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The New Middle East: One Year After The First Flotilla Incident

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ABSTRACT

'The New Middle East: One Year After the First Flotilla' event took place on the 24th of June, 2011, at SETA Foundation in Washington, DC with the participation of Nuh Yılmaz, Noura Erakat, and Yigal Schleifer. The panel was moderated by Kılıç Buğra Kanat. The event occurred while an international coalition of 22 NGOs was organizing a second flotilla with the name of Freedom Flotilla II, which was scheduled to sail on July 5, 2011. Although the second flotilla ultimately failed to materialize, the issue of the flotilla has continued to have major effects on both regional politics in general and Israeli-Turkish relations in particular. In this panel, panelists seek to answer questions, such as 'What kind of an impact did the first flotilla have on the region as a whole?', 'Given the new regional dynamics in light of the Arab Spring, in what ways is the second flotilla different?', 'What are the implications for the Palestinian problem?' and discuss the New Middle East a year after the first flotilla and in the wake of the Arab Spring.

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THE NEW MIDDLE EAST : ONE YEAR AFTER THE FIRST FLOTILLA INCIDENT

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nuh yılmaz | kılıç buğra kanat

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Policy Debate Series

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Policy Debate Series Editors: Kadir Üstün and Kılıç Buğra Kanat

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THE NEW MIDDLE EAST: ONE YEAR AFTER THE FIRST FLOTILLA INCIDENT

Kılıç Kanat:

It has now been more than a year after the so-called 'flotilla incident,' which not only cost nine people their lives and injured many more but also shook the foundations of Turkish-Israeli relations. In the aftermath of this event, Turkey and Israel have been unable to repair their relations. Furthermore, Israel continues to apply the blockade to Gaza. Numerous articles and reports have been written on the flotilla incident and its implications for Turkish-Israeli relations. There were various ongoing debates on the legality of the raid, the role public opinion played for both countries, and the conflicting reports of the incident.

Parallel to this event, the politics in the region underwent tumultuous transformations. The people's uprisings in different countries of the Middle East toppled two long-lasting regimes in the region, in Tunisia and in Egypt. Another rebellion in Libya resulted in a military intervention.[1] Three other bastions of people's movements and popular protests in Yemen, Bahrain, and Syria further complicated the regional politics. In addition, the Palestinian Papers and their implications for Palestinian domestic politics created a short-term internal crisis among the Palestinians and the negotiations between the Palestinian Authority and Hamas are still ongoing. Amid all these conflicts and chaos, the relationship between two democratic countries in the region becomes all the more critical for the key players in the Middle East. Although US officials deny it, it was reported by multiple sources that the US is trying to use its influence on both Turkey's and Israel's governments to repair their bilateral relations.

At this critical juncture of Middle Eastern politics, it would be timely to bring to the table a multidimensional discussion about the flotilla incident and its domestic, regional,

1. This presentation was given before the ousting of President Gaddafi and his regime.

and international implications from different perspectives. Instead of repeatedly asking the same questions and instead of going back and forth on the details of the incident, we decided to extend the scope of this debate by looking at the issue more broadly. The goal of this panel is to look into some neglected dimensions of the flotilla incident, which is to say the root causes of the problem and the aftermath of the incident.

In this forum, three experts on the region will lead the discussion on the different implications of the flotilla incident and its repercussions for the region. Noura Erakat will talk about the blockade in general and how the blockade should be understood in the context of international law and the Arab-Israeli conflict. It is important to comprehend that the clock started to tick much earlier than the 30th of May 2010. Noura is going to explain how the timing of this event was important while giving us a background about the nature, legality, and timeline of the Israeli blockade on Gaza. Following Noura, Yigal will give us the perspective of the Israeli government and Israeli public opinion on the flotilla event. Although immediately after the flotilla event many public statements were made and video footage of the operation on the *Mavi Marmara* was released, we didn't hear much about what the people in Israel thought about the blockade in general and the flotilla incident in particular. Lastly, Nuh Yılmaz will provide a broader in-depth perspective of the geostrategic sources of the conflict between Israel and Turkey and the regional implications of the flotilla raid.

Aside from being a devastating attack last May, the flotilla did something quite phenomenal in the sense that, for the first time, it raised the issue of the blockade of Gaza to a level of public discourse in places that it hadn't been before.

Noura Erakat:

I will begin by providing more of an overview, not specifically about Israeli-Turkish relations and regional relations, but taking a step back into what is the blockade, where does it fit into international law and what issues were raised by the flotilla. Then, I will leave it to my colleagues to discuss the political implications of this in terms of bilateral relations and otherwise.

Aside from being a devastating attack last May, the flotilla did something quite phenomenal in the sense that, for the first time, it raised the issue of the blockade of Gaza to a level of public discourse in places that it hadn't been before. Hitherto that moment, the blockade that was imposed on Gaza was something that was mostly administratively condemned within multilateral institutions, like the United Nations, but had not been addressed, not for its legal nature or its devastating impact, in any detail, and certainly not in public discourse. Because of the raid on the *Mavi Marmara*, the legality of the blockade finally came into question. And this was due to the civilian efforts made to challenge the blockade that had been imposed on Gaza since June 2007 in its harshest form.

To begin with a history of the blockade and its impact through 2010, in June 2006, Hamas was elected into government, into the Palestinian Legislative Council by about 76%. Relations between Hamas and Fatah remained somewhat amicable until June

2007. However, after the elections, Fatah had not transferred the jurisdiction and authority of the Palestinian Authority institutions in Gaza to Hamas's control. In addition to that, there was something of what had been described as a 'pre-emptive coup' that eventually led to the ousting of Fatah from the Gaza Strip by Hamas in June 2007. Immediately thereafter, Israel declared Gaza a hostile territory and imposed the blockade in the name of self-defense, self-defense here meaning within the legal definition of self-defense, as is defined by the UN Charter Article 2 and its exception in Article 51.

The only way for Israel to impose a blockade upon Gaza, and to call it a 'hostile territory,' and for that blockade to be legal under international law, is contingent on whether or not Gaza remained occupied territory. Israel asserts that after its unilateral disengagement in August 2005, it effectively ended its occupation because of the withdrawal of its troops, the dismantlement of 21 settlements and the withdrawal of approximately 12,000 settlers, and therefore said that Gaza is now an independent state-let or part of the future Palestinian state and therefore is not under occupation. If that were to be the case, if Gaza is no longer under occupation, Israel is no longer responsible for the civilians living in Gaza.

Israel insists that the withdrawal of its troops signaled the end of its occupation, whereas international law finds by large international consensus, or near to international consensus, that the withdrawal of troops did not suffice to signal that end.

Those responsibilities arise from its duties as an occupying power pursuant the Fourth Geneva Convention as well as to several other articles, including Articles 55, 56, and 57 of the Fourth Geneva Convention and Article 69 of Additional Protocol 1 of 1977. It also shifts the applicable legal framework from the laws of occupation to the laws of self-defense, meaning that, without the presence of an occupation, Israel has the legal right to declare war on Gaza, as if it were a state, but it does not have that same right if Gaza were still occupied, specifically because there would be a clash of two legal frameworks of *jus in bello*, which governs the laws of occupation and *jus ad bellum* which governs the laws of self-defense. If the occupation no longer exists, then Israel can indeed declare war, including imposing a naval blockade, which it did in June 2007.

However, if the occupation continues to exist, Israel does not have that right, and continues to have the responsibility and the duty to protect those citizens under its occupation, including the duty to maintain peace and order.

Why does this become so crucial? Israel insists that the withdrawal of its troops signaled the end of its occupation, whereas international law finds by large international consensus, or near to international consensus, that the withdrawal of troops did not suffice to signal that end. Specifically looking at how one measures continuing occupation in Article 42 of the Hague Regulations, which presents for us a test of effective control, effective control helps us determine whether or not occupation exists, not by determining whether or not there is the presence of troops but rather whether a country exercises effective control of, or the authority and ability to deploy its military troops in a timely way. As many scholars have demonstrated as well as many UN agencies, as I've demonstrated in my own scholarship, effective control continued to exist because Israel may have withdrawn its troops and dismantled its settlements but maintained

effective control over the airspace, the seaports, the five border crossings into Gaza connected to Israel as well as control of its electromagnetic sphere, its tax registry, its population registry, the ingress and egress of all goods and people, and therefore continues to exercise effective control over the Strip.

By all means, the occupation continued to exist, which means that the duties of an occupying power continued to be held by Israel. So, in any other situation it may be able to declare that it had the right to legal self-defense and therefore impose a blockade, in this situation it doesn't. And what I'm raising here is something beyond the normal protest of the blockade, which is that it constitutes collective punishment under Article 33 under the Fourth Geneva Convention for punishing the 1.5 million Palestinian person population in Gaza, in saying that regardless of the way the blockade is imposed upon Gaza, even if it were humane, it would still be illegal because Israel cannot declare war on the territory that it occupies. To the contrary, it has a duty to protect that territory. If there is no law and order in the territory, which is the reason that Israel uses in order to declare the blockade and to declare legal self-defense, that lack of order and peace is Israel's responsibility. It doesn't mean that Israel doesn't have several other means and mechanisms in order to maintain order and to protect itself. To the contrary, it has all the rights enshrined under Article 43 of the Hague Regulations, which are primarily law enforcement policies, but the distinction between law enforcement policies is akin to policing, as opposed to military power, and that would be the primary difference.

The actual cessation of transfer of weapons is only one of the justifications that Israel has used, but it's also cited that this is punishment of the civilian population in Gaza.

Unfortunately, Israel's blockade does not have a definitively stated end. Israel has cited several reasons for the imposition of its blockade. The actual cessation of transfer of weapons is only one of the justifications that Israel has used, but it's also cited that this is punishment of the civilian population in Gaza. Former Prime Minister and current Likud leader, Tzipi Livni has said that how should the children of Gaza sleep while the children of Israel are terrorized by rockets, indicating that this is a form of vengeance and retribution, which under all cases is prohibited under the Laws of Armed Conflict. Or a third reason has been, that this is to impose such devastating circumstances upon the civilian population of Gaza that they would rise up to overthrow Hamas's governance, which is also illegal. It has been illegal so long as the laws of war continue to exist in their current form, but Israel wouldn't be the first to use this mechanism as we've seen. The NATO bombing of Yugoslavia had similar reasoning in targeting the civilian population in order to overthrow their governments or governing regimes.

Moving on, what has this blockade meant for the 1.5 million people in Gaza, three-fourths of whom are refugees? So to those 750,000 Palestinians in Gaza who are refugees, who were already somewhat dependent on external aid, primarily from the United Nations Relief Works Agency for their sustenance, for their employment, what the blockade did was to immediately eviscerate even those dismal conditions rapidly. So, consider that before the imposition of the blockade in 2007, there had been 190,000 economic establishments that had provided employment opportunities for the popu-

lation of Gaza and employed 500,000 individuals. In the aftermath of the imposition of the blockade, that number quickly dwindled, where 90% of those establishments were closed and a fraction of those employed continued that employment. According to Special Rapporteur Richard Falk to the Palestinian Territory, unemployment today is at 42.5% and 80% of the Palestinian population is dependent on food aid simply for survival.

Consider also, that in order to meet just the basic needs of the Palestinian population that you would need 2800 truckloads of aid a week in order to provide for the population and before 2007 that quota was met. By January 2010, the truckloads had been reduced to 2500 truckloads in a month as opposed to a week in order to meet the needs of the Palestinian population. According to Israel, so long as it's not starving the population, then this is therefore humanitarian, and in fact, pursuant to customary law, Article 59 paragraphs 1-3 of the Additional Protocol 1 actually says that no form of warfare can be used to starve a population in order to achieve military ends. And so almost cynically, or I would suggest insidiously, Israel has maintained a level of sustenance just above starvation, as has been released by new documents that Gisha, an Israeli NGO, was able to obtain similar to FOIA, by a FOIA litigation, documents that revealed that the government had actually calculated the minimum caloric intake necessary to maintain the Palestinian population just above starvation. And so this is the situation that had existed even before the beginning of Operation Cast Lead, which has devastated multiple factories, the government agencies and so on, and so forth. There's no reason to revisit that.

All this to say, that the United Nations, rather than challenge this illegality, rather than declare it illegal, has approached this as a moral issue and has chastised Israel for using immoral and counterproductive means in order to protect itself, when from the beginning Israel didn't have the right to impose such a blockade, one for abrogating the existing legal order, two it maintains its duties and responsibilities as an occupying power, and three, of course, what we've often heard, is that this constitutes collective punishment pursuant to Article 33.

The flotilla emerges in that context, the failure of multilateral organizations to respond to this situation, the failure of governments to impose the pressure necessary to lift the blockade, to urge Israel to lift the blockade, and from this emerges an international movement of civil society and civilians to 'break the siege' by drawing attention. And by the time we saw, the international community paying attention to these efforts, the Free Gaza Movement's efforts, in May 2010 was on its sixth attempt to break the blockade. There had been several ships that had sailed before, and that was the first flotilla, or group of ships that had sailed in order to break the siege and we know that it was fatally attacked, we know that since then it has been left to the Turkel Commission, as well as the UN Panel of Inquiry to decide who has that responsibility and in the meantime, since the year has passed, the blockade has not been eased in any meaningful

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way, the population continues to live on a day-to-day basis barely above subsistence and we continue to watch as collective punishment is imposed upon Gaza, which is a horrible model to be used for warfare, a horrible precedent for armed conflict for the future. I'm happy to answer any other questions after a more thorough discussion of the regional and political implications.

Yigal Schleifer:

I think from the Israeli perspective, Turkish participation in the flotilla, particularly the Mavi Marmara, and the IHH participation, was a kind of traumatic event.

I know we are looking back a year, but I just want to take us back about nine years ago for some reporting that I did at the time. I was based in Turkey starting in 2002, and I was working on a piece about Turkey-Israel relations just after the AK Party had been voted into power. With the war in Iraq looming, the idea of the story was to take a look at where will Turkey-Israel relations go. And I went to Ankara to meet with somebody who had been quite influential in setting up Turkey-Israel relations as we knew them at the height of Turkey-Israel relations. And we talked, and this person said 'you know Turkey's relations are so strong, we've made them so sound that even the introduction of Sharia law wouldn't shake them.' It was one of these kinds of comments that at the time seemed obviously ridiculous. I think what we see from a year ago is that it took much less to shake Turkey-Israel relations, and really the foundations they were built on were something a lot more flimsy.

So despite having these relations that date back actually to the late 1940s, the foundations were not very solid, certainly not as solid as this person who helped build them thought they were. But a year after, both Turkey and Israel are still trying to recalibrate, readjust the relationship, to rebalance the relationship, to figure out what went wrong and how to fix it. It's not clear if they will succeed, and I think what is not clear is what the costs are for both countries, regionally also, if they fail at patching things up.

I want to look at the Israeli perspective a year later and the flotilla itself. I think from the Israeli perspective, Turkish participation in the flotilla, particularly the *Mavi Marmara*, and the IHH[2] participation, was a kind of traumatic event. Bringing Israelis face-to-face with a Turkish public's anger over the Palestinian issue. This Turkish public anger about Israel itself was something that I think Israelis had never really seen before. And I think forcing Israel to confront the loss of Turkey as a major ally, as its only Muslim ally in the region. It also highlighted what has been a continuing misreading by Israeli officials of Turkey, of the AK Party government, and the country's changing dynamic and changing foreign policy. That is something that started when the AK Party came into power, and the misreading by Israeli officials continued.

What brought the two countries together in the late 1990s, of course, was a sense by both counties of being an outsider, a non-Arab outsider in the region. And clearly since

2. The Foundation for Human Rights and Freedoms and Humanitarian Relief was operator of three flotilla ships, including the *Mavi Marmara* that served as the flagship of the convoy. Nine passengers of this ship were killed in the raid of Israeli forces.

then, the countries have gone on very divergent paths, with Turkey working to reintegrate itself into the region, while Israel has become increasingly isolated in the region, and, of course, still sees itself as an outsider, and in many ways is now even more of an outsider with the loss of Turkey as an ally, and in recent months the loss of Egypt to a large extent as a kind of ally that it had before.

I think that another thing that a lot of Israelis, and Israeli officials in particular didn't have a good read on, was how many Turks linked the relationship with Israel to Kemalism, to military tutelage in Turkey, and I think in the last 8-9 years, as we've had a reassessment of Kemalism, of the military's role in political life, I think in many ways Israel has become intertwined with the old order, and I think that is certainly something the Israeli officials have not had a good read on. In fact, there were several Turkish reporters in Israel with officials and there was an interview with Dan Meridor, one of the Israeli ministers, and he talked about how much Turkey and Israel share and the similarities between Zionism and Kemalism, these two foundational ideologies that brought forth these two nations in the 20th century. And again, the sense I got from him was that I don't think he really understood the sense of the changing dynamics of Turkey and how Israel fits into that.

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If we look as Israeli society, not so much at the leadership level, I want to repeat how profoundly traumatic the flotilla event was, and how much it has helped strengthen what I think has been a dangerous trend in Israeli society, of looking at the country as being disconnected, isolated and not part of the region. During the height of the Turkey-Israel relationship in the 1990s, the Israeli perception was that Turkey was this close friend, a kind of safe haven in the region filled with enemies, and I think for the Israelis the loss of this has really strengthened dramatically this sense of isolation in the region. And I say it is dangerous because if we are looking for solutions in the region, having an Israeli society that feels disengaged, threatened, only strengthens negative trends, only strengthens the hand of a government like what we currently have in Israel, and that of course doesn't work for anyone's benefit.

If we look back a year later at Turkey and Israel, a lot of what we can see how sort of exceptionally Turkey has treated Israel, and I mean by exceptional in the sense as an exception, not as in exceptionally well. Israel is very much outside of Turkey's 'zero problems' or 'neighborhood policy,' I think that we can look at what this is about. When we look at how Turkey has approached other problems in the region, we see a very different approach to Israel. Foreign Minister Davutoğlu, for example, talks a great deal about engaging with peoples in other regions. He has almost a psychological approach, for example, with Syria and other places. For example with Iran, the approach has been about creating trust, about a gentler approach, about really trying to listen and understand a country's fears and concerns. Israel, however and for whatever reason, receives a very different approach, and I think that has only intensified over the last year, although maybe in recent days there have been some changes.

But there has obviously been very little engagement between the two countries on the governmental level Currently, in Israel we also have a very difficult government for Turkey to deal with as well as for other countries to deal with. But we've seen very little Turkish effort to engage with other parts of Israeli society. So, if we put aside the governmental level, we still don't see real efforts to do cultural exchanges, other kinds of person-to-person exchanges, the kind of things that the Turkish government has tried to do with other countries in the region. In fact, some of efforts to do this recently have been recently been cancelled. We had an Israeli musical performance group that was supposed to play in Istanbul that had to cancel; we've had Israeli sports teams that have had to cancel. I think the tenor of the recent campaign by the AK Party, where the question of criticism of the government was blamed on Israeli control of the media, also was not helpful. Things like this have only again helped strengthen a sense among the public that Israel is a negative force, a dangerous force.

But at the end of the day, without any significant breakthrough on the Palestinian issue, on the Palestinian front, probably without even a change in government in Israel, there is little chance for the kind of normalization that many people are looking for.

If we look at some of the recent developments, obviously there have been some recent efforts to bring the two countries together. What's driving this? I think Turkey's discourse, previously both on the government and public level, is increasingly painting Israel as the main source of instability in the region, and this increased after the flotilla. But in the last few months, particularly after the events in Syria, we've seen that Israel is perhaps one of the largest, if not the largest, destabilizing factor in the region, but Turkey now has to deal with other destabilizing factors, something much closer to its own borders. And concerns over Syria – it was actually concerns over Syria and efforts to check its power that actually brought Turkey and Israel together in the 1990s – are again bringing the two countries closer together. So it's interesting that Syria is again somehow possibly bringing the countries together, but I think that's an open question.

A year ago, some people would have made the argument that Turkey, perhaps led by the IHH and the flotilla itself, was somehow joining an 'axis of resistance' regarding Israel, and you certainly heard that. But a year later, especially with what is happening in Syria, again it is clear that there are other crucial struggles in the region and Ankara cannot ignore them if it wants to maintain its trajectory of becoming a regional power. So, in many ways this push for the two counties to normalize their relationship right now is not only coming from influential voices outside of Turkey, such as Washington, but also from voices inside Turkey, such as the Gülen movement, which seems very interested in having the two countries patch things up.

It goes to the deeper question of can the two countries normalize their relationship - whatever 'normalize' means at this point? But at the end of the day, without any significant breakthrough on the Palestinian issue, on the Palestinian front, probably without even a change in government in Israel, there is little chance for the kind of normalization that many people are looking for. And I also wonder if Turkey, and I am talking about the AK Party leadership, in particular Erdoğan and Davutoğlu, can 'normalize' their relations with Israel. Israel clearly exists in a kind of other realm, emotionally, intel-

lectually, politically, ideologically, for both of them and these are the people who are formulating Turkish foreign policy. And I don't really have a clear sense of how they visualize the future relationship between Turkey and Israel. I think that that is still being developed especially in light of recent events. I think tied into that question is what role does Turkey see for itself regarding Israel and the peace process. It's clear how Turkey sees itself in its role with the Palestinians, and what kind of role it would like to play in terms of developing Palestinian statehood, nationhood, and unity. I don't have a sense right now of how it sees the Israeli side. In that sense, the absence of a positive, engaged Turkish governmental voice on that issue leaves a gap in the region, and one that perhaps we can talk about more in the question period. Thank you.

In Turkey, foreign policy decisions are mainly state decisions.

Nuh Yılmaz:

I hope this will be a useful event to discuss what is going on in the region with the flotilla. I'm going to focus more on the structural conditions that paved the way for the flotilla, and also what has changed after the flotilla. I agree with most parts of the presentations of Noura and Yigal. Having said that, there is one important point I would like to make. In Turkey, foreign policy decisions are mainly *state* decisions. Sometimes foreign policy decisions may change from government to government, but most of the time, if a foreign policy decision is made in Turkey, it means it is a state decision. So, even if some institutions do not agree with the results or do not agree with what needs to happen, at the end of the day, all the institutions support these decisions. So, why do I start like this? What's going on in the region is a result of what's going on in Turkey in terms of the state structure and Turkish foreign policy. I don't want to give the whole story of Turkish-Israeli relations, but we need to recognize first that Turkish-Israeli relations lived its 'best times' during the 1990s. That golden age started in 1991 and lasted for almost a decade. This was a special time for both Turkey and Israel, because after the Cold War, Turkey felt that it might lose its importance in the Trans-Atlantic Alliance, and it felt, especially after the invasion of Iraq (the Gulf War), that there was a 'Kurdish Question' evolving out of the Syrian and Iraqi contexts. Then, Turkey decided to get closer to and have better relations with Israel in order to deal with these security trends, and also at the same time, to acquire weapons that were basically embargoed by the United States due to human rights issues in Turkey. That was the real basis for Turkish-Israeli relations—the strategic relations between the two countries in the 1990s. Turkey has started to change since the late 1990s, especially in early 2000. In the international context and in the regional balance of power almost all the reasons that contributed to Turkish-Israeli relations started to disappear. Turkey started building good relations with Syria, the Kurdish question—especially the security aspect of that question—had changed, the PKK was under control, the PKK's leader was imprisoned…so most of those past reasons had disappeared. Also, Turkey as a state, even during the Cold War, followed an independent foreign policy. It had been trying to keep its profile as an

independent power in the region. Whether it was successful or not is something else. But at least Turkey tried to keep that 'independent profile' most of the time. Starting in 2000, especially after the recovery period following the financial crisis of 2000-2001, Turkey definitely felt stronger and tried to be more assertive and more independent in its foreign policy choices. To achieve these goals, certain decisions were made, especially starting with the AK Party government. The basis of this new foreign policy can be reduced to three important principles: the balance between security and freedom, respect for elections, and free flow of goods and people.

The main reason for this conflict is not the conflict between the two countries, but the conflict between the two regional approaches, two different regional strategies.

Since these were the bases for Turkish strategy in the region, Turkish foreign policy-makers made a decision that, in order for Turkey to become a more powerful and more independent country in the region, or let's say just to rise as a regional power, it had to go through an economic boom first. Turkey had to boost its trade, and it also had to build a different profile by eliminating all human rights violations, and try to present a better, more acceptable profile to the outside. This was the basis for 'the balance between security and freedom.' As a basis for this new approach, Turkey began to implement various policies such as the lifting of visas, creating common trade zones, establishing a new region where movement would be easier through economic activities—more trade, more investment, and more tourism. Israel, as a country in the region, was not outside of this strategy, and it's still not outside of this whole big picture. But the problem was—even though Turkey had many problems with Iraq, Syria, and almost all of the neighboring countries (Greece and Bulgaria)—most of the problems with these countries were reduced to a workable level, and then Turkey introduced these various mechanisms to allow more interaction and more exchange in the region. But there was one roadblock to this regional approach, Israel. Not because Israel was necessarily against this policy, nor was it that Turkey was anti-Israel. The issue was that Israel did not want to support the free movement of goods and people because of the blockade and the West Bank/Gaza occupation. Israel also did not want to see more economic integration in the region, because of the blockade in Gaza and the integration situation in Israel's interior. Also, Israel did not really want to go forward with 'elections,' because of the Hamas issue.[3] And mostly, Israel really did not want to balance security and freedom because it felt more and more threatened and isolated with more freedom, and it wasn't even considering providing liberty for the people who live in the occupied territories.

That's why the main reason for this conflict is not the conflict between the two countries, but the conflict between the two regional approaches, these two different regional strategies. Turkey has been trying to implement a different strategy, which clashes with Israel's position. The difference is the difference between policies. If we look at the issue from this perspective, Turkey becomes more active, more vibrant (in its economy and civil society) and at some point—this was discussed last year, whether the IHH was

3. Hamas was democratically elected to power in 2006

supported by the government or not—because of all these processes, civil society or the NGOs began to go through with their decisions by themselves. I mean, this is not only an issue regarding Gaza or Palestine or Israel, but it's the same case for Armenia. For example, the relationship with Armenia is mainly carried out through NGOs, and I suspect that there is strong government support behind those interactions, and the same with Greece.

So the point is that because of this vibrant economy and civil society, the media is now more important than ever in the country in terms of shaping the policies, and civil society is more influential in shaping policies in Turkey. As a result of all these developments, the flotilla event happened. The clash of two different regional perspectives, and also because of the growing economy and civil society (NGOs) in Turkey, extended and transcended the societal limits, as Yigal mentioned, with supporting better relations between Israel and Turkey—that's a civil society move as well, and I suspect there's close governmental involvement in terms of deciding on policies. In this way, sometimes there is cooperation parallel with the government, and sometimes these different 'subjects' have different interests and they mainly follow their own interests. What does a state need to do to govern and balance all these things and at the same time try to prevent all these things from destroying the state's foreign policy? As a result, the clash and tension between the two countries was mainly structural; it cannot simply be reduced to 'the flotilla,' the IHH, or to just 'what happened in Gaza,' but the accumulation of all of these. I will not discuss the details of the flotilla and leave that to lawyers and legal experts. But what has happened after the flotilla incident; what has changed?

As a result, the clash and tension between the two countries was mainly structural; it cannot simply be reduced to 'the flotilla,' the IHH, or to just 'what happened in Gaza,' but the accumulation of all of these.

Four important results arose from the flotilla incident. First, Turkey's security perception has changed. There have been many discussions and publications, following the flotilla event about how this event would change Turkey's threat perception. Two days after the flotilla event, I argued that Turkey's security perception was going to change. It has not been confirmed, but there have been reports last year in the Turkish media, saying that Turkey's 'Red Book,' which determines Turkey's security priorities, has changed. Israel was an immediate main threat for Turkey. This does not mean that there was a military threat against Turkey—however Turkey has to be more careful about what Israel is doing in the region and also has to determine its security priorities calculating Israel as a potential threat. So, once you've made this decision, of course it's not easy now to make 'easier' moves in the region, in terms of diplomacy or foreign policy.

The second issue is the legitimacy problem in the broader region of the Middle East. We all discussed the Arab Spring, the Arab revolution, and what happened in Egypt in the discussion and we give credit to Twitter and Facebook and all those things, but nobody seems to be giving any credit to what happened during the flotilla and what type of legitimacy problem it created. After the flotilla incident, a couple of guys, a bunch of activists did something that most of the states in the region would not dare to do.

They tried to break into a place that was under the control of the IDF, and they took the responsibility for their actions—nine people gave their lives. Almost all of the countries of the region used this incident to gain some sort of legitimacy by arguing that they were protecting the region from outsiders, and whether I agree or not is a different issue, but the main source of legitimacy in the Middle East has been really coming from what was going on in Palestine and in Israel. The flotilla event showed that these state elites in the region really did not do their homework, but rather profited from on the conflict between Palestinians and Israelis. Because of this reason, the flotilla event helped trigger what happened during the Arab Spring by undermining the legitimacy of the ruling elites of the region.

Whether the remnants or residues of the Cold War will go away or not—Israel resists and insists on maintaining the status quo ante, the old order, even though all of these new developments are happening in the region.

The third issue is NGO-state relations. After the flotilla, the Middle East is now not a region that can be reduced to a balance of power between the states anymore. The civil society institutions and the NGOs have a real say in the wider politics in the region. Whether you like it or not, whether you agree or not, this trend will continue in this way. There are discussions in Turkey about what to do regarding Israel as there are discussions in Israel about what to do about Turkey, and there are discussions in Egypt about what to do about all of this. This is a new challenge in the region that all the actors have to deal with. Now NGOs are an integral part of the regional policymaking process.

Also, the final result is the Arab Spring. Israel now needs to make a decision on whether they will 'go through' with the Arab Spring or not. Yes, this was called the Arab Spring, but it's about the Middle East in general; it's not about Arabs, but the whole region. Whether the remnants or residues of the Cold War will go away or not—Israel resists and insists on maintaining the *status quo ante*, the old order, even though all of these new developments are happening in the region. Israel has been following an isolationist policy and trying to close itself off within the territory and trying to build walls…I mean Israel doesn't recognize what's going on in the region. And we saw this when Israel keenly supported Hosni Mubarak or Omar Suleiman, in the case of Egypt for the sake of the *status quo*. The Saudis and Israel were together in supporting Mubarak and Suleiman. So, Israel needs to make a decision. If Israel needs to be part of this Arab Spring, I think things will become easier and better for everyone in the region. I want to conclude with a couple of questions: What will be the next step? The new flotilla is coming, so how will this new flotilla affect the broader regional politics? How will Israel respond to these new conditions? Will Israel be a part of the new discussions in the region or close itself off in its own territory? I think Israel's decisions will be one of the main determining factors in terms of how Turkish-Israeli relations will develop. To call or to discuss these broader policy problems under the tag of Turkish-Israeli relations might not be the best way; we need a broader, more regional approach and we need to add other actors in the region to the discussion to have a more strategic dialogue regarding what's going to happen next.

Kılıç Kanat:

I have a list of questions for the panelists and I will ask the questions directly to individuals but anyone in the panel, if they want to add something, can go ahead and respond to any of these questions. Mr. Yılmaz gave us a broader perspective to understand the crisis and link the bilateral relations between Turkey and Israel to the regional developments and geopolitical perspectives of Turkey and Israel. As we all know, however, in Turkish-Israeli relations there has always been a third party whose role cannot be ignored, the United States. During and immediately after this crisis, we know that the US administration was trying to mediate the dispute and sending messages to calm down the situation, which definitely didn't please the Turkish government. Even Prime Minister Erdoğan voiced his criticism towards the US administration by asking why it did not question the killing of an American citizen in the raid. In fact, the issue of Israel has been an important dimension of Turkish-American relations. In almost each and every panel, conference or workshop on Turkish–American relations there is a constant emphasis on the Turkish–Israeli relations and its possible implications for US–Turkish relations. Considering the importance of the trilateral nature of this relationship can you give us an idea about the US stance in this conflict? Does the US administration have the capability to solve this dispute between Turkey and Israel?

There has always been a third party to Turkish-Israeli relations, the US.

Secondly as I mentioned above, the relations between Israel and Turkey are at a critical juncture not only due to the crisis in bilateral relations but also because of the developments in the region. In your presentations you mentioned this dimension, but can you elaborate a little more on this issue? The crisis in Syria has especially demonstrated that the countries of the region may play a significant role in the domestic conflicts of their neighbors and the developments in the region can also impact bilateral relations. Most recently we heard about the Iranian influence in Syria. Can the domestic developments in the countries of the region change the regional balance in the Middle East and transform the relations between Turkey and Israel? And one last question is about your own prescription to heal the relations between Turkey and Israel. What would be an effective mechanism to revive the relations between these countries? Do you think there is any possible way to solve this problem?

Nuh Yılmaz:

Let me just start with the US-Turkish issue. There has always been a third party to Turkish-Israeli relations, the US. It has been like this for a long time mainly because of weapons acquisition and the pressure from the ethnic lobbies on Turkey in Washington. Starting in the 1970s, the Israeli lobby helped Turkey get through the US Congress and fight against the Greek and Armenian lobbies. This was the basis for Turkish-Israeli relations and this is how the relations were mediated through Washington. But now we are living in a different time, where Turkey prioritizes its foreign policy issues and

does not see some of the old issues as foreign policy priorities. This doesn't mean that these old problems have lost their significance, but Turkey is now dealing with many different issues; it deals with Iran, with Russia, energy issues, the economy, Palestine, European Union accession, and, since Turkey's region has been so vibrant, Turkey has to spend a lot of time dealing with all these issues. For example, the Cyprus issue was vital, but it doesn't look *that* vital when you have all these other things in your basket. Comparatively, this reduces the weight of the Israeli lobby and Israeli-US relations for Turkey.

Having said that, there is definite pressure from Washington to have better relations, but Turkey will not go through with these pressures when Turkey's demands have not been met by Israel.

Now there is also a new regional order that is about to be established in the Middle East. So when we discuss those new developments, which will continue for decades to determine a country's position in the region, I really don't think Turkey feels obliged to compromise on Turkey-Israel relations to please Washington. Also, there is the issue of national pride, when Turkey talks about itself as a regional power - it really cannot compromise on these kinds of issues regarding Israel. What is the importance? When the flotilla event happened last year, it created a hostile environment in Washington for most Turks. As a person who felt this firsthand, I'll admit that it was not the easiest time of my life. But things happen and I think that that's how people look at these issues in Turkey. Yes, if we do have to go through these difficulties, then let's face them, because that's the price you have to pay if you want to become an independent power. This is, I think, the strategic calculation that Turkey makes, and that's why the importance of Israel decreases. But this does not mean that Turkey's relationship with the West is going downhill; Turkey tried to separate relations with Israel and the US to say that now the crisis in Turkish-Israeli relations should not affect relations with the United States. Theoretically, it's possible. I doubt it will happen at this time, but, at least analytically, Turkey has begun to discuss this issue. This means that we are now in a different moment and situation. Having said that, there is definite pressure from Washington to have better relations, but Turkey will not go through with these pressures when Turkey's demands have not been met by Israel. What needs to be done to improve relations, I think, will require that Israel recognize the new dynamics in the region and go forward with these new policy issues. Other than that, I really do not buy the idea that two diplomats can come together and have a nice time, shake hands and just solve this problem and go home. No, these are real issues on the ground and without facing them—even though those nice messages may save the day—they can't produce something deep and structural. In order for that thing to happen, Israel should follow the Arab Spring and adopt a friendlier approach in the region. It should really make a decision about what kind of Israel the world wants to see, let's say, 10, 20, 30 years from now. That will determine where we go from here.

Kılıç Kanat:

I also have several questions for Yigal. Several times in your presentation, you used the word 'traumatic' to describe the relations between Turkey and Israel and Israeli's

perception of Turkish government and protesters. But what exactly was traumatic to the Israeli public? Was it the attitude of the Turkish government and its permission for the protesters to leave from Turkish ports, is it the organization of an international flotilla to break the blockade of Gaza, or is the raid of IDF forces on the *Mavi Marmara* and its consequences (of course humanitarian consequences in this case)? These are three different things, and I think we need to distinguish them to understand what was traumatic for the Israeli public. Since public opinion can be extremely important in shaping the foreign policy and international behaviors of the countries, to understand the difference of opinions (if any) between public opinion and the government can be critical to better assess and evaluate the incident.

Another more question for Yigal, which is more about the recent developments between Israel and Turkey. Haaretz recently revealed that the Minister for Strategic Affairs, Moshe Ya'alon, was conducting secret talks in Geneva with the Director-General of the Turkish Foreign Ministry, Feridun Sinirlioğlu. Although it was reported that there is still not an agreement between the parties, it looks like a major step to repair bilateral relations was taken. In this report, which was not denied by either party, it was also stated that the Israeli government agreed to pay compensation for those who were injured or killed during the raid, however it still refrains from accepting Turkey's demand for an official apology. We know that an apology is a critical and difficult aspect of international relations and we previously saw that it may cause important deadlocks in the relations between countries. Suppose that the Israeli government accepts to offer an official apology for the flotilla raid, what would be the domestic implication of this apology? What will be the repercussions of this kind of official statement for the Israeli public?

And a more informal question about the Deputy Foreign Minister, Danny Ayalon, who caused a foreign policy crisis between Turkey and Israel at a very critical time period, due to his attitude towards the ambassador of Turkey and his statements in the aftermath of this incident. In an unexpected move, Ayalon has met with Turkish journalists today and sent very warm messages to the Turkish government and people. He explained the incident between himself and the Turkish ambassador was a joke, which was misunderstood by the media. He also said that there is a golden opportunity for repairing relations between Turkey and Israel now and, considering Turkey's relations with Hamas, he said he can kiss the hands of those who will persuade Hamas to stop the violence and to recognize the state of Israel. In addition, for the last four hours, he has been tweeting back and forth with his Turkish followers and is being extremely tolerant to even harsh questions. Mr. Ayalon is an enigma for us and we need your help to interpret the reason of this sudden change in his attitude.

For Israelis on a society level—Turkey had been for a long time a kind of 'release valve,' a pressure valve—the only direction you could go regionally.

Yigal Schleifer:

Regarding the question of 'trauma' for Israel: For Israelis on a society level—Turkey had been for a long time a kind of 'release valve,' a pressure valve—the only direction

you could go regionally. Even the fact that so many Israelis went to Turkey for holidays became a kind of joke in Israel because so many people were going there. But really, the flotilla event and the dramatic role that the Turkish organization played in it had a certain 'et tu, Turkey?' feeling to it, a sense of betrayal, a stab in the back. 'I thought we were friends!' is how many Israelis felt. With the flotilla, Israelis came face-to-face with the IHH, which was much different from what Israelis had seen before on their 'Holiday in Antalya' or from the secular elite that they had been in touch with in Istanbul. I don't think they've before been face-to-face with something like the IHH, which is an organization that in its bones, I think, is very much opposed to Israel's existence, perhaps not on an official level, but certainly among its membership — so coming face-to-face with that kind of visceral hate for Israel was for Israelis very shocking, because over the years they had come to see a 'different' Turkey. Obviously mistakenly so, or they hadn't seen *all* faces of Turkey, so the trauma then comes out of the loss of this friendship, the loss of what felt like a 'pressure valve,' and now suddenly feeling completely enclosed in the region. That only reinforces these negative trends in Israel, these further feelings of isolation. So when we talk about creating a new vision, creating a new vision in Israel, where it sees itself 10, 20, 30 years down the road, if the trend is towards this increasing isolation, if the feeling is that there's less support regionally, then it only strengthens those negative trends.

There are incompatible visions right now between the two countries.

The question of an apology, for Israel I think it's legal to a certain extent—they see what they did as legally valid— giving an apology then would undermine the country's legal justifications for attacking the flotilla and trying to stop it, etc. But I think on the domestic front, there's a very strong sense that what was done—yes, deaths were tragic, but it was correct; it had to be done. Very few voices domestically in Israel say, 'The blockade was wrong, attacking the flotilla was wrong.' Even in many of the enlightened minds in the country, there's this sense that what was done was right, perhaps a bit botched up, but correct. So I think that issuing an apology is *very* difficult. The format might be there for some kind of expression of sorrow, but I think issuing an apology would be too costly domestically, and it would just not have the kind of support for that on the public level.

Finally, regarding Danny Ayalon—I think you may have seen these interviews he had in the Turkish newspapers—he said that if Turkey can work to get the release of Gilad Shalit 'we'll kiss every Turk's hand.' There's some kind of charm offensive going on. It's hard for him to be charming, I find. Obviously things are cooking, such as the bringing Turkish journalists to Israel, and there was this effort to get this Israeli group or this mixed Jewish-Palestinian play in Istanbul—I mean there are obviously efforts to kind of move things on different levels. But I think it goes back to what Nuh said. There are incompatible visions right now between the two countries. I think between the two governments too, there's such a level of distrust. The chemistry is so off that it's going to be very hard, even with this kind of 'outreach' on both sides right now.

Kılıç Kanat:

My final questions are for Noura. While discussing the implications of the Gaza flotilla and the raid on the *Mavi Marmara* by the IDF, you mentioned that the main outcome of this event was a discursive one, meaning that the organization of the flotilla and, more particularly, the raid on one of the ships provided the re-circulation of the debate on the Gaza blockade in public discourse. After this event, everybody somehow remembered the blockade and started to discuss and criticize the attitude of the Israeli government towards the Palestinians in Gaza. In this sense, it had a major impact on a desensitized public about the blockade issue. Without a doubt, this is a very important consequence of the flotilla, but are there any other more substantial implications of the flotilla? To put it differently, did it help the Palestinians in any other way other than putting the blockade back in to the public debate, and, if yes, in what ways?

Secondly, you stated that the flotilla organized and raided last year was not the first attempt to breach this blockade through the sea via ships. What were the previous attempts? Who organized these flotillas and what happened to them? Are there any debates about the legality of these flotillas or interventions (if any) on them?

Noura Erakat:

I'll just start with the question of legality and former boats. I've mentioned that before May 2010, there were several attempts to break the siege or to disrupt the blockade regime that weren't well known to all of us, because they were responded to with force that wasn't lethal, which indicates that Israel always had other options available to it that last May it chose not to employ. It decided to take it up a notch, to actually make this a lethal attack, and so, just a little bit about the legal implications over whether or not these boats should sail. As far as the technicality of the flotilla in May, the legality of it was that Israel, at the time when its naval commandoes actually boarded the *Mavi Marmara*, the IHH boat was in international waters; meaning that Israel then did not have the right to board that ship or to assert its self-defense. But even if it had entered the sea-space that Israel was controlling on Gaza's port, there is contention if that is indeed a naval blockade. If the naval blockade is not legitimate to begin with, because this is occupied territory, does Israel have the same right to then—even in those waters where it has the jurisdiction to invade the boat? Assuming that it did have that right, the question then becomes does it have the right to use lethal force as it did, which raises a lot of questions about the laws of war and the laws of engagement—the means and methods of warfare: Should those civilians have been shot in their feet first? Well, first the warning shots in the sky, and then their limbs, before the shots that were directly in their heads and in their chests as autopsies have revealed, which then reveal the intentionality to murder the civilians who were *unarmed* at the time and that is always prohibited, pursuant to international law given that they weren't armed, and therefore the right to shoot them lethally did not belong to Israel.

I've mentioned that before May 2010, there were several attempts to break the siege or to disrupt the blockade regime that weren't well known to all of us, because they were responded to with force that wasn't lethal, which indicates that Israel always had other options available to it that last May it chose not to employ.

Now whether or not that's true, the questions have not been answered primarily because of impediments that Israel has actually created *in* investigating the attacks. All the videos that were created on board were confiscated, except for one, which was smuggled out. To actually carry out a civilian investigation—the actual legality of being able to investigate in a timely manner has also been impeded. So these questions which may lead us to conclusively and authoritatively answer whether or not it was legal have been impeded because of Israel's intransigence of *not* participating, similar to its intransigence of not participating in the investigation of Operation Cast Lead and so on and so forth. Which is to say that Israel did have previous experiences with ships—it had rammed one of the ships offshore, it had arrested all the civilians on the ships, they had deported, in the case there was this feminist ship from Lebanon, it was filled with Lebanese female civilians who wanted to demonstrate kind of the nurturing of motherhood to break the siege. In that case, those women were arrested and then deported back to Lebanon. There had been several instances before the use of lethal force was necessary and I would suggest that the reason why Israel used lethal force in May was a deterrent to future efforts for the flotilla, and as we've seen, that deterrent has *not* been effective, as this flotilla is set to sail at the end of this week and it's actually bigger than the flotilla last year.

There had been several instances before the use of lethal force was necessary and I would suggest that the reason why Israel used lethal force in May was a deterrent to future efforts for the flotilla, and as we've seen, that deterrent has not been effective, as this flotilla is set to sail at the end of this week and it's actually bigger than the flotilla last year.

In terms of tangible ramifications, aside from assuming the Gaza blockade and its validity or lack thereof, assuming the stage of public discourse, the other implications as you've suggested were, I would say, not the opening of the border at Rafah between Egypt and Gaza. I think the opening of the Rafah border is very much a function of the Arab spring, very much a function of a departure from a previous Egyptian policy led by former leader Hosni Mubarak, who as part of a former regional order, as Nuh suggested, was creating a new regional order.

But regarding other actual ramifications, and I think perhaps the most significant one, is the demonstration of a failed diplomatic and political track in order to reach a solution to the Palestinian-Israeli conflict. It signaled, perhaps even before Al-Jazeera's release of the Palestine Papers— the inadequacy of strictly a political track that confined the Israeli-Palestinian negotiations to bilateral negotiations brokered by the US. These negotiations, in the past 18 years, have brought *nothing* to the Palestinian people, certainly. To the contrary, the situation has been exacerbated with a doubling in the number of settlements in the West Bank, a doubling in the population from 250,000 settlers to 500,000 settlers with an increasing number of settlers in the Jordan Valley, which is 40% of the West Bank, the continuation of building an annexation wall that was deemed illegal by the International Court of Justice in 2004, that had confiscated another 13% of the West Bank, the imposition of a blockade—all of these detrimental developments that happened under the auspices of bilateral negotiations.

What the flotilla did—and this was already apparent and obvious after the release of the Palestine Papers—in May I think, most significantly, is to reveal the limitation of the

bilateral talks and the necessity of civil society participation in order to create a new track. And after the attack on the *Mavi Marmara*, there was a watershed in new activity in civil society participation. A civil society movement calling for boycott divestment and sanctions included a wide swath of Palestinian civil society organizations. Iin 2005, in the one year anniversary of the release of the ICJ decision, which called on the high contracting parties of the Geneva Convention in order to implement the decisions of the ICJ to counter Israel's decision of building of the annexation wall, Palestinian civil society called upon the international community for solidarity to boycott, divest, and sanction Israel until and when it complies with international law, namely until it ends its occupation of all occupied Arab lands, until it recognizes the right of return of Palestinians, and until it affords equality for those Palestinian citizens of Israel that are treated as a fifth column. What we saw in the aftermath of the flotilla was a watershed of BBS activity, which, not insignificantly, Israel deems as part of a broader de-legitimization campaign that the US Department of State just last week condemned as well. And we see this broader push back against basically the quarantining of finding a solution to the conflict and then US and Israeli pressure to actually contain it again, which is failing and we are going to see possibly the apex of that fallout this September.

Noura Erakat is a Palestinian human rights attorney and activist. She is currently an adjunct professor of international human rights law in the Middle East at Georgetown University and the Legal Advocacy Coordinator for the Badil Center for Palestinian Refugee and Residency Rights. Her numerous publications include 'Litigating the Arab-Israeli Conflict: The Politicization of U.S. Federal Courts' in the Berkeley Law Journal of Middle Eastern and Islamic Law and 'Arabiya Made Invisible: Between the Marginalization of Agency and the Silencing of Dissent' in a Syracuse Press anthology.

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