

Israel's Netanyahu defends illegal assault on Turkish aid ship

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13 August 2010

Appearing before the government appointed Turkel Commission this week, Prime Minister Benjamin Netanyahu defended Israel's raid on the Turkish flagged ship Mavi Marmara in international waters that killed 13 Turkish citizens last May.

He insisted, despite all the evidence to the contrary, that Israel was not to blame. Israel, he claimed, did not violate international law and only took action when the lives of its soldiers were in jeopardy. Instead, the fault lay with the aid flotilla, which was seeking to breach Israel's blockade of Gaza, and the Turkish government, which, despite Israel's requests, had not interceded to prevent the flotilla from setting sail for Gaza or issued a "public message ... to cool the heated tempers of the activists on board".

Netanyahu said that his top ministers all agreed with the necessity of enforcing the blockade, and he sought to shift responsibility for the execution of the raid onto the military and Defence Minister Ehud Barak, whom he said he had left in charge of the flotilla issue. "The IDF [Israel Defence Force] has always decided on the ways in which to enforce the blockade and has done its job well," he said. Both he and Barak sought to shift the blame onto operational mistakes made by the military.

Gabi Ashkenazi, the army chief of staff, said IDF troops were not ready for the violent resistance they met when they boarded the Gaza-bound aid ship. "From the moment the operation began, it was clear that the circumstances were unprecedented," he said.

These claims are nothing short of preposterous.

There is no question that the raid on the Mavi Marmara was an act of war against a Turkish ship. As Richard Falk, emeritus professor of international law at Princeton University and a former United Nations commissioner on human rights, has explained, it breaches the San Remo Manual that is extensively used as a code of best practice to supplement international treaties, which are incomplete, on the use of force in international waters.

The San Remo Manual clearly states that force may only be used against a military target. It prohibits the use of force against a civilian flotilla clearly engaged in a humanitarian mission. The ships were checked for weapons several times by official authorities at their ports of embarkation and no weapons were found. Even more importantly, Israel has never produced any weapons despite seizing the ships and holding them for more than two months.

The blockade of Gaza is likewise illegal because its impact on the civilian population far outweighs "the concrete and direct military advantage anticipated from the blockade". While Israel claims that the blockade is necessary to prevent weapons being imported into Gaza that can be used against Israel's civilian population, this is addressed by Israel's border controls. Rockets fired from Gaza, while frequent and disruptive of everyday life, have been a response to the blockade and have resulted in the deaths of just 13 civilians. There have been very few incidents since Israel's assault on Gaza in 2008-09.

Furthermore, Israel's leaders have themselves acknowledged that the purpose of the blockade is a political one—to get rid of the Hamas government. But such a purpose does not provide a valid legal justification for a blockade, which can only be carried out against an enemy state. Gaza is not a state.

Finally, the blockade of Gaza is a crime under the Fourth Geneva Convention, which prohibits the use of collective punishment. Israel's actions in support of the blockade against another state, in this case the Turkish flagged ship, are in turn illegal, and the activists had every right to defend themselves from their armed attackers.

Israel's criminality was compounded by boarding the ship at night, using excessive force, firing live ammunition against unarmed peace activists even before its forces boarded the ship, forcibly removing the activists from the ship and detaining them for several days and confiscating their possessions, particularly their videos and other recordings of the raid.

The murderous raid was not an accident but had been planned. Defence Minister Barak explained in his testimony to the commission that the government anticipated a violent reception aboard the ship.

Indeed, from the outset, Israel's considerations lay with managing the inevitable fallout, as Netanyahu himself acknowledged. Journalists were "embedded" with the security forces carrying out the raid so that Israel's version of events would be the first to be shown around the world.

Israel tried to claim that there were armed Al Qaeda operatives on board the ship, and that the Turkish organisation sponsoring the flotilla had been designated a foreign terrorist organisation by the United States—both claims that the US State Department denied. Furthermore, Israel claimed that the activists were armed and out to violate the blockade, and that its soldiers, facing a "lynch mob", fired in self defence. Finally, Netanyahu said, there was no humanitarian crisis in Gaza since Israel allowed in food and vital supplies.

Israel was forced, due to the international outcry that followed the raid, the testimony of witnesses and video footage of the scenes on board the ship that flatly contradicted the official version of events to investigate the attack in an attempt to forestall independent international inquiries.

The Turkel Commission, like the other two inquiries set up by Israel to investigate the raid on the flotilla and the blockade of Gaza, is entirely cosmetic. As far as the Israeli government is concerned, the raid was entirely legal and the task of the commission is to substantiate that claim.

The average age of the three Israeli commissioners, retired supreme court judge Jacob Turkel, Shabtai Rosen, professor of international law, and military expert Amos Horev, is 85.

So toothless is the commission that even Turkel called for greater investigative powers. The commission cannot question the security forces that took part in the raid, subpoena witnesses, criticise or blame individuals involved in the raid, or allow the international observers, former Northern Ireland first minister David Trimble, and Canadian, Ken Watkins, a former military judge, to see documents likely to cause harm "to national security". Not all of the evidentiary sessions will be held in public. All the three main witnesses thus far have given half their testimony in private.

The Turkel commission follows a military inquiry, led by Giora Eiland, a retired major general, that was held behind closed doors and whose findings were never published. While determining there were errors of planning, intelligence and coordination, it recommended no disciplinary action be taken

against senior officers, praised the commandos and concluded that, "the use of live fire was justified" on board the Mavi Marmara.

The purpose of the Turkel Commission is to feed into a United Nations inquiry. The UN, under pressure from Washington, Israel's backer, has refused to set up an inquiry to examine the legality of the raid. Instead, its inquiry—another stitch-up designed to exonerate Israel—is "to study the results of both Israeli and Turkish investigations of the flotilla raid, and to recommend ways to avoid similar confrontations in the future".

Ban Ki-moon, the UN secretary-general, said that it was "not designed to determine individual criminal responsibility". It would "examine and identify the facts, circumstances and the context of the incident".

The panel, led by Geoffrey Palmer, the former New Zealand prime minister, includes Israeli and Turkish representatives, and has sought to head off a clash with Israel. Ban denied that the UN had struck a secret deal with Israel not to call Israeli soldiers to testify, saying there was "no such agreement behind the scenes".

Israel has refused to cooperate with the UN inquiry. Mark Regev, Israeli government spokesman, said, "Israel will not cooperate with, and will not participate in, a panel that demands to investigate Israeli soldiers."

Turkey has announced that it will establish an investigation into the raid and submit its report to the UN inquiry.

The United Nations Human Rights Council has also established an investigation into the flotilla raid, which is expected to issue a report in September.



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