



The Illegality of Israel's Blockade of Gaza and Attacks on the Free Gaza Flotilla

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In the pre-dawn hours of May 31, 2010, a six-boat flotilla carrying more than 700 civilians from almost 40 countries was overtaken by Israeli commandos in international waters. Israeli commandos attacked the largest ship in the flotilla, the passenger ferry *Mavi Marmara*, leaving one American of Turkish descent and eight Turkish citizens dead and scores of people wounded. After being boarded, the ships were forcefully rerouted to the Israeli port of Ashdod, where the majority of the passengers were detained without charge before being deported from Israel. A ship flying under the flag of the United States, the *Challenger I*, continues to be held by Israel, as does property such as cameras, video equipment, cell phones and computers that may be valuable evidence in any subsequent investigations.

The flotilla sought to break the Israeli blockade of Gaza and bring humanitarian and rebuilding supplies to the Gaza Strip. It was the ninth such trip made to Gaza since 2008, several of which were successful in delivering humanitarian assistance or transporting Palestinian students out of Gaza; however, more recent efforts to reach Gaza have been forcibly blocked by Israeli forces. The six ships left from ports in Turkey, Greece and Cyprus. Each ship was searched for weapons or any items illegal under international law and none were found.

Some consequences of the blockade on Gaza

Israel imposed a blockade on Gaza in 2007 which has resulted in a humanitarian crisis. The Commissioner-General of the United Nations Relief Works Agency (UNRWA) summarized the situation in Gaza in stark terms: "The closure and associated policies have resulted in a crisis that transcends the humanitarian sphere. Every Gazan is affected by poverty, unemployment and crippled public services, causing human misery on a massive scale." The UN Office for the Coordination of Humanitarian Affairs (OCHA) reports that approximately 80% of Gazans are dependent on aid for food and other essentials. The unemployment rate hovers around 40%. The vast majority of Gaza's factories remain closed or operating at low capacity due to bans on importing and exporting. The Palestinian Water Authority and UN agencies have warned that 95% of the water pumped into Gaza is unfit for drinking. Damage caused by Operation Cast Lead led to further pollution of water supplies and the siege has led to bans on necessary supplies for repairs and general maintenance of the wastewater-treatment facilities in Gaza.

The illegality of Israel's blockade of Gaza under interna-

Israel's position is that a lawful maritime blockade is in effect off the coast of Gaza. International law recognizes blockades in the context of armed conflicts, but it does not recognize a blockade by a country against a territory which it is occupying. While Israel denies that it is occupying Gaza, numerous U.N. reports and resolutions have found that Israel maintains "effective control" over the territory which is the hallmark of an occupation. Because Israel occupies Gaza, and accordingly has obligations under the Geneva Conventions, it cannot legally blockade Gaza.

Even if it were recognized that Israel was in a state of armed conflict with Gaza, and thus could impose a naval blockade, it would still be unlawful under international law because the manner in which the blockade has been enforced and the impact on the civilian population constitute a form of collective punishment. The Geneva Conventions state that parties in a conflict are obliged to allow passage of articles essential for the civilian population. This has not been the case during the last four years: critically important medicine, food, building supplies and other essential goods have been prohibited, leading to widespread malnutrition and starvation, an inability to maintain functioning health and education systems and a lack of supplies needed to rebuild homes destroyed by Israeli forces. Indeed, the U.N. Relief Works Agency (UNRWA) reported in September 2010 that 40,000 Palestinian students were turned away for the 2010-2011 school year because—due to a construction materials ban—it cannot construct the schools necessary to serve the population.

Another issue is the movement of people into and out of Gaza. Some patients requiring medical treatment unavailable in Gaza are denied permission to seek it elsewhere, and Palestinian medical personnel from Gaza are often prevented from attending trainings abroad. Students who have received scholarships to attend universities abroad have been denied exit. And ordinary Palestinians from Gaza should have the fundamental right to travel, whether to visit family members outside of Gaza, for professional opportunities or simply to exercise a basic freedom without discrimination.



The International Committee of the Red Cross has concluded that “The whole of Gaza’s civilian population is being punished for acts for which they bear no responsibility.” The blockade of Gaza clearly qualifies as collective punishment, which is strictly prohibited by the Fourth Geneva Convention.

The illegality of the May 2010 flotilla attack under international law

Israel claims the attack on the flotilla was a necessary act of self-defense and a lawful response to an attempted breach of its naval blockade of Gaza.

Israel’s blockade of Gaza, however, is illegal, and it follows that Israel cannot simply intercept vessels outside of its territorial waters traveling to Gaza. As such, an attack or interception of humanitarian vessels travelling to Gaza in international waters must be deemed illegal. Even if Israel’s naval blockade of Gaza were legal, the attack on the flotilla would remain illegal because: 1) it was a premeditated attack on a humanitarian vessel that posed no threat to Israel’s security—not an act of self-defense and 2) Israel’s response would have been disproportionate even as an act of self-defense.

Premeditation

In May 2010, seven senior cabinet ministers, Israel’s prime minister and defense minister convened to determine a response to the advancing flotilla. The Israeli government described the humanitarian mission as a “provocative act” and on May 26, 2010 the foreign minister confirmed the launching of a military operation against the flotilla, ensuring the vessels would be stopped “at any cost.”

Leading up to the attack, three Israeli missile ships were docked in Haifa. The navy carried out an exercise intercepting ships and arresting passengers and masked naval commandos were trained for the mission. Finally, a large naval fleet was deployed to stop the vessels. These preparations clearly indicate that Israel was prepared to attack *offensively* rather than merely in self-defense. Then U.S. State Department spokesman P.J. Crowley admitted to the *Washington Post* on June 3, 2010 that the U.S. “communicated with Israel through multiple channels many times regarding the flotilla” in advance of the attack.

Disproportionate Response

The Free Gaza Movement “adhere[s] to the principles of nonviolence and nonviolent resistance in word and deed at all times.” The flotilla’s mission, civilian participation and non-violent methods of resistance were well-publicized in advance of its departure for Gaza.

Upon interception by Israeli commandos, each vessel’s communication network was cut off, and all recording and other electronic equipment was confiscated, including that of journalists. Footage smuggled off the *Mavi Marmara* supports the testimonies of the civilians onboard the invaded ship. The footage shows that commandos fired ammunition overhead and alongside the *Mavi Marmara* prior to boarding the ship, while zodiac boats surrounded the ship. Audible amidst the sound of ammunition are loud booms and piercing sound grenades. Laser lights from rifles typically used to mark targets visibly scanned the civilian passengers. A voice on the public address system can be heard saying, “Do not show resistance...They are using live ammunition...Be calm, be very calm.” A woman can be heard shouting, “We have no guns here, we are civilians taking care of injured people.”

Israel initially said that the weaponry used against the passengers was limited to paintball rifles. According to autopsy reports, however, five of the nine passengers confirmed dead were killed by gunshot wounds to the head, most of which were caused by 9mm bullets. Furkan Doğan was shot in the face, back of the head, twice in the leg and once in the back at close range, totaling 5 times. Twenty-four others were seriously injured by live ammunition and a large number of people were wounded by plastic-coated steel bullets, beanbags and paint balls.

This evidence refutes Israel’s claim that its commandos and soldiers acted in self-defense. Furthermore, under Article 51 of the U.N. Charter, the right to self-defense does not extend to the use of force against foreign-flagged vessels from neutral or allied states in international waters, particularly in circumstances such as the flotilla attack in which the vessels carried not military supplies destined for a belligerent party, but humanitarian supplies for a civilian population.

Answers from the US

Serious questions remain unanswered about the prior knowledge of the U.S. and its response to the attack, as well as its actions and policies after the death of a U.S. citizen and the seizure of a U.S.-flagged ship and the property of U.S. citizens. In June 2010, CCR filed eight Freedom of Information Act (FOIA) requests regarding the U.S. government’s knowledge of, and actions in relation to, Israel’s attack on the flotilla. After working for nearly a year to receive responses to their requests from the agencies, on May 24, 2011 CCR filed a civil complaint against the Departments of Defense, Homeland Security, Justice and State, as well as Central Command, European Command, the Coast Guard and Navy in order to get answers to questions about what protections US citizens can expect from their government, which are important not only to the 2010 flotilla passengers but to all Americans. With another flotilla set to travel to Gaza in June 2011, answers to these questions are urgent.

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ccrjustice.org/gaza-flotilla