

TORTURE IN THE CODIFIED DEMOCRATIC ORDER: THE MAY 2026 SUMUD FLOTILLA AND THE THREE-LEVEL META-VIOLATION

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ABSTRACT

On the night of May 18, 2026, the Israeli Navy intercepted the Global Sumud Flotilla approximately seventy to eighty nautical miles off the coast of Cyprus, in international waters, far beyond any conceivable Israeli territorial or contiguous-zone claim. Israeli forces boarded forty-one vessels flying the flags of more than forty states, seized humanitarian cargo intended for the besieged civilian population of Gaza, and transferred 428 to 430 detainees to Ketziot prison in the Negev, where they were subjected to documented patterns of torture and cruel, inhuman, or degrading treatment authorized at the ministerial level by Israel's National Security Minister. The United States Treasury, under the Bessent administration, characterized the detained activists as "pro-terror" and imposed sanctions on the operation's organizers. The flag states of the detainees — Ireland, Italy, France, Spain, Portugal, the Netherlands, Canada, South Korea, Indonesia, and others — summoned Israeli ambassadors and issued condemnatory public statements while declining to execute the array of legal warrants their codified obligations supply. This Article uses the Sumud case to demonstrate the three-level meta-violation structure of the codified democratic order and to argue that the May 2026 conduct triggers mandatory universal jurisdiction under Article 7 of the Convention Against Torture. Part II reconstructs the factual record. Part III

catalogues the controlling legal authorities. Part IV develops nine layered illegality claims, working from the threshold violation — no UNCLOS Article 110 grounds for boarding — through the international humanitarian law analysis to the *jus cogens* prohibition on torture and the command-responsibility analysis. Part V interprets the case through the bodily-jurisdiction framework's three-level meta-violation diagnosis: direct floor violation, rhetorical-inversion, and deference-based non-execution. Part VI sketches the immediate and structural remedies, the available institutional channels, and the broader significance for the codified democratic order's diagnostic apparatus. The Sumud case is structurally distinct from prior flotilla interceptions because the documented conduct includes torture authorized at the ministerial level. Once torture is on the record, the flag states' deference is no longer a discretionary failure to execute triggered warrants; it is a direct breach of the *aut dedere aut judicare* obligation under Article 7 of the Convention Against Torture, enforceable against the deferring state under *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*.¹ The case therefore graduates the three-level meta-violation diagnosis from a structural critique of the codified democratic order into a treaty-law claim binding on every state party to the Convention.

¹ Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. 422 (July 20).

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I. INTRODUCTION

The Global Sumud Flotilla set sail from southern Turkey in mid-May 2026 carrying 428 to 430 activists from more than forty nations on forty-one vessels. Its cargo consisted of baby formula, food, medical supplies, and water-desalination kits intended for delivery to the besieged civilian population of the Gaza Strip.² The voyage followed a series of comparable humanitarian missions — the *Madleen* in June 2025; the *Handala*; earlier flotilla efforts dating to the *Mavi Marmara* in May 2010 — each of which had been intercepted in international waters and produced varying degrees of international response.³ The structural problem the flotilla was designed to address — the systematic denial of humanitarian access to a civilian population whose subsistence depends on it — had not been resolved in the intervening sixteen years. The flotilla's name, *sumud*, is the Palestinian term for "steadfastness."

On the night of May 18, 2026, the Israeli Navy intercepted the flotilla in international waters off Cyprus, within the Cypriot search-and-rescue zone, at approximately seventy to eighty nautical miles from the Gazan coast — well beyond any territorial-sea or contiguous-zone claim Israel could conceivably assert.^{4,5} Live feeds from the flotilla showed armed Israeli soldiers boarding while activists in life vests raised their hands and surrendered; soldiers destroyed the cameras mounted on the vessels. All 428 to 430 activists were transferred to Israeli naval vessels, then to the port of Ashdod, then to Ketziot prison in the Negev — a facility with a documented

2 *Israeli Forces Storm Gaza-Bound Aid Flotilla off Cyprus*, AL JAZEERA (May 18, 2026), <https://www.aljazeera.com/news/2026/5/18/israeli-forces-intercept-gaza-bound-aid-flotilla>.

3 For comparative analysis of the *Madleen* and prior flotilla interceptions, see *There Are Clear Laws on Enforcing Blockades — Israel's Interception of the Madleen Raises Serious Questions*, THE CONVERSATION (2025), <https://theconversation.com/there-are-clear-laws-on-enforcing-blockades-israels-interception-of-the-madleen-raises-serious-questions-258562>; *The Madleen Incident and the Gaza Naval Blockade*, LIEBER INST. WEST POINT, <https://lieber.westpoint.edu/madleen-incident-gaza-naval-blockade/>.

4 *Israeli Forces Storm Gaza-Bound Aid Flotilla off Cyprus*, AL JAZEERA (May 18, 2026), <https://www.aljazeera.com/news/2026/5/18/israeli-forces-intercept-gaza-bound-aid-flotilla>.

5 *Israeli Forces Intercept the Remaining Activist Flotilla Vessels Headed for Gaza*, PBS NEWS (May 2026), <https://www.pbs.org/newshour/amp/world/israeli-forces-intercept-the-remaining-activist-flotilla-vessels-headed-for-gaza>.

history of "rampant sexual abuse and violence."⁶ Conditions over the detention period included food and water deprivation, denial of medication, sustained sleep deprivation through deliberate nighttime light activation, weapons-barrel threats, beatings, denial of consular access, and the public humiliation of detainees by Israel's National Security Minister, Itamar Ben-Gvir, who personally visited the facility, instructed guards "not [to] be bothered by their screams," and posted videos of bound detainees forced to kneel while the Israeli national anthem was played over loudspeakers.⁷⁸

The United States Treasury, under Secretary Scott Bessent, imposed sanctions on the operation's organizers, characterizing the humanitarian mission as "pro-terror."⁹ The flag states of the detained activists summoned the Israeli ambassador, issued public condemnations, and demanded consular access.¹⁰ Each of those flag states holds an array of triggered legal warrants — flag-state jurisdiction under UNCLOS Article 92, diplomatic protection under customary international law, Common Article 1 enforcement standing under the Geneva Conventions, universal jurisdiction under their domestic statutes, ICJ contentious-case jurisdiction, mandatory prosecute-or-extradite obligations under Article 7 of the Convention Against Torture — that none have executed.

This Article uses the Sumud case to make four claims.

6 Reports of conditions at Ketziot are documented in human-rights organization statements cited at [^omctFidh] and [^meeTortureReport], and in the broader B'Tselem and HaMoked record of conditions at Israeli detention facilities.

7 Ben Gvir Posts Video of Himself Taunting Bound and Detained Gaza Flotilla Activists, *Sparks Global Outcry*, TIMES OF ISR. (May 2026), <https://www.timesofisrael.com/ben-gvir-posts-video-of-himself-taunting-bound-and-detained-gaza-flotilla-activists/>.

8 *Israel "Beat, Tied Up and Tortured" Gaza Flotilla Activists in Prison*, MIDDLE E. EYE (May 2026), <https://www.middleeasteye.net/news/israel-beat-up-tied-tortured-gaza-flotilla-activists-prison>.

9 *US Imposes Sanctions on Gaza Flotilla Organisers: Why It Matters*, AL JAZEERA (May 20, 2026), <https://www.aljazeera.com/news/2026/5/20/us-imposes-sanctions-on-gaza-flotilla-organisers-why-it-matters>.

10 Contemporary reporting cited at [^hungerStrike], [^italianResponse], [^irishResponse], [^southKoreanResponse], [^spanishResponse], [^indonesianResponse].

The first claim is *factual*: the Israeli conduct, viewed against the controlling legal authorities, was unlawful at every layer of the analysis. The interception lacked UNCLOS Article 110 grounds for boarding. The blockade enforcement defense fails because the blockade itself defeats the humanitarian-access obligations the controlling framework imposes. Israel has no territorial sovereignty over the high seas off Cyprus, over Gaza's adjacent waters, or over Gaza itself, and as an occupying power Israel's relationship to humanitarian aid is the inverse of what the interception implies — its obligation is to facilitate, not intercept. The detention conditions violated the International Covenant on Civil and Political Rights, the Vienna Convention on Consular Relations, and customary international humanitarian law. The treatment at Ketziot, including ministerial-level orders to disregard detainees' screams, satisfies the elements of torture under the Convention Against Torture and engages command responsibility under the Rome Statute.

The second claim is *structural*: the United States Treasury's characterization of humanitarian-aid delivery as "pro-terror," and the resulting sanctions on the operation's organizers, is the *rhetorical-inversion meta-violation* the bodily-jurisdiction framework diagnoses. The most-obligated parties — Israel and the United States, both democracies with full civil capacity bound by the codified framework — invert the asymmetric obligations they hold and characterize floor-defense by parties operating in solidarity with a population whose civil capacity has been foreclosed by occupation and blockade as if it were extremism. The structural sign of the meta-violation is precisely this inversion: the party with greater obligations positions itself as if it had fewer, while the party with floor-level defensive rights is characterized as if bound by obligations it does not (structurally cannot) hold.

The third claim is *doctrinal*: the flag states' consistent deference to higher-level intervention while performing the rhetoric of compliance is the *third-level meta-violation* — the failure of the unwilling enforcer. Each flag state holds triggered jurisdictional warrants the codified framework supplies. Each has executed the minimal performance-of-compliance moves (ambassadorial summons, public statement, consular-access demand). None has executed the warrants the framework actually supplies. The third-level meta-violation is what allows the first-level direct violation and the second-level rhetorical inversion to persist; if any single flag state were to execute a warrant — file an ICJ proceeding under Common Article 1 standing, initiate universal-jurisdiction prosecution of Israeli officials, impose targeted sanctions on those directing the interception — the deference equilibrium would break.

The fourth claim is *legal*: once torture is on the record, the analysis graduates. The flag states no longer hold merely *triggered* jurisdictional warrants they could choose to execute; they hold *mandatory* universal-jurisdiction obligations under Article 7 of the Convention Against Torture. Failure to investigate and prosecute the responsible Israeli officials is not deference or incongruent disposition; it is direct non-compliance with binding treaty obligations, enforceable against the deferring state in proceedings between state parties at the International Court of Justice under *Belgium v. Senegal*. The codified framework's failure here is not metaphorical; it is a treaty breach by every flag state party to the Convention.

The Article proceeds in seven parts. Part II reconstructs the factual record. Part III catalogues the controlling legal authorities. Part IV develops nine layered illegality claims, organized from threshold to apex. Part V interprets the case through the three-level meta-violation diagnosis. Part VI sketches remedies, consequences, and institutional channels. Part VII concludes. The Article assumes — and where useful, cross-references — three companion works

developing the broader framework: *Bodily Jurisdiction: The Floor of Constitutional Authority*,¹¹ *Applied Diagnostics: Structural Analysis of Active Conflicts Through the Bodily-Jurisdiction Framework*,¹² and *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism*.¹³ The arguments in this Article stand independently of the companion works; readers familiar with the framework will see the case as paradigmatic; readers approaching the analysis without prior exposure will find the structural diagnosis self-contained.

II. THE FACTUAL RECORD

A. The Voyage and Interception

The Global Sumud Flotilla, organized by the Freedom Flotilla Coalition and partner organizations including the Global Sumud Flotilla coalition itself, set sail from southern Turkey in mid-May 2026.¹⁴ Forty-one vessels carrying 428 to 430 activists from more than forty nations departed for the Gaza coast, carrying baby formula, food, medicine, and water-desalination kits.¹⁵ The voyage was a renewed attempt following the interception of the *Madleen* in June 2025 and the *Handala* in earlier flotilla efforts, each of which had been intercepted in international waters and resulted in detentions, cargo seizures, and deportations.¹⁶

11 Joseph D. Kirchner, *Bodily Jurisdiction: The Floor of Constitutional Authority* (May 2026).

12 Joseph D. Kirchner, *Applied Diagnostics: Structural Analysis of Active Conflicts Through the Bodily-Jurisdiction Framework* (May 2026).

13 Joseph D. Kirchner, *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism* (May 2026).

14 Freedom Flotilla Coalition, *Legal Analysis of the Freedom Flotilla*, <https://freedomflotilla.org/legal-analysis/>.

15 *Israeli Forces Storm Gaza-Bound Aid Flotilla off Cyprus*, AL JAZEERA (May 18, 2026), <https://www.aljazeera.com/news/2026/5/18/israeli-forces-intercept-gaza-bound-aid-flotilla>.

16 For comparative analysis of the *Madleen* and prior flotilla interceptions, see *There Are Clear Laws on Enforcing Blockades — Israel's Interception of the Madleen Raises Serious Questions*, THE CONVERSATION (2025), <https://theconversation.com/there-are-clear-laws-on-enforcing-blockades-israels-interception-of-the-madleen-raises-serious-questions-258562>; *The Madleen Incident and the Gaza Naval Blockade*, LIEBER INST. WEST POINT, <https://lieber.westpoint.edu/madleen-incident-gaza-naval-blockade/>.

On the night of May 18, 2026, Israeli naval forces intercepted the flotilla in international waters off Cyprus, within the Cypriot search-and-rescue (SAR) zone, at approximately seventy to eighty nautical miles from the Gazan coast.¹⁷ The location is far beyond Israel's twelve-nautical-mile territorial sea, far beyond any contiguous-zone claim (which would extend at most twenty-four miles), and far beyond any exclusive-economic-zone claim Israel could legitimately assert in waters adjacent to a population over which Israel exercises no recognized sovereignty.¹⁸

Live feeds from the flotilla showed armed Israeli soldiers boarding while activists in life vests raised their hands and surrendered; soldiers destroyed cameras mounted on the vessels and detained the journalists onboard.^{19,20} Italian activists reported rubber-bullet fire against vessels during interception.²¹ By the morning of May 19, 2026, Israel had transferred all 428 to 430 detainees to Israeli naval vessels and was conveying them to the port of Ashdod.²²

B. The Detentions: Documented Torture and Cruel, Inhuman, or Degrading Treatment

From Ashdod, detainees were stripped, zip-tied, blindfolded, and transported by police van without food, water, or legal access to Ketziot prison in the Negev — a facility with documented

17 *Israeli Forces Intercept the Remaining Activist Flotilla Vessels Headed for Gaza*, PBS NEWS (May 2026), <https://www.pbs.org/newshour/amp/world/israeli-forces-intercept-the-remaining-activist-flotilla-vessels-headed-for-gaza>.

18 United Nations Convention on the Law of the Sea art. 3, Dec. 10, 1982, 1833 U.N.T.S. 397.

19 *Israeli Forces Intercept Last Remaining Boats with Gaza Sumud Flotilla, Abducting Over 400 Activists*, DEMOCRACY NOW! (May 20, 2026), https://www.democracynow.org/2026/5/20/headlines/israeli_forces_intercept_last_remaining_boats_with_gaza_sumud_flotilla_abducting_over_400_activists.

20 *Reporters Without Borders, Gaza Flotilla: RSF Condemns Violence Against Journalists Illegally Detained by Israeli Authorities*, <https://rsf.org/en/gaza-flotilla-rsf-condemns-violence-against-journalists-illegally-detained-israeli-authorities>.

21 Italian-language reporting and statements from the Italian Member of Parliament present aboard the flotilla, summarized in contemporary reporting.

22 *IDF Intercepts All Ships in Gaza-Bound Flotilla, Over 400 Activists Being Transferred to Israel*, TIMES OF ISR. (May 2026), <https://www.timesofisrael.com/idf-intercepts-all-ships-in-gaza-bound-flotilla-over-400-activists-being-transferred-to-israel/>.

history of "rampant sexual abuse and violence."²³ At Ketziot, detainees were confined in cells designed for eight with up to fifteen detainees per cell in stifling heat. The detention pattern, documented over approximately five days for some detainees by interviews conducted after their release, included:

- *Food and water deprivation*: two meals over four days; water provision at the discretion of individual officers.²⁵
- *Medicine denial*: prescription medication and medical care denied "based on the whims of individual officers."²⁶
- *Sustained sleep deprivation*: guards switched on cell lights at night to prevent sleep — a technique recognized as torture under contemporary international law and authoritative jurisprudence.²⁷
- *Threats with weapons*: guards pushed weapon barrels through cell bars in threatening display.²⁸
- *Beatings*: physical assaults documented, with journalists specifically targeted.²⁹

23 Reports of conditions at Ketziot are documented in human-rights organization statements cited at [^omctFidh] and [^meeTortureReport], and in the broader B'Tselem and HaMoked record of conditions at Israeli detention facilities.

24 *Israel "Beat, Tied Up and Tortured" Gaza Flotilla Activists in Prison*, MIDDLE E. EYE (May 2026), <https://www.middleeasteye.net/news/israel-beat-up-tied-tortured-gaza-flotilla-activists-prison>.

25 *Israel "Beat, Tied Up and Tortured" Gaza Flotilla Activists in Prison*, MIDDLE E. EYE (May 2026), <https://www.middleeasteye.net/news/israel-beat-up-tied-tortured-gaza-flotilla-activists-prison>.

26 *Israel "Beat, Tied Up and Tortured" Gaza Flotilla Activists in Prison*, MIDDLE E. EYE (May 2026), <https://www.middleeasteye.net/news/israel-beat-up-tied-tortured-gaza-flotilla-activists-prison>.

27 U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annual reports; U.N. Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, 2022 revision); Selmouni v. France, App. No. 25803/94, Eur. Ct. H.R. (Grand Chamber, July 28, 1999).

28 *Israel "Beat, Tied Up and Tortured" Gaza Flotilla Activists in Prison*, MIDDLE E. EYE (May 2026), <https://www.middleeasteye.net/news/israel-beat-up-tied-tortured-gaza-flotilla-activists-prison>.

29 Reporters Without Borders, *Gaza Flotilla: RSF Condemns Violence Against Journalists Illegally Detained by Israeli Authorities*, <https://rsf.org/en/gaza-flotilla-rsf-condemns-violence-against-journalists-illegally-detained-israeli-authorities>.

- *Denial of consular access, denial of outdoor time, denial of phone calls, denial of legal access over extended periods.*³⁰

- *Adalah lawyers waited ten or more hours at the Ketziot facility before being granted access, in violation of the right to counsel and the consular notification obligation.*³¹

The treatment was authorized at the ministerial level. Israeli National Security Minister Itamar Ben-Gvir personally visited Ketziot, publicly endorsed the treatment ("I went to visit Ketziot prison and I was proud that we are treating the 'flotilla activists' as terror supporters. Whoever supports terrorism is a terrorist, and deserves the conditions of terrorists"), and *instructed guards "not [to] be bothered by their screams"* — a direct command-level authorization of the conduct, captured on video.³² Ben-Gvir's published video showed detained activists forced to kneel in rows with hands bound behind their backs while he taunted them with the Israeli national anthem played over loudspeakers and personally addressed bound detainees with verbal abuse.³³

David Adler, co-general coordinator of Progressive International and one of the detainees, provided detailed testimony describing the five-day pattern as "serial and systematic violation of our rights" including beatings, restraint, psychological torture, and denial of food

30 Observatory for the Protection of Human Rights Defenders (OMCT–FIDH), *Israel/Palestine: The Observatory Condemns the Arbitrary Detention and Ill-Treatment of Activists Aboard the Global Sumud Flotilla in Israeli Prisons*, <https://www.omct.org/en/resources/statements/israel-palestine-the-observatory-condemns-the-arbitrary-detention-and-ill-treatment-of-activists-aboard-the-global-sumud-flotilla-in-israeli-prisons>.

31 *Gaza Aid Flotilla Activists Appear in Israeli Court After Abduction*, AL JAZEERA (May 3, 2026), <https://www.aljazeera.com/news/2026/5/3/gaza-flotilla-activists-appear-in-israeli-court-allege-torture-in-custody>.

32 *Video Showing Far-Right Israeli Minister Taunting Gaza Flotilla Activists Sparks Global Outcry*, CNN (May 20, 2026), <https://www.cnn.com/2026/05/20/middleeast/israel-flotilla-gaza-ben-gvir-videos-latam-intl>.

33 *Ben Gvir Posts Video of Himself Taunting Bound and Detained Gaza Flotilla Activists, Sparks Global Outcry*, TIMES OF ISR. (May 2026), <https://www.timesofisrael.com/ben-gvir-posts-video-of-himself-taunting-bound-and-detained-gaza-flotilla-activists/>.

and medicine.³⁴ At least eighty-seven detainees commenced a hunger strike in protest of the conditions.³⁵

The Israeli government rebuked Ben-Gvir publicly. Foreign Minister Gideon Saar characterized Ben-Gvir's conduct as a "disgraceful display" that had "knowingly caused harm" to the state of Israel.³⁶ Prime Minister Benjamin Netanyahu stated the actions were "not in line with Israel's values and norms" and ordered deportation of the activists.³⁷ The rebukes constitute the Israeli government's own contemporaneous acknowledgment that the conduct occurred and was wrongful — generating, on standard command-responsibility analysis, additional *aiding-and-abetting* and *failure-to-prevent* exposure for officials who maintained the Ben-Gvir portfolio while on notice of the pattern of conduct.³⁸

The Observatory for the Protection of Human Rights Defenders, a partnership of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), condemned the conduct as "breaches of the absolute prohibition of torture, and other cruel, inhuman or degrading treatment or punishment."³⁹ UN experts characterized the conduct as

³⁴ David Adler, statements published by Progressive International and quoted in contemporary reporting cited at [[^]meeTortureReport].

³⁵ *Several Nations Summon Israeli Envoys as Ben-Gvir Taunts Flotilla Activists*, AL JAZEERA (May 20, 2026), <https://www.aljazeera.com/news/2026/5/20/at-least-87-gaza-aid-flotilla-activists-abducted-by-israel-on-hunger-strike>.

³⁶ Statements by Israeli Foreign Minister Gideon Saar, summarized in contemporary reporting cited at [[^]benGvirTaunt] and [[^]benGvirInstruction].

³⁷ Statements by Israeli Prime Minister Benjamin Netanyahu, summarized in contemporary reporting cited at [[^]benGvirTaunt] and [[^]benGvirInstruction].

³⁸ See Rome Statute of the International Criminal Court art. 28, July 17, 1998, 2187 U.N.T.S. 90; *Prosecutor v. Bemba Gombo*, Case No. ICC-01/05-01/08, Trial Chamber III Judgment (Mar. 21, 2016).

³⁹ Observatory for the Protection of Human Rights Defenders (OMCT–FIDH), *Israel/Palestine: The Observatory Condemns the Arbitrary Detention and Ill-Treatment of Activists Aboard the Global Sumud Flotilla in Israeli Prisons*, <https://www.omct.org/en/resources/statements/israel-palestine-the-observatory-condemns-the-arbitrary-detention-and-ill-treatment-of-activists-aboard-the-global-sumud-flotilla-in-israeli-prisons>.

"a grave violation of international law and humanitarian principles."⁴⁰ Reporters Without Borders specifically condemned the violence against the journalists detained alongside the activists.⁴¹

C. The Detainees' National Composition

The detainees were citizens of more than forty countries. Identified nationals included:

- Ireland: more than a dozen detainees, including the sister of Irish President Catherine Connolly.⁴²
- Italy: multiple detainees, including a sitting Member of Parliament and a journalist.⁴³
- South Korea: multiple detainees.⁴⁴
- Indonesia: nine detainees.⁴⁵
- Spain: multiple detainees, including sitting parliamentarians.⁴⁶
- France, Netherlands, Portugal, Canada: multiple detainees each.⁴⁷

D. International Diplomatic Response

Multiple states summoned Israeli ambassadors in the days following the interception. Italian Prime Minister Giorgia Meloni's joint statement with Foreign Minister Antonio Tajani demanded

⁴⁰ *Israel Must Immediately Release Gaza-Bound Flotilla Activists, Say UN Experts*, OHCHR (May 2026), <https://www.ohchr.org/en/press-releases/2026/05/israel-must-immediately-release-gaza-bound-flotilla-activists-say-un-experts>.

⁴¹ Reporters Without Borders, *Gaza Flotilla: RSF Condemns Violence Against Journalists Illegally Detained by Israeli Authorities*, <https://rsf.org/en/gaza-flotilla-rsf-condemns-violence-against-journalists-illegally-detained-israeli-authorities>.

⁴² Contemporary reporting cited at [[^]hungerStrike] and [[^]aljazeera518].

⁴³ Contemporary reporting cited at [[^]hungerStrike] and Italian-language reporting on the detained Member of Parliament.

⁴⁴ Contemporary reporting cited at [[^]southKoreanResponse].

⁴⁵ Contemporary reporting cited at [[^]indonesianResponse].

⁴⁶ Contemporary reporting cited at [[^]spanishResponse].

⁴⁷ Contemporary reporting cited at [[^]hungerStrike] and flag-state government statements.

an apology and announced the summoning of Israel's ambassador.⁴⁸ Irish Prime Minister Micheál Martin called the interception "absolutely unacceptable."⁴⁹ South Korean President Lee Jae Myung characterized Israel's actions as "way out of line."⁵⁰ Spanish Foreign Minister José Manuel Albares called the treatment "monstrous."⁵¹ Indonesia stated that "every diplomatic channel and consular measure will continue to be fully utilised."⁵² UN Special Rapporteurs called for the immediate release of all detained activists.⁵³

The diplomatic response was rhetorically forceful and procedurally minimal. Each state engaged in the lowest-friction available action: summoning an ambassador (a recallable diplomatic act below the threshold of expelling a diplomat or recalling one's own ambassador), issuing a public statement (rhetorical), and demanding consular access (a procedurally minimal request the receiving state can satisfy with limited delay). No state filed proceedings at the International Court of Justice. No state initiated universal-jurisdiction prosecution of Israeli officials. No state imposed targeted sanctions on the officials directing the interception, the detention, or the conduct at Ketziot. The pattern of response is the empirical signature of the third-level meta-violation, analyzed in Part V below.

48 Joint statement of Italian Prime Minister Giorgia Meloni and Foreign Minister Antonio Tajani, summarized in contemporary reporting cited at [[^]hungerStrike].

49 Statements by Irish Prime Minister Micheál Martin, summarized in contemporary reporting cited at [[^]hungerStrike].

50 Statements by South Korean President Lee Jae Myung, summarized in contemporary reporting cited at [[^]hungerStrike].

51 Statements by Spanish Foreign Minister José Manuel Albares, summarized in contemporary reporting cited at [[^]hungerStrike].

52 Statements of the Indonesian Ministry of Foreign Affairs, summarized in contemporary reporting cited at [[^]hungerStrike].

53 *Israel Must Immediately Release Gaza-Bound Flotilla Activists, Say UN Experts*, OHCHR (May 2026), <https://www.ohchr.org/en/press-releases/2026/05/israel-must-immediately-release-gaza-bound-flotilla-activists-say-un-experts>.

E. The United States Response

The United States Treasury, under Secretary Scott Bessent, imposed sanctions on European activists organizing the operation — including Saif Abu Keshek, Jaldia Abubakra Aueda, Hisham Abdallah Sulayman Abu Mahfuz, and Mohammed Khatib — characterizing the operation as "pro-terror."⁵⁴ The sanctions characterization treats humanitarian-aid delivery as a basis for extraterritorial economic measures against the organizers, while the United States simultaneously holds Convention Against Torture obligations that are triggered by the documented Ketziot conduct.

F. Israel's Position

The Israeli Foreign Ministry characterized the flotilla as "a PR stunt at the service of Hamas" and stated that all activists had been transferred to Israeli vessels and would have access to consular representatives.⁵⁵ The characterization mirrors the categorical-predicate framing analyzed in *Means, Not Views* Part VI: humanitarian conduct is re-described as support for a proscribed organization, exempting the state's interception from the legal framework that would otherwise apply.⁵⁶ The position contradicts the documented record of consular delays and the ministerial-level authorization of the Ketziot conditions.

⁵⁴ *US Imposes Sanctions on Gaza Flotilla Organisers: Why It Matters*, AL JAZEERA (May 20, 2026), <https://www.aljazeera.com/news/2026/5/20/us-imposes-sanctions-on-gaza-flotilla-organisers-why-it-matters>.

⁵⁵ Israeli Foreign Ministry public statements, May 18–20, 2026, summarized in contemporary reporting cited at [^aljazeera518] and [^idfStatement].

⁵⁶ Joseph D. Kirchner, *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism* (May 2026).

III. THE CONTROLLING LEGAL AUTHORITIES

The case is governed by a dense, multi-source legal framework that any sufficiently rigorous analysis must reconcile. The framework's controlling components are catalogued below in the order they enter the analysis in Part IV.

A. The United Nations Convention on the Law of the Sea

The 1982 United Nations Convention on the Law of the Sea ("UNCLOS")⁵⁷ governs the high-seas regime in which the interception occurred. Article 87 provides that all states enjoy freedom of navigation on the high seas. Article 88 reserves the high seas for peaceful purposes. Article 92 establishes flag-state jurisdiction: "Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas." Article 110 (right of visit) provides the exclusive enumeration of grounds on which warships may board foreign vessels on the high seas: piracy, slave trade, unauthorized broadcasting (with flag-state jurisdiction), statelessness, or same nationality as the warship's flag state. Article 110(3) provides that "[i]f the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained."⁵⁸

57 United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397.

58 UNCLOS art. 110.

B. The Geneva Convention IV

The 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War ("Geneva IV")⁵⁹ governs the treatment of civilians in armed conflict and occupation. Article 23 imposes on each High Contracting Party the obligation to "allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party," and the "free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases." Article 55 imposes on the occupying power the affirmative duty of "ensuring the food and medical supplies of the population . . . to the fullest extent of the means available to it." Article 59 provides that "[i]f the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal."⁶⁰

Common Article 1 of the four Geneva Conventions provides that "[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances," supplying third-party-state standing to demand compliance.⁶¹ The ICRC's authoritative commentary confirms that "ensure respect" is an active obligation distinct from "respect," requiring positive measures by all High Contracting Parties to secure compliance by other parties.⁶²

⁵⁹ Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287.

⁶⁰ Geneva IV arts. 23, 55, 59.

⁶¹ Geneva IV art. 1.

⁶² INT'L COMM. OF THE RED CROSS, COMMENTARY ON THE GENEVA CONVENTIONS OF 12 AUGUST 1949 (updated commentaries 2016–present).

C. The International Court of Justice's Provisional Measures Order and Advisory Opinion

In *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, the International Court of Justice issued an Order on Provisional Measures on January 26, 2024 directing Israel, *inter alia*, to "[t]ake immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip."⁶³ The Order is binding under Article 41 of the Court's Statute and Article 94 of the United Nations Charter.⁶⁴

In the Court's July 19, 2024 Advisory Opinion on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court characterized Israel's continued presence in the Occupied Palestinian Territory as unlawful and obligated Israel to "bring an end to its unlawful presence."⁶⁵ The Opinion confirms Israel's status as an occupying power with corresponding obligations under Geneva IV, and forecloses Israel's claim of territorial sovereignty over Gaza or its adjacent waters.

D. The San Remo Manual on International Law Applicable to Armed Conflicts at Sea

The 1994 San Remo Manual on International Law Applicable to Armed Conflicts at Sea ("San Remo Manual"),⁶⁶ though not a treaty, is widely accepted as a statement of customary international law governing naval blockade. Paragraphs 93 through 104 establish the conditions

⁶³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (S. Afr. v. Isr.), Order (Provisional Measures), 2024 I.C.J. (Jan. 26).

⁶⁴ Statute of the International Court of Justice art. 41, June 26, 1945, 33 U.N.T.S. 993; U.N. Charter art. 94.

⁶⁵ Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 2024 I.C.J. (July 19).

⁶⁶ SAN REMO MANUAL ON INTERNATIONAL LAW APPLICABLE TO ARMED CONFLICTS AT SEA (Louise Doswald-Beck ed., 1995).

for a lawful blockade: it must be declared, effective, applied impartially, and proportional. Paragraph 102 prohibits a blockade if "(a) it has the sole purpose of starving the civilian population or denying it other objects essential for its survival; or (b) the damage to the civilian population is, or may be expected to be, excessive in relation to the concrete and direct military advantage anticipated from the blockade." Paragraph 103 requires that "[i]f the civilian population of the blockaded territory is inadequately provided with food and other objects essential for its survival, the blockading party must provide for free passage of such foodstuffs and other essential supplies."⁶⁷

E. United Nations Security Council Resolutions

The Security Council has repeatedly directed unimpeded humanitarian access to Gaza. Resolution 1860 (2009) called for "the unimpeded provision and distribution throughout Gaza of humanitarian assistance, including of food, fuel and medical treatment."⁶⁸ Resolution 2417 (2018) condemned "the use of starvation of civilians as a method of warfare" in armed conflict.⁶⁹ Resolution 2720 (2023) demanded that "Israel, as the occupying Power, immediately . . . facilitate the immediate, safe and unhindered delivery of life-saving humanitarian assistance" to Gaza.⁷⁰ The resolutions establish a continuous and binding direction of humanitarian access for the relevant period.

67 San Remo Manual ¶¶ 93–104.

68 S.C. Res. 1860 (Jan. 8, 2009).

69 S.C. Res. 2417 (May 24, 2018).

70 S.C. Res. 2720 (Dec. 22, 2023).

F. The International Criminal Court's Existing Jurisdiction

The International Criminal Court ("ICC") has issued arrest warrants for senior Israeli officials, including in connection with humanitarian-access denial, exercised on the basis of Palestinian state-party ratification supplying the jurisdictional foundation.⁷¹ The ICC's continued investigation engages the Sumud case as additional evidence within an ongoing situation.

G. The International Covenant on Civil and Political Rights and the Vienna Convention on Consular Relations

Israel is a state party to the International Covenant on Civil and Political Rights ("ICCPR"), having ratified it in 1991.⁷² The ICCPR's relevant provisions include Article 7 (prohibition on cruel, inhuman, or degrading treatment), Article 9 (prohibition on arbitrary arrest and detention), Article 10 (humane treatment of persons deprived of liberty), and Article 14 (right to fair trial).⁷³ Article 4(2) provides that the Article 7 prohibition is non-derogable, even "in time of public emergency which threatens the life of the nation."⁷⁴

The Vienna Convention on Consular Relations,⁷⁵ to which Israel is a state party, requires that foreign nationals be afforded consular notification and access "without delay" upon detention. Article 36(1)(b) requires that "[t]he competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested,

⁷¹ Int'l Criminal Court, Office of the Prosecutor, Statements on Situation in Palestine (2024–2026); arrest warrants issued by Pre-Trial Chamber I.

⁷² International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (Israel ratification deposited Oct. 3, 1991).

⁷³ ICCPR arts. 7, 9, 10, 14.

⁷⁴ ICCPR art. 4(2).

⁷⁵ Vienna Convention on Consular Relations, Apr. 24, 1963, 596 U.N.T.S. 261.

in prison, custody or detention shall also be forwarded by the said authorities without delay."⁷⁶

The systematic delay in providing consular access to 428 detainees from more than forty states is a per se violation.

H. The Convention Against Torture

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT")⁷⁷ is the central instrument governing the post-interception conduct. Israel is a state party (ratified 1991), as are each of the flag states of the detainees.

Article 1 defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."⁷⁸

Article 2(2) provides that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." Article 2(3) provides that "[a]n order from a superior officer or a public authority may not be invoked as a justification of torture."⁷⁹

Article 4 requires each state party to "ensure that all acts of torture are offences under its criminal law." Article 5 requires each state party to establish jurisdiction over torture committed

⁷⁶ VCCR art. 36.

⁷⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

⁷⁸ CAT art. 1.

⁷⁹ CAT art. 2.

by or against its nationals or against persons present in its territory. Article 7 provides that "[t]he State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution."⁸⁰

The Article 7 obligation is known as *aut dedere aut judicare* — "either extradite or prosecute." It is mandatory: the state party in whose territory the alleged offender is found must either prosecute or extradite. The obligation is enforceable in proceedings between state parties before the International Court of Justice, as confirmed in *Belgium v. Senegal*.⁸¹

I. The Rome Statute of the International Criminal Court

The Rome Statute⁸² provides additional governing law. Article 7(1)(f) lists torture as a crime against humanity when committed as part of a widespread or systematic attack directed against a civilian population. Article 28 codifies command responsibility: a superior is criminally responsible for crimes "committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where . . . [t]hat military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and . . . [t]hat military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission."⁸³

⁸⁰ CAT art. 7.

⁸¹ Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. 422 (July 20).

⁸² Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

⁸³ Rome Statute arts. 7(1)(f), 28.

J. Customary International Law and Authoritative Torture Jurisprudence

The prohibition on torture has *jus cogens* status under customary international law — that is, it admits no derogation by treaty or otherwise and binds all states regardless of their treaty posture.⁸⁴ The customary status is supported by:

- *Filártiga v. Peña-Irala*: torture as a universally proscribable wrong actionable under universal jurisdiction.⁸⁵

- *R v. Bow Street Stipendiary Magistrate, ex parte Pinochet Ugarte (No. 3)*: mandatory universal jurisdiction over torture under customary international law; no head-of-state or official immunity bars prosecution.⁸⁶

- *Belgium v. Senegal*: ICJ confirmation of the *jus cogens* status of the prohibition on torture and the enforceability of CAT obligations between state parties.⁸⁷

- *Selmouni v. France*: European Court of Human Rights jurisprudence on the threshold between cruel, inhuman, or degrading treatment and torture; recognition that sustained ill-treatment and coercive techniques can satisfy the torture threshold.⁸⁸

- *Ireland v. United Kingdom*: early jurisprudence on interrogation techniques including sleep deprivation, later reconsidered with sleep deprivation increasingly recognized as torture.⁸⁹

- The UN Special Rapporteur on Torture's authoritative interpretive guidance and the *Istanbul Protocol* (2022 revision) on documentation of torture and cruel, inhuman, or degrading treatment.⁹⁰

⁸⁴ See Vienna Convention on the Law of Treaties art. 53, May 23, 1969, 1155 U.N.T.S. 331; *Belgium v. Senegal*, *supra* note [^belgiumSenegal], ¶ 99 (recognizing *jus cogens* status of the prohibition on torture).

⁸⁵ *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980).

⁸⁶ *R v. Bow Street Stipendiary Magistrate, ex parte Pinochet Ugarte (No. 3)*, [2000] 1 A.C. 147 (H.L.).

⁸⁷ *Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.)*, Judgment, 2012 I.C.J. 422 (July 20).

⁸⁸ *Selmouni v. France*, App. No. 25803/94, Eur. Ct. H.R. (Grand Chamber, July 28, 1999).

⁸⁹ *Ireland v. United Kingdom*, App. No. 5310/71, Eur. Ct. H.R. (Jan. 18, 1978); *Ireland v. United Kingdom (revision)*, App. No. 5310/71, Eur. Ct. H.R. (Mar. 20, 2018).

IV. THE LAYERED ILLEGALITY

The conduct of the Israeli state, the conduct of the United States, and the conduct of the flag states each engage distinct components of the controlling framework. Nine layered illegality claims emerge from the application of the framework to the facts. The claims are organized from threshold to apex: they begin with the simplest violation (no UNCLOS Article 110 grounds for boarding) and graduate to the most consequential (state-sanctioned torture, *jus cogens* violation, and mandatory universal jurisdiction).

A. The Boarding Lacked UNCLOS Article 110 Grounds

The threshold violation is structural and simple. UNCLOS Article 110(1) supplies an exhaustive list of grounds on which a warship may board a foreign vessel on the high seas: reasonable ground for suspecting that the vessel is engaged in piracy, slave trade, or unauthorized broadcasting; that the vessel is without nationality; or that, though flying a foreign flag, the vessel is in reality of the warship's same nationality.⁹¹ None of these grounds applies to the Sumud Flotilla.

The flotilla vessels were not engaged in piracy — they committed no act of violence on the high seas against persons or property for private ends. They were not engaged in slave trade. They were not engaged in unauthorized broadcasting under Article 109. Each vessel sailed under a recognized national flag (none were stateless), and none were of Israeli flag. The boarding therefore violated the freedom-of-navigation principle of Article 87 and the exclusive-flag-state-jurisdiction principle of Article 92 simultaneously.

90 U.N. Office of the High Comm'r for Hum. Rts., Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, 2002 revision).

91 UNCLOS art. 110.

Article 110(3) supplies the remedy: where suspicions prove unfounded and the boarded ship "has not committed any act justifying them," the boarded ship "shall be compensated for any loss or damage that may have been sustained." The provision imposes liability on the boarding state. Israel bears liability for damages to the vessels and to the persons aboard.

B. Blockade Enforcement Cannot Justify the Interception

Israel's likely defense is that the interception was a lawful enforcement of its declared naval blockade of Gaza. The defense fails on each of the four conditions for a lawful blockade and on the affirmative humanitarian-access obligations the controlling framework imposes regardless of the blockade's formal status.

A naval blockade is lawful under the San Remo Manual only if: (i) the underlying conflict is an international armed conflict; (ii) the blockade is declared; (iii) the blockade is effective and impartially applied; and (iv) humanitarian access is preserved where the civilian population is inadequately supplied.⁹² The fourth condition is the dispositive one for this case. The documented humanitarian catastrophe in Gaza — famine conditions confirmed by the Integrated Food Security Phase Classification's assessments through May 2026, medical-system collapse documented by the World Health Organization, civilian-infrastructure destruction documented by United Nations agencies — establishes that the population is inadequately supplied.^{93,94,95} San Remo Manual ¶ 102 prohibits a blockade whose purpose or effect is starvation of the civilian population or denial of objects essential for survival; ¶ 103 affirmatively requires

⁹² San Remo Manual ¶¶ 93–104.

⁹³ Integrated Food Security Phase Classification (IPC) Assessments on Gaza (2023–2026), <https://www.ipcinfo.org/>.

⁹⁴ World Health Organization, Situation Reports on Gaza (2023–2026), <https://www.who.int/>.

⁹⁵ U.N. OCHA, Humanitarian Situation Reports on the Occupied Palestinian Territory (2023–2026), <https://www.ochaopt.org/>.

the blockading party to allow free passage of foodstuffs and essential supplies where the population is inadequately provided.

The blockade-enforcement defense therefore inverts the legal relationship. If the blockading party has failed to facilitate humanitarian aid through its own channels in a context of inadequate civilian supply, the blockading party cannot lawfully intercept humanitarian vessels seeking to deliver such aid. The interception is itself a violation of the humanitarian-access obligation. The framework does not authorize the interception as enforcement of a lawful blockade; it characterizes the interception as compounding the blockade's underlying violation.

The ICJ's January 2024 Provisional Measures Order independently directs Israel to "enable the provision of urgently needed basic services and humanitarian assistance" to Gaza.⁹⁶ Intercepting humanitarian flotillas is direct non-compliance with a binding ICJ order. Under Article 94(1) of the United Nations Charter, "[e]ach Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party."⁹⁷ Non-compliance with a binding Order is itself a Charter violation.

C. Israel Lacks Territorial Sovereignty over Gaza, Adjacent Waters, or the High Seas

Israel has no territorial jurisdiction over Gaza, no territorial-sea claim extending from Gaza's coast, and no jurisdictional reach to the international waters off Cyprus where the interception occurred.

UNCLOS Article 3 establishes a twelve-nautical-mile territorial sea extending from a state's recognized baseline.⁹⁸ Articles 56 through 58 establish a 200-nautical-mile Exclusive

⁹⁶ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (S. Afr. v. Isr.), Order (Provisional Measures), 2024 I.C.J. (Jan. 26).

⁹⁷ U.N. Charter art. 94(1).

⁹⁸ United Nations Convention on the Law of the Sea art. 3, Dec. 10, 1982, 1833 U.N.T.S. 397.

Economic Zone in which the coastal state enjoys sovereign rights for specified purposes while preserving the freedom of navigation for all states.⁹⁹ Israel's territorial sea extends from Israel's recognized coast. Israel has no recognized sovereignty over Gaza; whatever maritime zone extends from the Gazan coast belongs to the Palestinian people, not to Israel.

The ICJ's 2024 Advisory Opinion characterized Israel's continued presence in the Occupied Palestinian Territory as unlawful and obligated Israel to end it.¹⁰⁰ Israel is an occupying power with protective obligations, not a sovereign with territorial-sea rights extending from occupied territory. The interception occurred seventy to eighty nautical miles off Cyprus, far beyond any conceivable Israeli territorial-sea or contiguous-zone claim, and in waters that are unambiguously the high seas.

The territorial-sovereignty analysis is structurally simple but doctrinally important: in international waters, only the UNCLOS Article 110 grounds (or a lawful blockade enforcement basis under conditions not met here) supply jurisdictional warrant. Israel had neither.

D. As Occupying Power, Israel Owes an Affirmative Duty to Facilitate Aid

The structural legal relationship between Israel and Gaza-bound humanitarian aid is the inverse of what the interception implies. The Geneva IV occupying-power provisions impose an affirmative obligation, not a discretionary authority to intercept.

Article 55 provides that the occupying power has the affirmative "duty of ensuring the food and medical supplies of the population . . . to the fullest extent of the means available to it."¹⁰¹ Article 59 provides that where the population is inadequately supplied, the occupying

99 UNCLOS arts. 56–58.

100 Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 2024 I.C.J. (July 19).

101 Geneva IV arts. 23, 55, 59.

power "shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal." Article 23 imposes on every High Contracting Party (including Israel) the obligation to "allow the free passage" of medical and hospital stores and essential foodstuffs intended for civilians of another High Contracting Party.¹⁰²

The activists carrying baby formula, medical supplies, and food were performing the very function that Geneva IV requires the occupying power itself to ensure. Their interception is not the prevention of a wrongful act; it is the prevention of the very humanitarian action that Israel, as occupying power, is legally obligated to facilitate. The conduct inverts the structural duty: it transforms an affirmative obligation of the occupying power into a presumptive license to interdict the parties performing the obligation in the occupying power's place.

The structural inversion is significant for the meta-violation analysis developed in Part V. When the U.S. Treasury characterizes the humanitarian-aid delivery as "pro-terror," the characterization runs in the same inverse direction as Israel's interception: the most-obligated parties (Israel as occupying power; the United States as a state party to Geneva IV with Common Article 1 obligations to ensure respect) are treating the parties performing the obligated function as if they were the wrongful actors.

E. The Detention Conditions Violated ICCPR, VCCR, and Customary IHL

Independent of the lawfulness of the interception itself, the post-interception conduct violates multiple binding legal obligations.

Arbitrary detention: ICCPR Article 9 prohibits arbitrary arrest or detention.¹⁰³ The absence of lawful basis for the initial seizure (Part IV.A) renders the subsequent detention

¹⁰² Geneva IV arts. 23, 55, 59.

¹⁰³ ICCPR art. 9.

arbitrary. Arbitrary detention under Article 9 generates state responsibility distinct from the substantive violations of treatment that occurred during the detention.

Inhumane treatment: ICCPR Article 7 prohibits cruel, inhuman, or degrading treatment.¹⁰⁴ Article 10 requires that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Geneva IV Article 32 prohibits "any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands."¹⁰⁵ Customary international humanitarian law confirms a baseline floor of humane treatment for all detainees regardless of status.

The conduct at Ketziot — forced kneeling with hands bound, public taunting by a senior government minister, the documented pattern of food, water, medicine, and sleep deprivation, weapons-barrel threats, beatings, and the Ben-Gvir-orchestrated public humiliation captured on video — satisfies each of these prohibitions. The pattern is documented across multiple independent sources: detainee testimony given after release, the OMCT–FIDH partnership's findings, UN expert statements, Reporters Without Borders' targeted journalist findings, and the Israeli government's own contemporaneous rebuke acknowledging the conduct occurred.

Consular access: VCCR Article 36 requires that the receiving state inform the consular post of the sending state "without delay" of a national's detention.¹⁰⁶ The systematic ten-or-more-hour delay in providing access to Adalah lawyers and the delayed consular notification to forty-plus sending states is a per se Article 36 violation. The ICJ in *LaGrand* and *Avena* confirmed that Article 36 creates individually enforceable rights and state responsibility for non-compliance.¹⁰⁷¹⁰⁸

104 ICCPR art. 7.

105 Geneva IV art. 32.

106 VCCR art. 36.

107 *LaGrand* (Ger. v. U.S.), Judgment, 2001 I.C.J. 466 (June 27).

108 *Avena and Other Mexican Nationals* (Mex. v. U.S.), Judgment, 2004 I.C.J. 12 (Mar. 31).

Counsel access: ICCPR Article 14 protects fair-trial rights, including the right to legal assistance.¹⁰⁹ The denial of access to Adalah lawyers until transfer to Ketziot, combined with the ten-hour wait at the facility, violates Article 14's protections.

F. The U.S. Sanctions Constitute a Rhetorical-Inversion Meta-Violation

The U.S. Treasury's characterization of humanitarian-aid delivery as "pro-terror," and the imposition of sanctions on the operation's organizers, is the structural meta-violation diagnosed in the bodily-jurisdiction framework's three-level meta-violation structure: applying asymmetric standards *in the opposite direction* of the structural asymmetry — characterizing floor-defense as extremism while exempting state-sanctioned conduct that violates the floor.¹¹⁰

The argument operates structurally. Humanitarian-aid delivery to a starving civilian population is conduct that, under every applicable international standard, is legally required to be facilitated by the occupying power and is conduct that High Contracting Parties to Geneva IV are obligated to allow free passage of. Sanctioning the delivery as "pro-terror" inverts the doctrinal characterization at the foundation of the controlling legal framework.

The party with full civil-capacity obligations (the United States) is sanctioning conduct that — by the controlling international authorities — is the very kind of floor-defense the framework protects. The party performing the conduct (the organizers operating in solidarity with a population whose civil capacity has been foreclosed by occupation and blockade) is the party the codified framework empowers to perform precisely that function. The asymmetric standards run in the opposite direction of the structural asymmetry: the most-obligated party (United States) is treating the least-obligated parties (the activists and the Palestinian aid

¹⁰⁹ ICCPR art. 14.

¹¹⁰ Joseph D. Kirchner, *Bodily Jurisdiction: The Floor of Constitutional Authority* (May 2026).

recipients on whose behalf they act) as if they were bound by obligations they do not (structurally cannot) hold.

The 2026 *U.S. Counterterrorism Strategy*'s anti-Israel-extremism predicate, the International Holocaust Remembrance Alliance Working Definition's adoption as a U.S. federal-policy instrument, and the broader Treasury sanctions regime targeting humanitarian and advocacy organizations operating in or in solidarity with Palestinian populations are the domestic-policy infrastructure of the meta-violation. They are analyzed at length in *Means, Not Views* Part VI; the Sumud Treasury sanctions are the same pattern at the international scale.¹¹¹

The diagnostic does not require any normative judgment about the wisdom of U.S. foreign policy or the substantive merits of the Israel–Palestine conflict. It identifies the asymmetric-standards application as a structural violation regardless of the speaker's identity. The same diagnostic, applied to any party characterizing floor-defense by an asymmetrically less-protected party as extremism while exempting its own state-sanctioned floor violations, would produce the same finding.

G. The Intervention Warrant Is Triggered Across Multiple Mechanisms

Under the bodily-jurisdiction framework's intervention principle, multiple higher-level jurisdictions hold warrant to intervene.¹¹² The intervention principle is structural: where a lower-level authority (here, Israel) has acted outside its derivative warrant by violating the floor, the next-higher level has structural standing to intervene; where peer-level authorities (here, the flag states) hold triggered jurisdictional warrants, they too have structural standing.

Multiple intervention warrants are simultaneously triggered.

¹¹¹ Joseph D. Kirchner, *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism* (May 2026).

¹¹² Joseph D. Kirchner, *Bodily Jurisdiction: The Floor of Constitutional Authority* (May 2026).

Flag-state jurisdiction under UNCLOS Article 92. Each flag state holds primary jurisdictional standing to defend the floor of its citizens and to assert exclusive jurisdiction over its vessels on the high seas. Flag-state action under Article 92 includes assertion of exclusive jurisdiction over the vessel, demand for restoration, and suit for damages by the flag state in its own right (independent of the nationals' individual claims).¹¹³

Diplomatic protection under customary international law. Each state of citizenship holds standing to demand consular access, fair treatment, and release of its nationals under the customary doctrine of diplomatic protection codified in *Mavrommatis Palestine Concessions* and confirmed in *LaGrand*, *Avena*, and the International Law Commission's *Articles on Diplomatic Protection*.¹¹⁴¹¹⁵

Common Article 1 enforcement standing. Every High Contracting Party to the Geneva Conventions has standing to demand respect for the Conventions, including humanitarian access. The "ensure respect" obligation is, per the ICRC commentary, an active duty distinct from the obligation to "respect," requiring positive measures by all High Contracting Parties.¹¹⁶

ICJ enforcement of the Provisional Measures Order. Israel's interception is direct non-compliance with the Court's January 2024 binding Provisional Measures Order. The ICJ has jurisdiction over compliance under Article 41 of its Statute and the underlying jurisdictional basis in the Genocide Convention.¹¹⁷

113 UNCLOS art. 92.

114 *Mavrommatis Palestine Concessions* (Greece v. U.K.), Judgment No. 2, 1924 P.C.I.J. (ser. A) No. 2 (Aug. 30).

115 Int'l Law Comm'n, Draft Articles on Diplomatic Protection (2006), reprinted in [2006] 2 Y.B. INT'L L. COMM'N pt. 2, U.N. Doc. A/61/10.

116 INT'L COMM. OF THE RED CROSS, COMMENTARY ON THE GENEVA CONVENTIONS OF 12 AUGUST 1949 (updated commentaries 2016–present).

117 Statute of the International Court of Justice art. 41, June 26, 1945, 33 U.N.T.S. 993; U.N. Charter art. 94.

ICC jurisdiction. The Office of the Prosecutor's investigation of the situation in Palestine engages the case as additional evidence within the existing situation. The Sumud conduct may be charged as a further instance of the existing investigation's scope or as a discrete crimes-against-humanity violation under Article 7(1)(f) of the Rome Statute (torture as crime against humanity) where the systematic-or-widespread threshold is met across the flotilla detentions and analogous prior conduct.¹¹⁸

UN Special Rapporteur communications. Institutional intervention via thematic mandate-holders — the Special Rapporteur on Torture, the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on Counter-Terrorism and Human Rights — is in operation, with public statements already issued.¹¹⁹

The intervention warrants are triggered; they have not been executed.

H. Flag-State Deference Is a Third-Level Meta-Violation

The third-level meta-violation diagnosis converts the gap between triggered warrants and executed action into a structural violation in its own right. Each flag state holds standing not merely to lodge diplomatic complaints but to execute concrete legal action against Israeli state conduct that has injured its nationals and violated its flag-state jurisdiction:

- Assertion of exclusive flag-state jurisdiction under UNCLOS Article 92, with associated suits for damages.

¹¹⁸ Rome Statute arts. 7(1)(f), 28.

¹¹⁹ *Israel Must Immediately Release Gaza-Bound Flotilla Activists, Say UN Experts*, OHCHR (May 2026), <https://www.ohchr.org/en/press-releases/2026/05/israel-must-immediately-release-gaza-bound-flotilla-activists-say-un-experts>.

- Diplomatic-protection contentious cases at the ICJ against Israel for injury to nationals, including under treaty-based jurisdictional grounds.

- Common Article 1 enforcement actions: coordinated demand and execution of measures to ensure compliance with Geneva IV's humanitarian-access obligations.

- Universal-jurisdiction prosecution: domestic criminal proceedings against Israeli officials for crimes against the flag state's nationals (assault; arbitrary detention; cruel, inhuman, or degrading treatment; torture under CAT-implementing statutes).

- Targeted sanctions: sanctions against the responsible Israeli officials directing the interception, the detention conditions, and the public mistreatment (the Ben-Gvir conduct). Precedent exists from settler-violence sanctions previously imposed by several states.¹²⁰

- EU collective mechanisms: coordinated action via the EU framework — relevant for the multiple EU member states whose nationals were detained — including suspension of EU–Israel Association Agreement provisions, ICJ filings, Court of Justice of the European Union proceedings, and coordinated sanctions.¹²¹

- Withdrawal of trade preferences; recalling ambassadors (one step beyond summoning); expulsion of Israeli diplomats under the Vienna Convention on Diplomatic Relations; targeted travel bans on responsible Israeli officials.

What the flag states have actually executed is the lowest-friction available action: ambassadorial summoning, public statements, consular-access demands. These are *performance of compliance with the codified framework* without *execution* of the warrants the framework supplies. The diagnostic point is that performance of compliance without execution is itself a

¹²⁰ See Exec. Order No. 14115, 89 Fed. Reg. 7605 (Feb. 1, 2024) (settler-violence sanctions); analogous actions by United Kingdom, France, Canada, and the European Union (2024–2026).

¹²¹ Euro-Mediterranean Agreement Establishing an Association between the European Communities and Their Member States, of the One Part, and the State of Israel, of the Other Part, June 20, 2000, 2000 O.J. (L 147).

structural violation: the most-obligated parties exempting themselves from action while invoking the rhetoric of the framework they nominally honor.

The framework's structural prediction holds in operation: the third-level meta-violation is what allows the first-level direct violation and the second-level rhetorical inversion to persist. If any single flag state were to execute its warrant — file an ICJ proceeding under flag-state jurisdiction or under Common Article 1 standing; initiate universal-jurisdiction prosecution of Israeli officials; impose targeted sanctions on those directing the interception — the deference equilibrium would break, and subsequent flag-state action would face lower coordination cost. The structural analysis identifies why the pattern persists (each individual flag state assumes others will act, so each defers, sustaining the equilibrium) and what would break it (any single defection from the deference equilibrium demonstrates feasibility and lowers cost for the next).

The ICJ's role under this diagnosis is critical. The ICJ has already issued binding provisional measures and publicly documented grounds for intervention. The flag states cannot defer to "ongoing ICJ proceedings" as a substitute for action because the ICJ has *already established* the warrant; what is missing is execution. UN Charter Article 94 expressly imposes on UN member states the obligation to comply with ICJ decisions; by structural extension, member states have the authority and obligation to support enforcement of those decisions. Continued deference characterizes the ICJ's role as documentary rather than compulsory — itself a violation of the ICJ's authority and a meta-violation by the deferring states.

The pattern recapitulates fractally. At every scale of social organization where a triggered jurisdictional warrant exists and is not executed, the third-level meta-violation engages. The conventional-extremism corollary developed in *Means, Not Views* Part V applies here at the inter-state scale: a conventional democratic order failing to enforce its codified principles is

structurally analogous to a conventional state apparatus maintaining a conventional position through unconstitutional means.¹²² The flag states' deference is the inter-state-scale analog of the conventional-extremism dynamic the framework diagnoses at the domestic-state scale.

I. State-Sanctioned Torture, Jus Cogens, and Mandatory Universal Jurisdiction

The documented treatment of detained activists at Ketziot — beatings; sustained sleep deprivation through deliberate light activation; denial of food, water, and medicine; weapons-barrel threats; psychological torture over a five-day pattern; public humiliation and dignitary harm orchestrated by the National Security Minister; and the broader pattern of conduct authorized at the highest political level — constitutes *torture* under the Convention Against Torture and customary international law. Once torture is on the record, the analysis graduates from a structural critique into a treaty-law claim binding on every flag state party to the Convention.

1. The Conduct Satisfies CAT Article 1's Definition

CAT Article 1 defines torture as the intentional infliction of severe physical or mental pain or suffering by or with the consent or acquiescence of a public official, for purposes including punishment, intimidation, coercion, or any reason based on discrimination of any kind.¹²³ The Ketziot conduct satisfies every element.

Intentional infliction of severe physical or mental suffering. The five-day pattern of food and water deprivation, sleep deprivation through deliberate nighttime light activation, denial of

¹²² Joseph D. Kirchner, *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism* (May 2026).

¹²³ CAT art. 1.

medication, weapons-barrel threats, beatings, and psychological coercion crosses the severity threshold under the contemporary international consensus.¹²⁴

By or with the consent of public officials. The conduct was carried out by prison guards at a state facility. The chain of authorization runs through the Israel Prison Service, the Ministry of National Security, and Minister Ben-Gvir personally. Ben-Gvir's documented visit, his public endorsement of the conduct, and his instruction to guards "not [to] be bothered by their screams" establish direct ministerial authorization.¹²⁵

For purposes including punishment, intimidation, coercion, or discrimination. Ben-Gvir's public characterization of the activists as "terror supporters" who "deserve the conditions of terrorists" establishes the punitive and intimidatory purpose, layered with discrimination based on political opinion and humanitarian-aid activity.¹²⁶ CAT Article 1's "discrimination of any kind" formulation reaches political-opinion and association-based discrimination.

2. Sleep Deprivation Is Settled Torture

The UN Special Rapporteur on Torture, the European Court of Human Rights, and the Istanbul Protocol all recognize sustained sleep deprivation as torture when used as a coercive or punitive technique.¹²⁷ The Ketziot pattern — deliberate nighttime light activation across multiple days for the explicit purpose of preventing sleep — falls within the contemporary consensus. *Ireland v.*

124 See *Selmouni v. France*, *supra* note [^selmouni]; Manfred Nowak & Elizabeth McArthur, *The Distinction Between Torture and Cruel, Inhuman or Degrading Treatment*, 16 TORTURE 147 (2006); Comm. Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, U.N. Doc. CAT/C/GC/2 (Jan. 24, 2008).

125 *Video Showing Far-Right Israeli Minister Taunting Gaza Flotilla Activists Sparks Global Outcry*, CNN (May 20, 2026), <https://www.cnn.com/2026/05/20/middleeast/israel-flotilla-gaza-ben-gvir-videos-latam-intl>.

126 *Ben Gvir Posts Video of Himself Taunting Bound and Detained Gaza Flotilla Activists, Sparks Global Outcry*, TIMES OF ISR. (May 2026), <https://www.timesofisrael.com/ben-gvir-posts-video-of-himself-taunting-bound-and-detained-gaza-flotilla-activists/>.

127 U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annual reports; U.N. Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, 2022 revision); *Selmouni v. France*, App. No. 25803/94, Eur. Ct. H.R. (Grand Chamber, July 28, 1999).

United Kingdom's initial 1978 holding that the five techniques (which included sleep deprivation) constituted CIDT but not torture has been substantially reconsidered in subsequent jurisprudence; *Selmouni v. France's* "living instrument" interpretation specifically anticipates the threshold's evolution to recognize sustained ill-treatment as torture.¹²⁸¹²⁹

3. CAT Article 2(2) Forecloses Every Israeli Defense

CAT Article 2(2) provides that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." The provision is among the most categorical in international law: it forecloses every conceivable Israeli defense.¹³⁰

Israel cannot invoke its asserted blockade, the broader Israel– Hamas conflict, the "terror" characterization of the activists, or any security framing. The prohibition is absolute. The CAT Committee has consistently confirmed Article 2(2)'s non-derogability across decades of jurisprudence.¹³¹

CAT Article 2(3) further provides that "[a]n order from a superior officer or public authority may not be invoked as a justification of torture." The provision forecloses the guards' potential defense and squarely engages Ben-Gvir's direct command responsibility.

4. Mandatory Universal Jurisdiction Is Triggered

CAT Article 5 requires every state party to establish jurisdiction over torture committed by or against its nationals or against any person present in its territory.¹³² CAT Article 7 imposes the

128 *Ireland v. United Kingdom*, App. No. 5310/71, Eur. Ct. H.R. (Jan. 18, 1978); *Ireland v. United Kingdom* (revision), App. No. 5310/71, Eur. Ct. H.R. (Mar. 20, 2018).

129 *Selmouni v. France*, App. No. 25803/94, Eur. Ct. H.R. (Grand Chamber, July 28, 1999).

130 CAT art. 2.

131 *See* Comm. Against Torture, General Comment No. 2, *supra* note [^severityThreshold].

132 CAT art. 5.

aut dedere aut judicare obligation: a state party in whose territory an alleged offender is found *must* either prosecute or extradite.¹³³

Pinochet establishes that universal jurisdiction over torture is mandatory under customary international law, independent of treaty membership, and that no head-of-state or official immunity bars prosecution.¹³⁴ *Belgium v. Senegal* confirms the CAT obligations are binding and enforceable through the ICJ in proceedings between state parties.¹³⁵

Each of the forty-plus flag states has — and is obliged by treaty to exercise — universal jurisdiction over the responsible Israeli officials when those officials are present in the flag state's territory. The obligation is not contingent on the official's having committed the offense in the flag state's territory; it operates on the official's presence in the flag state's territory.

The mandatory character of the obligation is structurally critical. Where torture has been committed, the flag state's jurisdictional warrant is no longer a triggered warrant the state may execute at its discretion. It is a treaty obligation the state party must execute upon the alleged offender's presence in its territory. Failure to execute is itself a treaty breach.

5. Command Responsibility Engages Ben-Gvir Directly

Public endorsement of the conduct ("I went to visit Ketziot prison and I was proud"); presence at the facility during the treatment; explicit instruction to guards to disregard detainees' screams; subsequent public statements characterizing the activists as deserving "the conditions of terrorists" — establish the *mens rea* and *actus reus* of command responsibility under Rome Statute Article 28 and customary international criminal law.¹³⁶

133 CAT art. 7.

134 R v. Bow Street Stipendiary Magistrate, *ex parte Pinochet Ugarte* (No. 3), [2000] 1 A.C. 147 (H.L.).

135 Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. 422 (July 20).

136 Rome Statute arts. 7(1)(f), 28.

The Israeli government's own subsequent rebuke (Saar's "knowingly caused harm" characterization; Netanyahu's "not in line with Israel's values and norms") is not exoneration but contemporaneous acknowledgment that the conduct occurred and was wrongful. The rebuke generates *additional* failure-to-prevent and aiding-and-abetting exposure for officials who maintained Ben-Gvir's portfolio while on notice of the pattern of conduct. The Cabinet's failure to remove Ben-Gvir from the ministerial position controlling the prison service while having publicly acknowledged the conduct as wrongful establishes the senior officials' continued *mens rea* with respect to subsequent conduct, sufficient to engage their own command-responsibility exposure.

6. Rome Statute Crime-Against-Humanity Exposure

The documented pattern across multiple flotilla interceptions, multiple detentions, multiple facilities, and continuing conduct raises the systematic-or-widespread threshold under Rome Statute Article 7(1)(f).¹³⁷ Where the threshold is met, the flotilla detentions become elements in a broader crimes-against-humanity charge subject to ICC jurisdiction. The ICC's existing investigation into the situation in Palestine engages this evidentiary substrate. The patterns documented in connection with the May 2026 interception — combined with the documented record of conduct in previous flotilla interceptions, the broader detention practices in Israeli facilities, and the ICC's existing Israel-related warrants — supplies the evidentiary foundation for a discrete crimes-against-humanity charge or for incorporation into the existing situation.

¹³⁷ Rome Statute arts. 7(1)(f), 28.

7. The Section IV.H Diagnosis Graduates

Flag states no longer hold merely *triggered* jurisdictional warrants they could choose to execute. They hold *mandatory* universal-jurisdiction obligations under CAT Article 7. Failure to investigate and prosecute the responsible Israeli officials — Ben-Gvir specifically, the warden of Ketziot, the guards directly involved, and the chain of command — is not incongruent disposition or deference; it is direct non-compliance with binding treaty obligations.

The third-level meta-violation, once torture is on the record, becomes a *treaty-breach* by every flag state party to CAT. The framework's diagnostic now identifies a *fourth* legal exposure on the flag states themselves: not just incongruent disposition (third-level meta-violation) but state responsibility for non-compliance with CAT Article 7 (mandatory prosecute-or-extradite obligation). *Belgium v. Senegal* establishes this as enforceable through ICJ proceedings between state parties.¹³⁸

The United States' position is the most acute case. The United States is a state party to CAT.¹³⁹ Treasury sanctions characterize the *victims* of torture as "pro-terror" while exempting the *perpetrators* from accountability. This is a textbook combination of second-level rhetorical-inversion meta-violation and third-level deference-based non-execution meta-violation, layered on top of CAT non-compliance. The United States holds both the obligation to investigate and prosecute (if Ben-Gvir or other Israeli officials enter U.S. territory) and the obligation, as a Common Article 1 High Contracting Party, to ensure respect for Geneva IV by other parties — both of which are systematically defeated by the sanctions characterization of the victims and by the U.S. relationship to Israeli state conduct more broadly.

¹³⁸ Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. 422 (July 20).

¹³⁹ CAT (United States ratification deposited Oct. 21, 1994, with reservations, understandings, and declarations).

V. THE THREE-LEVEL META-VIOLATION DIAGNOSIS

The Sumud case is a paradigm application of the bodily-jurisdiction framework's three-level meta-violation diagnosis. The framework's structural theory is developed in *Bodily Jurisdiction: The Floor of Constitutional Authority*;¹⁴⁰ the application to active conflicts is developed in *Applied Diagnostics: Structural Analysis of Active Conflicts Through the Bodily-Jurisdiction Framework*;¹⁴¹ the underlying constitutional analysis is developed in *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism*.¹⁴² The diagnostic apparatus for identifying structural violations — the PSV taxonomy (USURPATION/ABDICATION), the process-challenge / violation-claim distinction, the six-step compliance test, the Supremacy Clause "in Pursuance thereof" validity test, and the recovery of equitable standing for binary textual violations — is developed in the companion paper *The Madisonian Separation of Powers Objective Compliance Test*.¹⁴³ This Part summarizes the framework at the level necessary for the application to be self-contained and then applies it to the case.

The three-level meta-violation maps onto the PSV taxonomy as follows. Level 1 (direct floor violation) is USURPATION at the operational scale — the perpetrator exercising authority that no constitutional or international-law framework assigns to it (e.g., Israeli state actors exercising authority over persons on the high seas whose voluntary act has not crossed into Israel's territorial or jurisdictional sphere). Level 2 (rhetorical-inversion meta-violation) is

140 Joseph D. Kirchner, *Bodily Jurisdiction: The Floor of Constitutional Authority* (May 2026).

141 Joseph D. Kirchner, *Applied Diagnostics: Structural Analysis of Active Conflicts Through the Bodily-Jurisdiction Framework* (May 2026).

142 Joseph D. Kirchner, *Means, Not Views: The Constitutional Distinction Between Radicalism and Extremism* (May 2026).

143 Joseph D. Kirchner, *The Madisonian Separation of Powers Objective Compliance Test: Recovering Constitutional Structure Through Textual Analysis* (May 2026) (developing the six-step compliance test, the Power Separation Vulnerability (USURPATION/ABDICATION) taxonomy, the process-challenge vs. violation-claim distinction, the Supremacy Clause "in Pursuance thereof" validity test, and the recovery of equitable standing for enumerated constitutional violations).

structurally analogous to USURPATION in the rhetorical-classification domain: the perpetrating party arrogates the framework's classifications (terrorism, extremism) and applies them against parties operating within the framework's protected categories (floor-defense, humanitarian aid, lawful protest). Level 3 (deference-based non-execution meta-violation) is ABDICATION — Positions of Assigned Power (flag states, High Contracting Parties, states bound by ICJ authority) failing to exercise mandatory authority their treaty obligations textually assign to them. The taxonomy supplies the diagnostic vocabulary; the three-level structure supplies the operational application.

A. The Floor and the Codified Democratic Order

The bodily-jurisdiction framework articulates *bodily jurisdiction at the individual human level* as the floor of the constitutional architecture — the primary sovereignty from which all higher-level authority (local, state, federal, international) is derivative. Each level's authority is *protective and derivative* — granted to defend the floor against violations originating from any source. No level has authority that is prior to or above the floor. The conventional view that treats individual rights as limits on a presumptive state authority is structurally inverted: the state's authority is granted by, and exists for, the floor.

The floor exists in every individual at all times. But the floor's *defensive reserves* — the natural right of self-protection that the individual originally holds — operate conditionally on whether a functioning civil law-enforcement framework exists. This is the Hobbesian baseline of the framework, integrated as a structural conditional.¹⁴⁴ Once the social-contract transfer is in place — that is, once a functioning civil law-enforcement framework exists and operates

¹⁴⁴ THOMAS HOBBS, *LEVIATHAN* (Richard Tuck ed., Cambridge Univ. Press 1996) (1651), ch. XIII–XVIII.

effectively to protect the floor — the individual no longer holds the unilateral right to defend property by force against another civilian. The right has been delegated to the state. The individual retains the floor — bodily integrity itself is never transferable — but the *indirect-transgression* protections operate through the civil framework.

The asymmetric-civil-capacity diagnostic follows. Where two parties to a conflict differ in civil capacity — one with effective social-contract protection, one without — the framework applies *structurally asymmetrically*. A party with sufficient civil capacity (functioning democratic law enforcement, judicial review, codified rights protections, treaty obligations) is bound by the entire codified democratic framework: legality, specificity, means-not-views, self-correction, reciprocity, the floor-protection doctrines, and its international and regional obligations. A party without sufficient civil capacity (stateless populations, populations under occupation, populations where the nominal civil framework is captured or ineffective) does not face the same set of obligations because the social-contract transfer has not occurred for them. They retain the natural right of self-defense at the floor.

The asymmetry is structural, not moral. The framework does not say one party is right and the other wrong. It says the party with civil capacity is bound by its codified obligations and may not invoke "self-defense" to evade them; the party without civil capacity retains natural defensive rights at the floor, and floor-defense by such a party is structurally distinct from extremism. Both parties remain bound by the floor's symmetry — action that violates others' bodily jurisdiction without floor-defense justification is extremism by either party.

B. Three Structural Levels of Violation

The framework's diagnostic recognizes three distinct levels at which the structural asymmetry is inverted, each contributing to the persistence of the underlying conflict.¹⁴⁵

Level 1 — Direct floor violation. State-sanctioned conduct that crosses into the bodily sphere of persons whose voluntary act has not first crossed into another's. The party with civil capacity holds maximum obligations; the party committing the violation is bound by the codified framework's full set of constraints. This is the visible injury.

Level 2 — Rhetorical-inversion meta-violation. A party with civil capacity (typically the perpetrator or an allied actor) characterizes its adversary's floor-defense as "extremism" or "terrorism" while exempting its own state-sanctioned violence from the codified framework. The party with greater obligations positions itself as if it had fewer; the party with floor-level defensive rights is characterized as if bound by obligations it does not (structurally cannot) hold. Level 2 supplies the rhetorical infrastructure that exempts level 1 from accountability.

Level 3 — Deference-based non-execution meta-violation. Parties holding *triggered jurisdictional warrants* — flag states with exclusive jurisdiction over their vessels under UNCLOS Article 92; states with diplomatic-protection standing for nationals injured abroad; High Contracting Parties bound by Common Article 1 of the Geneva Conventions; states bound by ICJ authority where the Court has issued binding provisional measures; states with universal-jurisdiction or extraterritorial-jurisdiction statutes — fail to execute those warrants while *performing the rhetoric* of compliance. Summoning ambassadors, issuing public condemnations, and demanding consular access are performance-of-compliance moves; they are not the execution of the structural warrants the codified framework supplies. The performance of

¹⁴⁵ Joseph D. Kirchner, *Bodily Jurisdiction: The Floor of Constitutional Authority* (May 2026).

compliance without execution is itself a structural violation: the most-obligated parties exempting themselves from action while invoking the rhetoric of the framework they nominally honor.

The three levels operate fractally and interdependently. Level 3 is what allows levels 1 and 2 to persist: the system fails not at the perpetrator but at the *unwilling enforcer*. If the parties holding triggered warrants executed those warrants, the meta-violation at level 2 would face institutional consequences and the floor violation at level 1 would face direct accountability. The deference equilibrium at level 3 is what sustains the structure of impunity.

C. Application to the Sumud Case

The case engages every element of the framework's diagnostic apparatus cleanly. The diagnostic is summarized in the following analytical mapping.

The floor. Bodily integrity of the activists; means of survival of Palestinian aid recipients. Both directly engaged.

Internal/External test. Israeli action operates external to Israeli territory and against persons whose voluntary acts have not crossed into another's floor — Israeli authority is structurally absent.

Means/Views family. The activists are exercising peaceful humanitarian action protected by floor-protection doctrines (freedom of assembly, expression, association at floor level).

Social-contract conditional. Israel: full civil capacity → fully bound by codified framework. Palestinian aid recipients: civil capacity foreclosed → floor-level defensive rights including right to receive aid. Activists: operating with civil-capacity-protected solidarity action.

Asymmetric civil capacity. Israel's higher obligations are violated; activists' floor-defense is protected; Palestinian recipients' floor-level rights are denied.

Self-defense vs. extremism. The activists' conduct is paradigm floor-defense; treating it as "pro-terror" is paradigm meta-violation.

Object of social contract. Cooperation to secure persons and property → activists embody this at the cross-border scale; Israeli and U.S. action defeats it at the same scale.

Fractal imperative. Cross-border floor-protection (the activists' mission) is the fractal extension of the social-contract object at the inter-society scale.

Exclusivity as structural violation. Paradigm external exclusivity — Israeli authority extended over persons and aid while refusing to extend the protective object to Palestinian recipients.

Particularized vs. holistic enforcement. Israel invokes blockade authority (one provision) while defeating multiple co-equal provisions: UNCLOS Article 110, Geneva IV Articles 23/55/59, the ICJ Order, customary humanitarian-access norms — paradigm Supremacy-Clause-analog violation at international scale.

Intervention warrant. Triggered. Multiple institutional mechanisms in operation (state diplomatic summoning, UN Special Rapporteurs, ICJ compliance question, ICC jurisdictional engagement).

Meta-violation. Textbook case at all three levels — direct violation (Ketziot torture); rhetorical inversion (U.S. Treasury "pro-terror" characterization); deference-based non-execution (flag-state pattern of low-friction response without execution of triggered warrants).

Congruent path. Release detainees; comply with ICJ Order; facilitate rather than intercept humanitarian aid; restore holistic enforcement of the controlling legal framework.

D. Why the Diagnosis Matters

The three-level structure matters because it identifies the system's actual failure point. The first-level direct violation is visible — Ben-Gvir's video, the detainee testimony, the OMCT–FIDH findings — and supplies the evidentiary record. The second-level rhetorical-inversion meta-violation is the doctrinal infrastructure that exempts the first-level violation from the codified framework — the U.S. Treasury "pro-terror" characterization is its acute form. The third-level deference-based non-execution meta-violation is what the system actually fails at: the parties holding triggered warrants do not execute them.

A diagnosis that targets only the first level produces ongoing condemnation without consequence: human rights organizations document the abuse, UN Special Rapporteurs issue statements, civil society advocates, and the underlying conduct continues because no executable consequence attaches. A diagnosis that targets the first and second levels adds the doctrinal critique — but again, without executable consequence, the second-level violation persists alongside the first.

The third-level diagnosis identifies the operative blockage. The flag states are the *unwilling enforcers* — the parties holding the triggered warrants whose non-execution sustains the equilibrium of impunity. Once this is recognized, the strategic question shifts from "how do we condemn the conduct?" to "what would it take for any single flag state to execute its warrant?" Once any single flag state executes — files an ICJ proceeding under Common Article 1 standing, initiates universal-jurisdiction prosecution under domestic statutes implementing CAT, imposes targeted sanctions on Ben-Gvir personally — the equilibrium breaks, the coordination cost for the next state drops, and the third-level meta-violation begins to dissolve.

Section IV.I's graduation is what makes the strategic question urgent. Where torture is on the record, the flag states' non-execution is no longer discretionary deference but treaty breach. The diagnostic now identifies the flag states themselves as exposed to legal consequence — under *Belgium v. Senegal*, in proceedings before the ICJ. Each flag state has both the obligation to act and the legal exposure for failing to act. The structural diagnostic is no longer a critique of the codified democratic order's failure; it is the codified democratic order's own legal apparatus directed at the flag states' own breach.

E. Rejection of Law and Structural Indistinguishability from Non-Membership

The three-level meta-violation structure has a deeper structural object that the Sumud case makes unusually visible: *the rejection of Law itself*. Each of the three operational levels is a mode in which the perpetrating or enabling party places itself outside the framework's binding character. Law is constituted by its binding character; jurisdiction is the operative form of binding character; rejection of jurisdiction is rejection of Law. The diagnostic engages the rejection, not the procedural form in which it appears.

Applied to the Sumud case, the rejection of Law operates at every level the diagnostic engages.

Israel rejects the ICJ's binding character over its conduct. Israel has never accepted ICJ compulsory jurisdiction under Article 36(2) of the Statute. The Court's jurisdiction over Israel exists only through the dispute-resolution clause in Article IX of the 1948 Genocide Convention. The procedural fig leaf — Israel is bound under the Convention's specific clause but not under general compulsory jurisdiction — does not change the structural function of Israeli conduct toward the Court's adjudication. The 2004 Wall Advisory Opinion was characterized as a

political rather than legal matter; the January 2024 Provisional Measures Order in *South Africa v. Israel* was met with the "blood libel" characterization; the May 2024 Rafah order was rejected by interpretation; the July 2024 OPT Advisory Opinion was rejected by declaration ("No absurd opinion in The Hague can deny this historical truth or the legal right of Israelis to live in their own communities in our ancestral home"). The Sumud flotilla's interception, the Ketziot detention conditions, and the ministerial-level authorization of torture are subsequent acts that compound the underlying rejection of the Court's binding character.

The United States declares the ICC has "no jurisdiction." Executive Order 14203's plain text states: "The ICC has no jurisdiction over the United States or Israel, as neither country is party to the Rome Statute or a member of the ICC." The declaration is the operative act of unbinding. The procedural fig leaf is the formal non-membership; the structural function is the unilateral executive declaration that the Court's adjudication of US-allied conduct is illegitimate. The procedural fig leaf available for the ICC (formal non-membership) is structurally identical to the procedural fig leaves available for the ICJ (1986 Nicaragua withdrawal; 2005 VCCR Optional Protocol withdrawal). The Treasury sanctions on humanitarian-aid organizers are an extension of the same posture: the codified framework's substantive engagement with Israeli conduct is characterized as illegitimate, and the US imposes coercive measures on the parties operating consistently with the framework rather than on the parties violating it.

The flag states' deference is the third-level operational form of the same rejection. Each flag state holds triggered jurisdictional warrants the framework supplies — UNCLOS Article 92 flag-state jurisdiction; ICCPR diplomatic-protection standing; Common Article 1 enforcement standing; ICJ contentious-case jurisdiction; CAT Article 7 mandatory prosecute-or-extradite obligation. None has been executed. The performance-of-compliance moves (summoning

ambassadors, issuing public statements, demanding consular access) operate as the flag states' rhetorical infrastructure of bound membership, while the absence of execution operates as the structural rejection of the framework's binding character at the enforcement level.

The deliberative-revision distinction sharpens the Sumud diagnostic. Israel does not engage the deliberative mechanisms the Genocide Convention or the broader framework supply: it does not file detailed written submissions developing alternative interpretive arguments; it does not propose treaty amendments to the standards it disagrees with; it does not accept the framework's adjudication while continuing to argue for revisions. The US does not engage the deliberative mechanisms on the underlying conduct: it does not propose Rome Statute amendments to the standards it characterizes as overbroad; it does not develop *opinio juris* through consistent state practice; it does not accept the framework's adjudication while arguing for narrower interpretations. The flag states do not engage the deliberative mechanisms on the enforcement question: they do not initiate the proceedings the framework supplies; they do not develop subsequent state practice consistent with their stated commitments; they do not engage in coordinated deliberative response to the underlying conduct.

The structural indistinguishability claim follows. With respect to the rejected jurisdictional grounds, Israel and the United States are in the same structural position as states that have never recognized the codified democratic order. The procedural fig leaves vary; the structural status is identical. The reciprocity inversion makes the disguised case worse: a state that has consistently rejected the framework operates without claiming the framework's privileges; Israel and the United States continue to claim the privileges (recognition as constitutional democracies; UN seats; treaty-network benefits; alliance protections) while operating outside the framework's binding character over their own conduct.

The Sumud flotilla case is the operational form of this structural diagnosis at its acute moment. The parties most obligated by the codified democratic order — the United States with its CAT obligations and Common Article 1 standing; Israel with its ICCPR, Geneva IV, and CAT obligations; the flag states with their UNCLOS, diplomatic-protection, and universal-jurisdiction obligations — are operating outside the framework's binding character with respect to the Sumud conduct. The 428 to 430 detainees, the Palestinian aid recipients, the activist organizations, and the broader population of constituents whose floor protection the framework was designed to ensure are in the Hobbesian baseline with respect to the framework, despite the codified democratic order's nominal membership and its codified principles.

This is the rejection of democracy at the inter-state scale. Democracy is constituted by the deliberative-disagreement form: disagreement is internal to the framework; deliberation is the form within which disagreement operates; the framework's binding character is constitutive of its operation as democratic law. The four-decade US/Israeli pattern of unilateral declarations of unbinding, the Sumud case as paradigm application, and the flag states' deference are the operational forms of the rejection. The codified democratic order can be reconstituted only by the parties' return to the deliberative form — by the most-obligated parties' acceptance of the framework's binding character and by the unwilling-enforcer flag states' execution of the warrants the framework supplies.

F. The Uninstituted Condition and the Operational Assault on the Framework

The framework brief distinguishes three structural states of Law: the Hobbesian baseline (no transfer; no binding framework); uninstituted (or partially instituted) rule of Law (the framework is codified and ratified but operates through member integrity rather than coercive enforcement);

and instituted rule of Law (institutional enforcement infrastructure operates over the members). The codified democratic order at the global scale is permanently in the uninstituted condition. There is no global sovereign with coercive enforcement infrastructure operating over sovereign states; the framework is held together by member integrity to the codified principles. The diagnosis of the Sumud case at the framework level requires acknowledgment of this operational state and its consequences.

In the uninstituted condition, the codified democratic order operates *only* through member integrity. There is no body that can compel the United States or Israel to comply with the ICJ Provisional Measures Order, the OPT Advisory Opinion, the CAT Article 7 mandatory prosecute-or-extradite obligation, or the Geneva IV humanitarian-access obligations through coercive enforcement. The framework's binding character over US and Israeli conduct is held together by the integrity of the United States and Israel to the codified principles, and by the integrity of the framework's other members in maintaining reciprocity against violations.

This operational state transforms the diagnosis of the Sumud case in three ways.

First, the flag-state deference is the withdrawal of the operational mechanism that holds the framework together. In the uninstituted condition, reciprocity among members is the framework's operational mode. The flag states' summoning of ambassadors, public statements, and consular-access demands are the rhetorical infrastructure of reciprocity; the failure to execute the substantive warrants the framework supplies is the withdrawal of the operational reciprocity. The framework's diagnosis at Part V.D — that the strategic question is what it would take for any single flag state to execute its warrant — is operationally precise: in the uninstituted condition, the framework operates through reciprocity, and reciprocity operates

through execution. The unwilling enforcers are not just failing to enforce; they are withdrawing from the operational mechanism by which the framework is held together.

Second, the rejection-of-Law analysis at Part V.E becomes operationally destructive rather than merely structurally rejective. In the uninstituted condition, no enforcement infrastructure absorbs the rejection of Law's binding character. The framework's binding character holds together only through member integrity. The US Treasury's sanctions characterizing humanitarian aid as "pro-terror," EO 14203's plain-text declaration that "the ICC has no jurisdiction over the United States or Israel," and Israel's rejection of every adverse ICJ ruling at the highest political level are not just rejections that the framework absorbs through some institutional mechanism; they are the dismantling of the framework's operational foundation. The four-decade pattern documented in the companion research brief is the operational dismantling at the global scale; the Sumud case is one acute moment in that dismantling.

Third, the structural-indistinguishability claim becomes operationally acute. A non-member of the codified democratic order operates outside the framework; it neither contributes to nor detracts from the framework's operation. A member that disguises rejection through the rhetorical infrastructure of membership while withdrawing operational reciprocity does not merely operate outside the framework — it operates *against* the framework, in the uninstituted condition, by withdrawing the integrity the framework requires to operate. The Sumud case illustrates this distinction operationally: the disguised rejecters (Israel, the United States, the deferring flag states) are not merely operating outside the framework's binding character; they are dismantling the operational foundation that the framework requires to exist at the global scale.

The Sumud case is therefore not just a paradigm application of the three-level meta-violation diagnostic (Part V.B). It is the operational assault on the framework's uninstituted foundation. The 428 to 430 detainees, the Palestinian aid recipients, the broader Gazan civilian population, and the activist organizations operating in solidarity with them are operationally in the Hobbesian baseline — not because the codified democratic order does not exist (it does, in codified form), and not because the order's binding character does not apply (it does, in principle), but because the most-obligated parties of the order are operating in concert to dismantle the integrity by which the order's binding character is operationalized.

The implication for the analysis is structural and operationally precise. The codified democratic order's reconstitution does not require new substantive provisions, new institutional infrastructure, or new procedural mechanisms; the existing provisions, infrastructure, and mechanisms are sufficient if the most-obligated parties maintain integrity to the codified principles. The reconstitution requires the integrity itself: the United States' acceptance of the framework's binding character; Israel's acceptance of the framework's binding character; the flag states' execution of the warrants the framework supplies. In the uninstituted condition, integrity is everything; the framework's reconstitution is its members' return to integrity.

The structural completion of the Sumud diagnosis is therefore this: every element of the framework's structural apparatus engages cleanly. The torture is the direct violation; the Treasury sanctions are the rhetorical inversion; the flag-state deference is the operational withdrawal; the rejection of Law is the deeper structural act; the rejection of democracy is the operational form at the inter-state scale; the dismantling of the framework's uninstituted foundation is the operational consequence at the global scale. The diagnostic is structurally complete; the strategic question is whether the framework's members will return to integrity, and the structural answer is that any

single flag state's execution of its warrants — any single act of operational reciprocation against the dismantling — is what the framework requires.

VI. REMEDIES, CONSEQUENCES, AND AVAILABLE CHANNELS

A. Immediate Remedies

1. Release of all detained activists, in compliance with UN Special Rapporteur demands, flag-state diplomatic protection, and ICCPR Article 9's prohibition on arbitrary detention.
2. Return of seized humanitarian cargo to delivery or to the activists' home states for re-delivery.
3. Consular access without further delay, in compliance with VCCR Article 36.
4. Independent investigation of force used during interception (rubber bullets; physical mistreatment) and at Ketziot (torture and CIDT pattern).
5. Withdrawal of U.S. Treasury sanctions on flotilla organizers.
6. Ben-Gvir's conduct in publicly taunting bound detainees addressed under both Israeli civil-service standards and Israel's international human-rights obligations.

B. Structural Remedies

1. *Compliance with the ICJ Provisional Measures Order*: facilitation rather than interception of humanitarian aid; lifting blockade conditions inconsistent with Geneva IV humanitarian-access obligations.
2. *Israeli state liability* for damages to flotilla vessels and persons per UNCLOS Article 110(3) and analogous principles.

3. *Investigation and prosecution of responsible officials* under CAT Articles 4, 5, and 7, including Ben-Gvir specifically, the warden of Ketziot, the guards directly involved, and the chain of command.

4. *Renewed diplomatic engagement* consistent with the social-contract object's extension across the boundary, including good-faith engagement with Geneva IV humanitarian-access frameworks.

C. Available Institutional Channels

1. *ICJ proceedings*: compliance question under the existing *South Africa v. Israel* matter; separate flag-state contentious cases under Common Article 1 standing; an inter-state proceeding under *Belgium v. Senegal's* pattern for CAT enforcement.

2. *ICC engagement*: humanitarian-access violations and torture conduct as additional evidentiary substrate within the existing investigation, or as a discrete crimes-against-humanity charge under Rome Statute Article 7(1)(f).

3. *Flag-state court actions*: universal-jurisdiction prosecutions under domestic CAT-implementing statutes; civil suits against the Israeli state by individuals; potential criminal jurisdiction under each flag state's extraterritorial-jurisdiction statutes.

4. *UN Human Rights Council*: Special Rapporteur communications; possible Special Session; Human Rights Committee individual communications under the ICCPR's First Optional Protocol where applicable.

5. *EU and individual-state sanctions* targeting Israeli officials directing the interception (citing the precedent of settler-violence sanctions previously imposed by several states).

6. *Public-record diplomatic engagement*: summoning ambassadors (already executed); recalling one's own ambassador (one step beyond summoning); expulsion of Israeli diplomats under the Vienna Convention on Diplomatic Relations.

Each channel is supplied by the controlling legal framework; each channel is institutionally available to the flag states; none has been executed. The third-level meta-violation diagnosis identifies the gap between availability and execution as the structural site of failure.

VII. CONCLUSION

The May 2026 Global Sumud Flotilla case is structurally distinct from prior flotilla interceptions. The factual record is unusually clean: forty-one vessels in international waters seventy to eighty nautical miles from Cyprus, 428 to 430 activists from forty-plus nations, baby formula and medicine in the cargo, live feed of armed boarding, video of the National Security Minister taunting bound detainees, contemporaneous government acknowledgment of wrongful conduct. The legal record is unusually settled: UNCLOS Article 110's exhaustive grounds for boarding, Geneva IV's affirmative duty of humanitarian access for an occupying power, the ICJ's binding Provisional Measures Order, the customary status of the prohibition on torture, the mandatory universal-jurisdiction obligation under CAT Article 7. The diagnostic record is unusually complete: every element of the three-level meta-violation structure engages.

The Article's first claim is factual. The Israeli interception was unlawful at every layer of the analysis. The detention conditions, including ministerial-level orders to disregard detainees' screams, constituted torture under the Convention Against Torture.

The Article's second claim is structural. The U.S. Treasury's characterization of humanitarian-aid delivery as "pro-terror," and the resulting sanctions on the operation's

organizers, is the rhetorical-inversion meta-violation in its purest form. The most-obligated party characterizes floor-defense by the structurally less-protected party as if it were extremism, while exempting its own state-sanctioned conduct from the codified framework.

The Article's third claim is doctrinal. The flag states' consistent deference to higher-level intervention while performing the rhetoric of compliance is the third-level meta-violation — the failure of the unwilling enforcer. Each flag state holds an array of triggered jurisdictional warrants; each has executed only the minimal performance-of-compliance moves; the deference equilibrium is what sustains the structure of impunity at the first two levels.

The Article's fourth claim is legal. Once torture is on the record, the flag states' non-execution is no longer discretionary deference but a breach of the *aut dedere aut judicare* obligation under CAT Article 7. The structural critique graduates into a treaty-law claim enforceable against the deferring state in proceedings between state parties at the ICJ.

The codified democratic order is not failing because its substantive obligations are uncertain. They are settled. It is failing because the parties most obligated to enforce its substantive obligations are not executing the warrants the order itself supplies. The structural diagnostic identifies where the system is failing and what would break the failure. Any single flag state, by executing any single warrant, demonstrates feasibility and lowers the coordination cost for the next.

The pattern is not unique to this case. The same diagnostic, applied to any context where parties holding triggered jurisdictional warrants fail to execute them while performing the rhetoric of compliance, produces the same finding. The Sumud case is paradigmatic because every element engages cleanly, but the underlying structure recurs wherever the codified democratic order's enforcement architecture confronts a politically expensive case. The

diagnostic's portability is the framework's structural feature; the Sumud case is its empirical anchor.

The activists on the *Madleen*, the *Handala*, the *Mavi Marmara*, and the Sumud Flotilla performed the conduct that Geneva IV, the ICJ Provisional Measures Order, the UN Security Council Resolutions, and the broader codified framework collectively obligated the parties of the codified democratic order to perform themselves. The order has not performed; the order has not enforced; the order has not investigated, prosecuted, or sanctioned the parties whose conduct the order's own legal apparatus characterizes as unlawful. The order is the immune system; the immune system is failing.

The framework supplies the diagnostic. The diagnostic supplies the strategic question. The strategic question is for the flag states to answer.

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