

THE WORLD

U.S. Won't Invoke Law Against Israel

Mideast: Despite 'targeted killings' of Palestinians, statute limiting use of American weapons to self-defense won't be enforced.

By NORMAN KEMPSTER and TRACY WILKINSON
TIMES STAFF WRITERS

September 8 2001

WASHINGTON -- The Bush administration has decided not to invoke against Israel a U.S. law that bars military aid to countries that use American arms for purposes other than self-defense, despite controversy over dozens of "targeted killings" of Palestinian militants.

Under the U.S. Arms Export Control Act, countries that obtain weapons from the United States are allowed to use them only for defense. Parallel language is written into sales contracts. The law requires the State Department to assess compliance.

Israel says its policy of killing Palestinians suspected of planning or carrying out terrorist attacks falls within the definition of legitimate defense. State Department lawyers say the act is sufficiently ambiguous that it is impossible to make a clear-cut legal determination to the contrary. However, a prominent Arab-American organization is considering a court challenge.

By Palestinians' count, about 50 to 60 people have died in targeted killings by Israel, many using missiles fired from U.S.-made helicopters. Most were militants suspected in terrorist acts, but Palestinians say about 10 were bystanders, including women and children.

State Department spokesman Richard Boucher made clear this week that the administration will not try to enforce the statute. He chided critics for "pushing this into a legalistic discussion of U.S. law."

But he said Washington has other ways of expressing its opposition to what amounts to extrajudicial execution.

"We have made quite clear that we are opposed to the policy of targeted killings," he said. "We have made quite clear that we are opposed to the use of heavy weaponry and in these circumstances, particularly in populated areas where the risk of innocent casualties is very high. We have made clear that we think that the process of escalation and response needs to be

broken."

Boucher said the department will continue to monitor the situation.

Richard Murphy, former chief of the State Department's Middle East bureau, said the administration's decision not to act was "at least awkward and at most an embarrassment." He said he suspected that the White House view was formed in part by opposition on Capitol Hill.

"Congress would be resolutely opposed to applying" the law, he said.

Murphy said the administration's investigation reminded him of an old British Foreign Office maxim: " 'Under study' means we've lost the file; 'under intensive study' means we are looking for it."

Ziad Asali, president of the American-Arab Anti-Discrimination Committee, said his group is considering a lawsuit to enforce the statute. In the meantime, he said, the organization is appealing to President Bush and Secretary of State Colin L. Powell to rein in Israel's use of U.S. weaponry.

In Jerusalem, Israeli Prime Minister Ariel Sharon's government said it has not received a single formal complaint from the Bush administration about the use of U.S. weapons.

But in any case, Israel maintains that its use of Apache gunships and F-16 fighter jets is well within the terms of the law.

"We use these weapons only for self-defense purposes," said Sharon's spokesman, Raanan Gissin. "We are very careful. We try to kill only those who are coming to kill us. We try to avoid collateral damage. But there's a war going on. We are not enthusiastic about using these weapons, but we are left with no choice."

Although the arms export act is little known in the United States, it has become a hot-button topic in the Arab world, where it is cited as proof that Israel's military response to the 11-month-old Palestinian uprising would be impossible without U.S. help.

"The administration ought to be worried about Arab opinion," said Edward Walker, the State Department's top Middle East specialist at the end of the Clinton administration and the start of the Bush administration. "What the Israelis are doing is making us complicit in their activities."

"I don't want to say they are doing it on purpose, but this is exactly the way the Arab world sees it," said Walker, president of the Middle East Institute in Washington. "No matter how much we protest, as long as the arms control act sits there and we do nothing, they will hold us partially responsible."

However, Israel's supporters in the U.S. reject any suggestion that American aid is being misused. In fact, they criticize the administration for not doing enough to help an ally deal with a dangerous challenge.

Robert Kagan, a senior associate of the Carnegie Endowment for International Peace, and conservative icon William Kristol wrote recently that Bush "should let it be known to the Israelis, the Palestinians and the Arab world that Israel will be allowed to fight the war by the means it deems necessary without American carping and with whatever American material and financial support may be required."

Technically, any use of U.S. weapons for aggressive purposes is banned. In 1981, President Reagan briefly suspended delivery of F-16 warplanes after the Israeli bombing of a nuclear reactor in Iraq.

But targeted killings are a special case. In 1980, President Carter suspended military aid to El Salvador after reports that Salvadoran security forces were involved in the slayings of four U.S. churchwomen.

A Palestinian human rights organization, the Palestinian Society for the Protection of Human Rights and the Environment, says the Israeli army has used U.S.-manufactured Apache or Cobra helicopters in 11 attacks causing the deaths of 27 Palestinians, including two children killed in Nablus last month.

On Thursday, Israel fired missiles from Apache helicopters at a convoy in the West Bank city of Tulkarm, killing two Palestinian militants. Palestinian Cabinet minister Nabil Shaath called the incident "coldblooded murder."

*

Kempster reported from Washington and Wilkinson from Jerusalem.

FAIR USE NOTICE: This site contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available in our efforts to advance understanding of environmental, political, human rights, economic, democracy, scientific, and social justice issues, etc. We believe this constitutes a 'fair use' of any such copyrighted material as provided for in section 107 of the US Copyright Law. In accordance with Title 17 U.S.C. Section 107, the material on this site is distributed without profit to those who have expressed a prior interest in receiving the included information for research and educational purposes. For more information go to: <http://www.law.cornell.edu/uscode/17/107.shtml> If you wish to use copyrighted material from this site for purposes of your own that go beyond 'fair use', you must obtain permission from the copyright owner.