



OPINION and ANALYSIS

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**A selection of some of the more challenging and thought-provoking
local and international writings on the Middle East**

<http://www.sazionfed.co.za>

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Israel is set on showing the world that it will not surrender to Turkey's demand for an apology, but is simultaneously foiling the opportunity to use it as an ally in face of Syria and Iran.

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When it comes to Israel and Turkey, stupidity is also a strategic asset

Zvi Bar'ell, Haaretz, 14 August 2011

<http://www.haaretz.com/opinion/when-it-comes-to-israel-and-turkey-stupidity-is-also-a-strategic-asset-1.379160>

"Honor is a strategic asset," so went the explanation Strategic Affairs Minister Moshe Ya'alon gave as to why Israel must not apologize to Turkey. More than anything, Ya'alon fears that an Israeli apology will cause the Turkish prime minister to declare before the entire Middle East that Turkey brought Israel to its knees.

Honor is indeed a strategic asset, but it is also an asset that can be offset by stupidity. Turkey is currently deep into a conflict with Syria, which shrugged off Prime Minister Tayyip Recep Erdogan's warnings, as well as with Iran which sees Turkey as the "subcontractor" of American-Zionist policies and currently stands at a crossroad regarding its Middle East policies.

If strategic aspects worry Ya'alon, then an important opportunity has now risen to renew Israeli-Turkish ties – especially when the United States sees Turkey as a vital ally in deciding its policy toward Syria, and when the Israeli-Turkish conflict harms U.S. interests, at least according to the U.S. Secretary of State.

Israel's firm response relies, among other things, on the contents of the report composed by the UN investigation committee into the events of the Gaza flotilla – a report which places most of the responsibility on the Turkish government and lessens the blame on Israel. However this report cannot repair the damage caused to the relations between not only the two governments but between the two nations. Israel may be able to show the world that her operation against the flotilla was legally justified, but such "justice" could pronounce Israel's strategic ties with Turkey as dead.

Turkey's demand for an apology or compensation is not stipulated in the report. Moreover, Netanyahu's response could have waited until the publication of the report, rely on its public findings, and then – out of desire to repair the ties between the two countries – Israel could have at least expressed deep sorrow, and, without taking responsibility, pay compensation to the families of those killed. It is hard to understand what caused Netanyahu – who in the past agreed to some wording of an apology – to hurry and announce the rejection of the Turkish demand for an apology, except his surrender to Ya'alon and Lieberman.

Turkey made it clear that it aspires to normalize its ties with Israel and that it is just waiting for the apology in order to return to the same relations it had with Israel before the flotilla scandal. Now it is hard to believe that Turkey will agree to appoint a new ambassador in Israel or to receive a new Israeli ambassador. When the Turkey-Israel relationship test is faced with the questions of "who needs who more" and "who has more honor", the massive strategic importance of Israeli-Turkish cooperation dissipates.

Human Shields: Back to Reality

Amnon Rubenstein and Yaniv Roznai, Jerusalem Post, 17 August 2011

<http://www.jpost.com/Opinion/Op-EdContributors/Article.aspx?id=234195>

The recent outcry about civilian casualties as a result of NATO bombings in Libya and constant complaints about “collateral damage” in the war in Afghanistan, as well as the Goldstone Report, have raised afresh a subject that has become the most burning issue of International Humanitarian Law (IHL). Indeed, the use of civilians as human shields during hostilities has become a major problem facing all democracies – and primarily Israel – in contemporary armed conflicts.

Human shields have been employed worldwide in both international and non-international armed conflicts, including the recent conflicts in Afghanistan, Iraq, Gaza, Lebanon and Libya. Fighting from within densely populated areas and using the civilian population as a protective umbrella has turned, in reality, into a routine combat tactic for irregular armed groups.

The use of human shields is a popular tactic because it can either impede a party from targeting its enemy due to moral or legal constraints or, alternatively, compel it – at least under the prevailing interpretation – to violate international humanitarian law. Moreover, if an attack is launched despite the presence of human shields, the shielding party can, and often does, weaken the support for its enemy by exploiting the harmed civilians as a means of propaganda in the media.

While the prohibition against using civilians as human shields is widely acknowledged under IHL, the current law and its application have become incompatible with modern warfare and lead to undesirable results.

The first notable problem is that in recent conflicts, including in Operation Cast Lead, the strongest criticism of IHL violations has been directed at the counter- attacking party, usually an army of a democratic state, rather than the parties that utilized civilians in order to shield themselves, usually forces of a non-democratic state or irregular organizations such as al-Qaida or Hamas. This relative lack of response – as exemplified by the Goldstone Report – renders the prohibition merely theoretical. The counterattackers are vilified; the shielders are ignored or even exonerated.

The second problem is that the current application of the law encourages the belligerent to use human shields against military counter-attacks. According to IHL as generally interpreted, even if a party to a conflict attacks while illegally shielding itself with civilians, the counter-attacking party must still take the usual precautions against harming civilians, which may nullify the purpose of its offensive. This leads directly to unfortunate results, since under the principle of proportionality (i.e., the assessment of whether collateral damage is excessive in relation to the anticipated specific and direct military advantage), the flagrant use of human shields can effectively prevent an attack on a legitimate enemy target.

THE CURRENT accepted rules serve to benefit those parties willing to utilize civilian casualties to achieve military advantages. In order to curtail the use of this dreadful tactic, some modification of the interpretation of IHL is critical.

We propose a twofold solution.

First, the shielding party’s obligations must be treated more seriously. As opposed to the current atmosphere, the international community, NGOs and the global media must direct their monitoring and condemnation also toward those shielding parties. Additionally it ought to be clarified that both parties will be held accountable for criminal IHL violations arising from any use of human shields, and also that international tribunals will adopt a strong and balanced stance against such crimes.

Second, with regard to the counterattacking party’s obligations, a structural change in the application of the proportionality principle is required in order to cope with the realities of asymmetrical wars. The

proportionality assessment cannot be detached from the shielding party's actions and ought to take into account the incentive to illegally use human shields.

Thus we propose that the proportionality assessment must be adjusted when the use of human shields is part of a widespread or systematic policy, or when the military objective protected by human shields poses a clear and present danger to the adversary troops or population.

Regarding those military objects – such as guns or rocket launchers – proportionality should mean that any degree of force that suffices to silence the enemy fire would fall under the proportionality principle, unless it is shown that this purpose could have been achieved by alternative means, less costly in terms of incidental harm to civilians. Otherwise, we would eliminate the principle of selfdefense during battle – a step that would, in effect, eviscerate the conceptual foundation of the laws of war.

These adjustments would deprive human-shield-users of their current advantages, ultimately enhancing civilian protection during armed conflicts.

The current international law as applied not only increases the risk to innocent civilians, but also jeopardizes the credibility of the laws of war. "It would not be right," Winston Churchill wrote, "that the Aggressor Power should gain one set of advantages by tearing up all laws, and another set by sheltering behind the innate respect for law of its opponents."

The international community's focus must be readjusted to reality. Nowadays, the values have been reversed. The democratic states defending themselves have found themselves under relentless criticism, while there is an almost complete lack of attention to the parties that originally violate IHL by intentionally jeopardizing civilians in order to achieve military benefits. This attitude creates a danger for all those who cherish human rights and democratic principles.

Moreover, the IHL rule of proportionality must be given a realistic interpretation. A "proportionate proportionality" must be introduced. We accept the limitation that when facing war or terrorism, the democratic state "must often fight with one hand tied behind its back" – as Justice Aharon Barak has put it. However, the current rules and their application have allowed the blatant use of human shields to successfully tie both hands of a democratic state by preventing it from defending itself.

Countdown to Palestine

Eitan Haber, Ynet News, 17 August 2011

<http://www.ynetnews.com/articles/0,7340,L-4110324,00.html>

One must be a great fool to believe that Mahmoud Abbas will soon be returning the Palestinians to the negotiating table and to reconciliation with Israel. Why should he? Within a short period of time he's expected to be on top of the world. Dozens of states, many of which had not been kind to Israel in recent years, shall be applauding him at the UN. Superpowers and states that always respected Israel will grow silent or turn a blind eye. Some will likely whisper in our UN envoy's ear: We told you so.

Should the vote and recognition in September only result in applauses, flags and festive marches, everyone in the world will be hearing Netanyahu's, Barak's and the other ministers' sigh of relief. However, and hopefully we'll be proven wrong, September 20, 2011 may turn out to be harbinger of Palestinian independence. If that happens, the countdown will resume. Again, hopefully we'll be proven wrong. But if 150 states recognize the Palestinian state, a moment after the declaration Abbas and his comrades will be telling us: Gentlemen, we are not asking for your approval on anything. We indeed agreed to a demilitarized state, but now that we are an independent state entitled to do whatever it

wishes, we shall import missiles, rockets, cannons and whatever else we want. The IDF and the settlements will of course remain in what the Palestinians define as their state. The millions of Palestinians in the West Bank (the previous name of the Judea and Samaria region) and in Gaza will do nothing against the State of Israel. Why should they? They shall merely embark on a “popular struggle” against the IDF and the settlements, which in their view are within the Palestinian state – the one recognized by 150 states.

Prepare for ‘popular struggle’

They shall draw encouragement for their “popular struggle” from Egypt, Tunisia and even from Libya and Syria, where the struggle is hitting obstacles. This “popular struggle” shall comprise numerous women and children who shall be marching toward IDF soldiers and the settlements. Hamas wants more than that, however; there is almost no doubt that Hamas wants to see bloodshed.

At least on this front, Israel may be spared: In Judea and Samaria at least, the people don’t want a Hamas state. They fear it. This is the right time for tight security cooperation with Palestinian Authority leaders, who fear Hamas more than they do Israel. The picture is not one-sided. It’s not only bad for us. The State of Israel must - absolutely must - aim to neutralize the results of the expected UN vote. How so? First, we must do everything we can to resume the talks with the Palestinians. Another possibility: Announce our intention to annul the economic Paris Accords. Some say that the Palestinian population and leaders cannot survive without these agreements. And here is yet another option: The United States (which is still by our side) and several leading European states can work against the declaration of recognition and do everything to also neutralize the implications of the UN vote.

However, in this region everything is volatile and not every foolish idea can be prevented. Any layman from Gaza who detonates a hand grenade and kills half a dozen or more Israelis on the streets of Jerusalem or Ashkelon, or any other large-scale terror attack will see all the fine plans and intentions of reconciliation and peace go up in smoke, even in contradiction to the views held by most Palestinians.

In the Middle East, every idiot is a statesman for a minute and every hand grenade or explosive device constitutes policy. The most important thing in our theater is not to lose control – this applies both to us and to them.

Op-Ed: Obama and Israel are not on the same page

Morton Klein, JTA, 16 August 2011

<http://www.jta.org/news/article/2011/08/16/3089009/op-ed-obama-and-israel-are-not-on-the-same-page>

It’s high time to face an unpleasant fact: President Obama and Israel are not on the same page.

This has been true ever since Obama took office in January 2009, but it was most recently apparent this May when the president ambushed Israeli Prime Minister Benjamin Netanyahu with an adversarial speech the day before Netanyahu’s U.S. visit by advocating that Israel return to the pre-1967 armistice lines (with mutually agreed swaps).

Obama’s speech meant that Israel cannot keep the Jewish neighborhoods of eastern Jerusalem, the Temple Mount, the Western Wall or the major settlement blocs without Palestinian Authority approval. No previous U.S. president ever took this position.

Neither has any previous president ever suggested, as Obama has, that the issues of “territory and security” should be agreed upon first, and only then should the issues of Arab refugees and Jerusalem’s status be decided. Thus in Obama’s view, Israel should establish a Palestinian state and give away virtually all the disputed territory, thereby eliminating its negotiating leverage, before negotiating over Jerusalem and refugees from a weakened position.

An anonymous Israeli official interviewed in early August by Reuters denied recent reports that Netanyahu now accepts the pre-1967 lines as a basis for negotiations, and two senior Israeli officials recently told me the same.

It’s also shocking that Obama made these demands of Israel only two weeks after Fatah, the faction that leads the Palestinian Authority, signed a unity agreement with Hamas, the terrorist organization that calls in its charter for the murder of Jews.

Netanyahu has been clear: He won’t negotiate with a Hamas-linked Palestinian Authority. Yet Obama has refused to make diplomatic or financial support for the Palestinian Authority conditional on its abrogating its unity agreement with Hamas.

Obama’s first major Middle East speech, in Cairo in June 2009, made clear his tenuous commitment to Israel. He ignored the legal, historical and religious basis of the Jewish claim to Israel, instead writing it off as a reward for enduring the Holocaust.

Obama also claimed that the Palestinians have been suffering in trying to establish their state for 60 years, but he ignored the fact that they turned down offers of statehood in 1937, 1947, 2000 and 2008. He spoke about the Arabs being “displaced” by Israel’s founding, ignoring the fact that if there had been no Arab war against Israel, there would have been no refugees.

Most egregiously, the president strongly implied that Palestinian suffering was equivalent to Jewish suffering during the Holocaust. And by framing his call for Palestinians to practice only nonviolent resistance by pointing to the experience of U.S. blacks during slavery and black Africans during South African apartheid, Obama effectively lumped in Israeli Jews with history’s oppressors.

In a January 2010 TV interview, Obama’s Middle East envoy George Mitchell -- who has since left his post -- told PBS’s Charlie Rose that “full implementation of the Arab Peace Initiative is the objective set forth by the president.” The so-called Arab Peace Initiative demands that Israel retreat to the pre-1967 lines, set up a Palestinian state and accept the right of millions of Arab refugees to move into Israel. That would end Israel as a Jewish state.

And let’s not forget Obama’s September 2009 U.N. speech, in which he spoke of the need to couple “unwavering commitment to Israel” with calls for Israel to “respect the legitimate claims and rights of the Palestinians.” Former U.S. Ambassador to the United Nations John Bolton called this “the most radical anti-Israel speech I can recall any president making.”

Even former New York City Mayor Ed Koch, a Democrat who campaigned for Obama, recently wrote in the Huffington Post, “I weep as I witness outrageous verbal attacks on Israel” that “are being orchestrated by President Obama.” Koch suggested that Obama is “throwing Israel under the bus.”

Perhaps Israel’s deepest concern is the existential threat posed by the prospect of a nuclear-armed Iran. Obama needlessly delayed congressional sanctions against Iran for a year while he tried to get multilateral, U.N.-backed sanctions enacted first. Now that sanctions have become U.S. law, Obama has not implemented them in a serious way.

Obama also sent Vice President Joe Biden to Israel to warn Netanyahu not to launch any military strikes against Iran without U.S. approval.

One of my most revealing experiences was a meeting I attended, along with 40 other Jewish leaders, with President Obama at the White House in March. The president told us, according to my notes: "You must speak to your Israeli friends and relatives and search your souls to determine how badly do you really want peace. Israelis think this peace business is overrated; their life is good, their economy is good, and things are quiet."

Several times he emphasized that "the PA is sincere in wanting a peaceful settlement" and that "Israel has not sufficiently tried to make an acceptable offer." He asked, "Is the Netanyahu government serious about territorial concessions?"

Things may get better or worse -- more likely the latter -- but one thing is clear: Obama and Israel are not of one mind, or anywhere close to being so.

NOTE: The views expressed in certain articles are not necessarily those of the SAZF