

The Legal Framework of International Law

The Attack on the Gaza Freedom Flotilla by Israeli Navy Commandos
on May 31, 2010

*Crimes against the Peace and
Crimes against Humanity*

During the pre-dawn hours of May 31, 2010, the Israeli Navy attacked the six civilian vessels of the Gaza Freedom Flotilla. The attack took place in international waters against ships flying under national flags of countries with which Israel is not at war, namely Turkey, Greece and the United States. The ships were carrying civilians from more than sixteen countries.

Salient points:

1. Since no state of war existed at the time, the attack on these vessels constitutes **an act of war** against those governments under whose flags the vessels were sailing.
2. The attack falls within the purview of the *ius ad bellum*, those laws which govern **the resort to armed conflict**. Israel's action does not fall into the category of the *ius in bello* or the laws which govern the actual conduct of war.
3. Because this attack was carried out in international waters, the status of the relationship between Hamas, or any other Palestinian body, and the state of Israel is of no relevance whatsoever. Likewise, **neither the blockade of Gaza nor Israel's claims and legal interpretations regarding it has any bearing** on its acts of aggression in international waters.
4. **This is not an act of piracy**. Piracy is an act of aggression carried out in international waters by individuals and not by states.

The following internationally binding treaties, charters, and agreements are relevant to the attack by Israel:

1. Article 6 of the Charter Provisions of the Nuremburg Trials

(a) **Crimes against Peace**: namely, planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(3) **Crimes against Humanity**: namely murder...deportation, and any other inhumane acts committed against any civilian population, before or during the war...in execution of or in connection with any crime...whether or not in violation of the domestic law of the country where perpetrated.

2. 1907 Hague Regulation Convention (XI) Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War

Chapter II – The Exemption from Capture of Certain Vessels

Article 4. Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

Salient points:

1. The **standard for judging the Israeli acts is objective** and not subjective. It is irrelevant what Israeli ministers, generals, admirals, or soldiers thought or intended. The test is in what they did.
2. **What they did was engage in acts of war** using weapons of war in international waters against vessels that are protected not only in peacetime but also in times of war.
3. Israel has therefore committed both **crimes against the peace** and **crimes against humanity**.
4. These are crimes that have **international jurisdiction**. Israeli political and military personnel can be named in trials held in any and all countries of the world. If the Israelis do not attend the trials, they can be tried *in absentia*, and those decisions in which the Israelis are found guilty can be executed anywhere in the world.
5. Because unarmed civilians were murdered by a preplanned military attack, **capital crimes have been committed**. While it would appear that the international community no longer finds capital punishment civilized, the punishments for these capital crimes can be multiple life sentences.
6. These crimes give rise to damage claims for huge sums of money and Israeli accounts can be blocked using decisions finding them guilty.
7. The unarmed vessels were on a philanthropic mission, carrying civilians and humanitarian supplies. Even if Israel were in a state of war with any of these countries, it would be prohibited from capturing the vessels according to the terms of the Hague Convention of 1907.

Conclusion:

It follows, therefore, that Israel was first of all not allowed to attack these vessels militarily, and then not to board these vessels by force, capture these vessels, attack the passengers, imprison them on the vessels, forcibly remove them from the vessels, and steal their private property in the form of cameras, computers, clothes, etc.

Every single act carried out by the Israeli military forces in international waters on May 31, 2010, are unqualifiedly and absolutely violations of international law.

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Appendix:

The Gaza Freedom Flotilla included six vessels on May 31, 2010

1. *Mavi Marmara*, passenger boat, Turkey
2. *Sofia*, cargo ship, Greece
3. *Gaza I*, cargo ship, Turkey
4. *Gaza II*, cargo ship, Turkey
5. *Spendoni*, passenger ship, Greece
6. *Challenger I*, passenger ship, United States

The majority of the passengers aboard the ships were Turkish citizens. There were also nationals from Britain, Australia, Greece, Canada, Malaysia, Algeria, Serbia, Belgium, Ireland, Norway, Sweden, Kuwait and the United States.

Three German parliamentarians were aboard the Turkish boat that was stormed. There were also two Palestinian Members of the Knesset. Swedish author Henning Mankell was also on board the flotilla.