notes that Israel may take necessary and proportionate security measures against these attacks, including preventing weapons from entering the Gaza Strip. But it must also uphold Gazans' rights, which have been systematically violated for more than four years by the comprehensive blockade.

The closure has decimated Gaza's private sector, and more than 70 per cent of the population are currently dependent on humanitarian aid. Hospitals, schools, infrastructure, and many of the thousands of homes damaged and destroyed in Operation "Cast Lead", the 22-day Israeli military offensive in December 2008 and January 2009, have yet to be rebuilt or repaired because of Israeli restrictions on importing construction materials. Despite Israel's promises to ease these restrictions, since January 2011, only about 10 per cent of the monthly imports of construction materials permitted prior to June 2007 have entered Gaza.

According to its terms of reference, one of the UN Panel of Inquiry's aims was to "recommend ways of avoiding similar incidents [to the 2010 flotilla raid] in the future". The best way to avoid similar incidents is for Israel to fully and immediately lift the siege imposed on Gaza since June 2007, and allow Gazans to rebuild the homes, schools, clinics and infrastructure destroyed by the Israeli military.

Background

In August 2010, UN Secretary-General Ban Ki-moon announced the establishment of a Panel of Inquiry to examine the Israeli raid on the flotilla on 31 May 2010, in which nine Turkish nationals were killed. The four-member Panel was chaired by Sir Geoffrey Palmer, the former Prime Minister of New Zealand, and also included former Colombian President Alvaro Uribe as well as Israeli and Turkish representatives. The Panel did not have the power to compel witnesses to testify and based its review on the Israeli and Turkish national investigations into the incident, which reached very different conclusions. Its report was due to be published today after numerous delays, but a copy was leaked by *The New York Times* yesterday and is available at: <http://graphics8.nytimes.com/packages/pdf/world/Palmer-Committee-Final-report.pdf>.

The International Fact-Finding Mission, established by the UN Human Rights Council, issued its report on 27 September 2010. The report is available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.pdf.

The Israeli inquiry was conducted by Public Commission to Examine the Maritime Incident of 31 May 2010 and chaired by former Israeli Supreme Court Justice Jacob Turkel. The Turkel Commission published its report on 23 January 2011. Amnesty International's critique of the Turkel Commission report is available at: <http://www.amnesty.org/en/library/info/MDE15/013/2011/en>.

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