

# Ariel Center for Policy Research (ACPR)

## POWER VERSUS WEAKNESS

### HIDDEN MEANINGS OF THE GAZA FLOTILLA

4 June 2010

After the Israeli Gaza Flotilla interdiction, it is difficult to understand the real difference between power and weakness. On the surface, at least in tangible military terms, Israel would appear to have had a determinative upper hand. In fact, the alleged plight of the flotilla passengers, however contrived, created an extended public relations nightmare for Jerusalem. This seemingly improbable result bestowed upon Hamas and its multiple Islamist allies (including al-Qaeda, which surely didn't advertise its geo-strategic links to the flotilla), a substantial measure of power.

Back on land, Gaza itself best illustrates the core issues and ironies. It is easy to feel sorry for the "struggling Palestinians" on this still-barren place. It is easy, after all, to forget that this is still a medieval society constructed solely upon violence and hatred.

Endless television and print images of unrelieved misery suggest Israeli cruelty as cause. Nowhere is it suggested that Israel's reluctant resort to the use of blockades and armed force is unavoidable. Virtually nowhere can anyone discover that if there were no incessant and unprovoked Palestinian rocket attacks upon Israel, there would be no Israeli blockade.

From the beginning, Hamas has made regular use of Arab civilians as human shields. By deliberately placing their women and children in harm's way, especially in those areas from which terrorist rockets are launched into Israel, it is the Palestinian leaders who violate the Law of War, also known formally as the Law of Armed Conflict. Sadly, in so doing, their "weakness" is transformed into power.

The insidious practice of human shields, the same tactic first perfected in Hezbollah-controlled areas of Lebanon, represents much more than cowardice. It also represents a very specific and codified crime under international law. This crime is called "perfidy".

Several Jihadist terror groups, including both Hamas, and its U.S. trained rival, Fatah, are now actively planning for mega-terror operations against Israel. These unprecedented attacks, very likely undertaken in close cooperation with Gaza-based elements of al-Qaeda, would involve chemical and/or biological weapons of mass destruction. Over time, especially if Iran should begin to transfer assorted portions of its own growing inventory of nuclear materials to terror groups, Israel could have to face Palestinian-directed nuclear terrorism. Indeed, now that Gaza is no longer “occupied” by Israel, and is “governed” by Hamas, these preparations are well underway .

What decent government would sit back passively, and wittingly render its population vulnerable to mass-slaughter? Would we, in the United States, sit quietly by as rockets rained down upon American cities daily from terrorist sanctuaries somewhere on our borders? Would we ever allow such carnage to continue with impunity? Would capitulation and surrender be the proper or excusable reaction of any sovereign state sworn to protect its civilian populations?

Remarkably, although generally unrecognized, Israel has always been willing to keep its essential counterterrorism operations in Gaza fully consistent with the established standards of humanitarian international law. The same is true for Israel’s blockade-based boarding of the “Freedom Flotilla” ship. Shortly after the event, several Turkish passengers indicated an express wish to die as “martyrs.” They wished to be granted the rights of Shahada. In no way, therefore, was the intended and non-violent Israeli boarding operation remotely commensurate with the actual mega-terrorist threat from the Turkish Aid and Human Rights Organization (IHH), a transparent “cover group” for relentless Palestinian and al-Qaeda fighters.

In all world politics, terrorism is much more serious than mere bad behavior. It is a distinct crime under international law. In those cases (1) where terrorists represent populations that enthusiastically support such illegal attacks, the case, certainly, among the Gaza Palestinian community; and (2) where these terrorists are able to find an easy refuge among hospitable populations, also obviously the case in Gaza, full responsibility for any ensuing counterterrorist harms must lie with the Jihadist criminals .

International law is not a suicide pact. Rather, it offers a reasonable and authoritative body of rules that plainly permits states ( not terrorists) to express their "inherent right of self-defense." When terrorist organizations celebrate the explosive "martyrdom" of their adherents, and when terrorist leaders unashamedly seek religious redemption through the mass-murder of “infidels,” the terrorists have no legal right to demand sanctuary. This is true on the High Seas (“international waters”), or anywhere else .

Under international law, terrorists are always *hostes humani generis*, "Common enemies of humankind." In law, such murderers and their accomplices must be punished wherever they are found. For their arrest and prosecution, jurisdiction is incontestably “universal”.

Palestinian terrorism, even during its occasional “slow” periods (times when contending Palestinian factions of Hamas and Fatah are too busy murdering each other), has

become all-too familiar. Typically using bombs filled with nails, razor blades and screws dipped in rat poison, the goaded killers proceed to maim and burn Israeli civilians with loud cheers, and with ample blessings from the local Islamic clergy. As for those heroic "commanders" who control the suicide-bombers' mayhem from a safe distance, they cower silently in the Palestinian towns and cities. Sometimes, of course, they also issue a desperate call for their wives, mothers and daughters to stand between themselves, and the Israelis .

Although almost never mentioned by reporters and foreign correspondents, specially trained IDF counter-terrorism units always attempt to identify and target only the terrorist leaders, and to minimize collateral harms. But there are times when such harms simply can't be avoided. Even the IDF, which follows its exemplary code of "Purity of Arms" stringently, is unable to undo the unique cruelties of Palestinian perfidy.

Deception can be legally acceptable in armed conflict, but The Hague Regulations unambiguously forbid placement of military assets or personnel in heavily populated civilian areas. Further prohibition of perfidy is found at Protocol I of 1977, additional to the Geneva Conventions of 1949 .

These rules are also binding on the basis of customary international law. Perfidy represents an egregious violation of the Law of War, one identified as a "grave breach" at Article 147 of Geneva Convention IV. The critical legal effect of perfidy committed by Palestinian terrorist leaders is to immunize Israel from any responsibility for inadvertent counterterrorist harms done to Arab civilians.

Even if Hamas and Fatah and their "sister" terror groups did not deliberately engage in perfidy, any Palestinian-created link between civilians and terrorist activities would always give Israel full legal justification for defensive military action. This includes the right of blockade.

International law is not a suicide pact. All combatants, including Palestinian fighters, are bound by the Law of War of international law. This requirement is found at Article 3, common to the four Geneva Conventions of August 12, 1949, and at the two protocols to these Conventions .

Protocol I applies humanitarian international law to all conflicts fought for "self-determination," the stated objective of all Palestinian fighters, American-trained Fatah as well as Hamas. A product of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (1977), this Protocol brings all irregular forces within the full scope of international law. The terms "fighter" and "irregular" are generous in describing Palestinian terrorists, often aspiring Shahids who "normally" target only defenseless civilians, and whose characteristic mode of "battle" is not military engagement, but ritualistic deception (perfidy) and primal religious sacrifice (terrorism).

Israel has both the universal right and obligation under international law to protect its citizens. Should it ever decide to yield to Palestinian perfidy in its indispensable war

against escalating terror violence, Israel would inexcusably surrender this important right, and undermine this fundamental obligation. The clear effect of any such capitulation would be to make potential victims of us all.

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