The UK's Selective Application of the Universal Jurisdiction Law

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During his first official visit to Israel, British Foreign Secretary William Hague on November 3 publicly promised to make it safe for Israeli leaders to travel to Britain without the risk of being detained on allegations of war crimes. Hague made the commitment after Israel unilaterally suspended the annual UK-Israel Strategic Dialogue -- a forum meant to symbolize close ties between the two countries -- to protest the abuse of the British legal system by activists pursuing an anti-Israel political agenda.

The long-running dispute over Britain's controversial law on universal jurisdiction, which allows pro-Palestinian activists to bring private prosecutions against visiting Israeli dignitaries, came to a head on November 1, when Israeli Deputy Prime Minister [Dan Meridor](http://www.haaretz.com/news/diplomacy-defense/deputy-pm-meridor-cancels-london-visit-following-lawsuit-threat-1.322328) cancelled a planned visit to London after receiving information that he might be facing a lawsuit or an arrest warrant upon arrival in Britain.

Meridor was notified that he may face charges connected to his alleged role in the Israeli commando raid on the Gaza-bound ship Mavi Marmara on May 31, 2010. The Israeli raid resulted in the deaths of nine Turkish activists who were attempting to break a blockade on the Gaza Strip.

After a warrant, however, for former Israeli Foreign Misister Tzipi Livni's arrest was issued in December 2009, Israeli Prime Minister [Benjamin Netanyahu](http://news.bbc.co.uk/2/hi/8415161.stm) characterized the situation in Britain as an "absurdity." In a statement, Netanyahu said: "We will not accept a situation in which [former Israeli Prime Minister] Ehud Olmert, Ehud Barak and Tzipi Livni will be summoned to the defendants' chair. We will not agree to have Israel Defence Force soldiers, who defended the citizens of Israel bravely and ethically against a cruel and criminal enemy, be recognized as war criminals. We completely reject this absurdity taking place in Britain."

Miliband responded to the criticism by saying that Israel was a "close friend" of Britain and stressed that he was keen to "avoid this sort of situation arising again." Shortly thereafter, Miliband announced that the Labour government would change the law on universal jurisdiction to require the attorney general's consent to any warrants being issued in order to make it harder to prosecute foreign officials.

But that decision provoked outrage among backbench MPs; the Labour Party's Jeremy Corbyn brought an [Early Day Motion](http://edmi.parliament.uk/EDMi/EDMDetails.aspx?EDMID=40074&SESSION=903) on December 15 to block the changes. Several Liberal Democrats also opposed changing the law, including current cabinet members Vince Cable and Chris Huhne, as well as Jeremy Browne, who is now a junior minister in the Foreign Office.

Shortly after the new British coalition government took office in May 2010, Hague, a long-time member of the [Conservative Friends of Israel](http://www2.cfoi.co.uk/) group, promised to move quickly to change the law, amid fears that the threat of arrest was preventing high-ranking Israelis from visiting Britain. "We cannot have a position where Israeli politicians feel they cannot visit this country," Hague said at the time. "The situation is unsatisfactory [and] indefensible. It is absolutely my intention to act speedily."

But the Conservative Party apparently acquiesced to stiff opposition from its Liberal Democrat coalition partner (known for being the most anti-Israeli political party in Britain), and the promised changes to the law (which were included in the Conservative Party's election manifesto) were omitted from the coalition government's [program of forthcoming legislation](http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf), presumably in the hope of maintaining some degree of political leverage over Israel.

If anything, the new British government has sent mixed signals regarding Downing Street's desired relations with Israel, which in any event, have deteriorated markedly since the glory days of Prime Ministers Margaret Thatcher and Tony Blair.

In May 2010, for example, Hague signalled that Britain's future relations with Israel would be rocky after he angrily condemned as "[unacceptable and counterproductive](http://conservativehome.blogs.com/thetorydiary/2010/05/william-hague-condemns-israels-unacceptable-blockade-of-gaza-in-wake-of-flotilla-deaths.html)" Israel's blockade of the Gaza Strip, even though the blockade was put in place to prevent ships from delivering weapons to Hamas, the Sunni Muslim Palestinian extremist group that currently runs Gaza, and openly advocates the destruction of Israel in its Charter.

In June, Hague launched an outspoken attack on Israel in the House of Commons, where he characterized as "[completely unacceptable](http://www.fco.gov.uk/en/news/latest-news/?view=PressS&id=22313385)" Israel's arrest and deportation of British detainees from the Turkish "aid" flotilla.

(While still in the opposition, Hague adopted a more critical stance towards Israel. In July 2006, for example, he wrote an astonishing essay for the *Sunday Telegraph* newspaper titled "[We Should Not Be Afraid to Criticize Israel](http://www.telegraph.co.uk/comment/personal-view/3626548/We-should-not-be-afraid-to-criticise-Israel.html)," in which he called on Britain to distance itself from the pro-Israel policies of the United States.)

In July, British Prime Minister [David Cameron](http://www.telegraph.co.uk/news/worldnews/middleeast/palestinianauthority/7912095/Gaza-is-a-prison-camp-says-David-Cameron.html) described the Gaza Strip as a "prison camp." Speaking in Ankara during an official visit to Turkey, Cameron denounced the Israeli commando raid on the Turkish flotilla as "completely unacceptable" and restated his call for Netanyahu to deliver a "swift, transparent and rigorous" inquiry.

Meanwhile, Deputy Prime Minister Nick Clegg has a longstanding reputation for taking highly critical positions on Israel. Clegg's most trenchant public criticism of Israel came in a January 2009 opinion essay he wrote for the *Guardian* newspaper, titled "[We Must Stop Arming Israel](http://www.guardian.co.uk/commentisfree/2009/jan/07/nick-clegg-israel-gaza-war)," in which he called for Britain and the European Union to halt arms exports to Israel. "Israel's approach is self-defeating," Clegg argued. "The overwhelming use of force, the unacceptable loss of civilian lives, is radicalizing moderate opinion among Palestinians and throughout the Arab world."

In November 2010, however, Clegg told a lunch held by the [Liberal Democrat Friends of Israel](http://ldfi.org.uk/)that his party had got it wrong on Israel. He said he was now engaged in "an operation to clarify misunderstandings" and he repeated his pledge to change the law on universal jurisdiction.

Israel has welcomed Hague's commitment to amend Britain's law on universal jurisdiction. "We feel it is about time things should move in the right direction and think this is very welcome news," says the Israel Foreign Ministry. Nevertheless, it remains to be seen whether the British government can overcome its own contradictory positions on Israel.

The Meridor case is not the first time that an Israeli politician has faced legal harassment in Britain, where the [1988 Criminal Justice Act](http://www.legislation.gov.uk/ukpga/1988/33/contents) gives courts in England and Wales universal jurisdiction in war crimes cases.

In December 2009, the Westminster Magistrates' Court issued an arrest warrant for former Israeli Foreign Minister [Tzipi Livni](http://www.haaretz.com/news/foreign-ministry-outraged-over-u-k-arrest-warrant-against-livni-1.2191) for her role in Operation Cast Lead. Livni, who had been scheduled to address a meeting in London, cancelled her attendance. The court issued the warrant at the request of lawyers representing Palestinian victims of the three-week offensive in Gaza that began in December 2008.

In October 2009, [Moshe Ya'alon](http://www.haaretz.com/print-edition/news/vice-premier-and-ex-idf-chief-cancels-u-k-visit-over-arrest-fears-1.6702) turned down an invitation to attend a fundraising dinner in London after he was warned that he might face arrest on suspicion of war crimes. Ya'alon, chief of staff of the Israel Defense Forces from 2002-2005, is wanted by pro-Palestinian groups for his alleged role in the July 2002 assassination of Salah Shehadeh, a top Hamas militant.

In September 2009, a British court was asked to issue an arrest warrant for Israel Defense Minister [Ehud Barak](http://www.haaretz.com/news/u-k-court-defers-palestinian-bid-to-arrest-ehud-barak-1.7025), who was attending a meeting at the Labour party conference in Brighton. He escaped arrest after the Foreign Office argued that as a serving minister, Barak enjoyed immunity under the 1978 State Immunity Act.

In January 2008, Public Security Minister [Avi Dichter](http://www.haaretz.com/news/dichter-cancels-u-k-trip-over-fears-of-war-crimes-arrest-1.234670) cancelled a trip to London for fear that he would be arrested over the Shehadeh assassination. Dichter, who headed the Shin Bet security agency at the time of the aerial attack on Shehadeh's Gaza home, had been invited to participate in a conference organized by a British research institute.

In September 2005, retired Israeli Major General [Doron Almog](http://www.ynetnews.com/articles/0,7340,L-3143122,00.html) arrived in London on an El Al flight, only to learn that a British judge had issued a warrant for his arrest for allegedly violating the 1949 Geneva Convention in Gaza. Almog stayed on the plane, which immediately returned to Israel.

In February 2004, a London court rejected an application for the arrest of Israeli Defense Minister [Shaul Mofaz](http://www.adh-geneva.ch/RULAC/pdf_state/Application-for-Arrest-Warrant-Against-General-Shaul-Mofaz.pdf) for allegedly committing "grave breaches" of the Geneva Convention in dealing with the Palestinian uprising. The judge in the case argued that as a government minister, General Mofaz qualified for immunity.

In October 2002, while [Mofaz](http://www.guardian.co.uk/world/2002/nov/01/israelandthepalestinians.warcrimes1) was visiting Britain, the controversial British human rights lawyer[Imran Khan](http://www.ikandp.co.uk/site/home/), representing a group of Palestinians, presented the Crown Prosecution Service with a 17-page legal brief with claims of alleged war crimes committed by Mofaz while he was chief of staff of the Israeli military. Mofaz left Britain before any action could be taken against him.

Over the years, Israel has repeatedly asked the British government to make changes to the universal jurisdiction law, which has been applied to Israeli officials, while at the same time Palestinians accused of war crimes have been able to enter and exit Britain without problems.

In 2007, for example, Barak and Livni both pressed then British Foreign Secretary David Miliband to make changes to the law that would prevent private prosecutions for international crimes in Britain. Miliband said his government would look into the matter but ultimately remained non-committal. It remains to be seen if England actions will be louder than its words.