The Israeli Blockade of Gaza Violates International Law

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Israeli forces boarded a Turkish-flagged vessel attempting to ferry relief supplies into Gaza on Monday and killed nine civilians in the process. The parties disagree on who instigated the fighting, but there's no doubt the ship was attempting to penetrate Israel's three-year blockade of the occupied territory. According to international law, when can a country establish a blockade?

When it's at war, or the United Nations has granted special permission. Naval blockades are acts of war under international law, so one country may legally blockade another only if it is acting in individual or collective self-defense—the standard requirements for going to war—or the U.N. Security Council has proclaimed the action necessary to maintain international peace. Some legal scholars, however, view the aged and restrictive laws governing blockades as being out of step with modern conflict. They argue that, under Article 51 of the U.N. Charter, countries have broad rights to interdict and inspect any ships that may be carrying weapons into their territory, and such actions should not be interpreted as formal acts of war.

Naval blockades have a long history, going back to the Spartan blockade of Athens in 404 B.C. They can be a devastating military tactic—Athens surrendered after six months of starvation. But intercepting commercial vessels sometimes draws their home countries into a conflict. One of the United States' beefs with Britain in 1812 was the confiscation of U.S. food shipments to France. Many Southerners fondly hoped that the massive Union blockade of the Southern coastline would draw Britain into the Civil War.

The Declarations of Paris (1856) and London (1909) laid down most of the modern ground rules to prevent blockades from turning regional conflicts into major wars. Any blockade must be formally declared, so neutral ship captains know to keep away from the interdiction line. The quarantine area may not extend too far beyond the coast, although the law isn't specific on distance. (Many scholars interpret the language of the London Declaration to limit blockades to the standard 12 nautical miles that define territorial waters.) And you can't half-ass a blockade: If a country selectively intercepts neutral vessels or employs too few naval ships to police the line, they have to drop it altogether.

Many consider Israel's blockade to be on very shaky legal ground. Its status in the West Bank and Gaza is widely viewed as a belligerent occupation, despite the 2005 disengagement. Belligerent occupation is different from a true state of war and may not

confer the technical right to form a blockade. Second, Sunday's incident occurred [40 miles off the coast of Gaza](), well outside the traditional blockade range. Finally, Israel has [allegedly been firing on Palestinian fisherman](), which is [absolutely illegal]().

Israel is hardly the first country to stretch the law of blockade to fit its perceived self-defense needs in a changing military landscape. On October 22, 1962, President Kennedy announced that the United States would [establish a naval "quarantine"]() around Cuba to prevent the Soviet Union from installing nuclear missiles on the island. Kennedy chose his words carefully, because a blockade might have been interpreted as an act of war. (The president's advisors had determined that the Soviets' move, while provocative, did not trigger the Americans' right to self-defense.) In practice, there was no difference between the U.S. quarantine and a blockade. Most legal scholars now agree that Kennedy's move, while tactically inspired, was, in fact, against the law. Some advocates of Israel's blockade defend it on the same terms: It may not be legal, but it's necessary.

Sunday's interception raises other legal questions. A 1988 [U.N. Convention](), to which both Israel and Turkey are parties, prohibits seizure of ships on the high seas or acts of violence against the passengers. Ironically, the treaty was adopted in response to the hijacking of the [Achille Lauro]() in 1985 by Palestinian terrorists.

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