**Questions Arise About the UN Investigation into Israel's Action Regarding Flotilla**

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August 6, 2010

The Weekly Standard

*http://weeklystandard.com/blogs/investigation-israels-action-flotilla-continue*

Only days after Israel took the unprecedented step of agreeing to participate in a UN investigation on the Gaza flotilla incident, assurances given by the Obama administration have proven to be empty. The episode paints a disturbing picture of the administration's actions in pushing for this investigation, and suggests that Israel’s decision to participate should be revisited.

The incident at the end of May left nine dead on one of six boats attempting to break Israel’s naval blockade of Gaza. It was the only boat on which Turkish-backed pro-Hamas extremists preferred to attack the Israeli military rather than cooperate with Israel’s offer to deliver the goods overland after inspection.

Twenty-four hours later, at breakneck speed for the UN and at odds with its usual pattern of ignoring civilian deaths by the thousands anywhere else, the Security Council issued a presidential statement. With the approval of the Obama administration, the Council called for "a prompt, impartial, credible and transparent investigation conforming to international standards." A day later, the UN Human Rights Council established an allegedly “independent international fact finding mission” with a mandate to report on what it had already declared was Israel’s “outrageous attack.”

Israel undertook a number of investigations, even adding two international experts to one of them in an extraordinary gesture to placate President Obama. But Muslim states, including Turkey, wanted more. In addition, Secretary General Ban Ki-moon believed that assembling his own investigative committee would be an opportunity to win Muslim support for his bid to win a second-term in office. And the Obama administration, which has enthusiastically embraced the United Nations, refused to oppose the secretary general’s plan.

So on August 2, Ban launched his investigation, which got off the ground only because the U.S. pressed Israel to agree, and Israel took American assurances seriously. U.S. ambassador to the UN Susan Rice spelled some of them out: “The United States expects that the Panel will…obviate the need for any overlapping international inquiries.” The overlapping inquiry of the Human Rights Council, she claimed, would go away.

At exactly the same time, however, Secretary General Ban Ki-moon released a statement in which he made no reference to the Human Rights Council, and no commitment to seek the dissolution of the Council’s investigation.

Two days later the president of the Human Rights Council, Sihasak Phuangketkeow, called Rice’s bluff. He told UN radio that “it was crucial that the Council investigate,” and said to reporters in Geneva “I feel very strongly that we have to proceed.”

Ambassador Rice made other promises. She described the purpose of the panel this way: “[I]t would receive and review the [Turkish and Israeli] reports of each…national investigation…and make recommendations as to how to avoid such incidents in the future. This Panel is not a substitute for those national investigations…The focus of the Panel is appropriately on the future.” In other words, the UN inquiry would not supersede Israel’s own efforts or launch a new investigation since that would mean focusing on the past.

The Israeli newspaper Haaretz added that the Israeli government believed it had received assurances that “the review panel will not have the authority to subpoena witnesses, including Israel Defense Forces soldiers and officers.”

Once again, Rice’s story was immediately challenged. The American charge d’affaires in Ankara was reportedly reprimanded by the Turkish foreign ministry because of Rice’s remarks. Turkey directly repudiated Rice’s characterization of the inquiry’s scope. In the words of a senior official speaking on Tuesday to the Turkish Hurriyet Daily News, “saying ‘the probe is not a substitute for national investigations’ is misleading.”

The secretary general’s spokesperson also contradicted Rice’s account. He told a press briefing on Monday that the panel has been “tasked with making findings about the facts and circumstances and context of the incident... and one assumes that it will be necessary to ask…for more information…It isn’t just receiving and reviewing the reports…” In response to a question about whether the panel could interview witnesses, including members of the Israel Defense Forces, the spokesperson responded, “It’s for them [the panel] to decide whether to ask.” And on Thursday, the spokesperson disputed the notion that the focus of the panel was on the future. He said, the “Panel of Inquiry…is looking back at that incident and…it’s looking into the facts.”

At bottom, it appears that the mandate of the panel is actually still up in the air. On Monday the secretary general’s spokesperson said, “it will be for the panel to decide exactly how they will operate and decide on what steps may need to be taken in order to obtain…information from the national authorities.” The secretary general’s office has refused to release a copy of the panel’s mandate, despite requests from states, NGOs, and members of the press. And on Thursday, a senior official in Ban’s Office said that there are no “terms of reference” for the panel yet because “nothing is finalized or agreed.” He added, “at this point, there might be different drafts of possible terms of reference”. The panel will have four members, only one will be Israeli, and will operate by consensus “where possible.” So if the terms of reference are really undecided, or Israel has been misled as to their content, their definition has now slipped beyond Israel’s control.

Nor is there agreement on the ultimate goal of the inquiry. Rice suggested the end game was a diplomatic reconciliation between Turkey and Israel, while Turkey and other Muslim states have a much different agenda. Turkey said on Tuesday: “This problem is not just a matter between Turkey and Israel; it’s an international problem.” The Malaysian government said on the same day that it “believes that the ultimate aim of the Panel’s investigation must be to bring to justice the perpetrators of the attack against the humanitarian flotilla” – that is, to deliver Israeli heads on a platter. To drive the point home, Malaysia proceeded to urge this week that yet another General Assembly emergency special session on Israel be convened.

With American assurances not worth the piece of paper they are apparently not written on, Israel should rethink its decision to cooperate with the secretary general’s investigation – before the inevitable witch hunt begins.

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