
JERUSALEM

AND UNITED NATIONS RESOLUTIONS

INFORMATION PAPER



PASSIA

Palestinian Academic Society for the Study of International Affairs

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Palestinian Academic Society for the Study of International Affairs

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INTRODUCTION

The UN was established in the wake of World War Two, ostensibly to promote global peace and security after the obvious failure of its predecessor, The League of Nations.

Far from being "a crucible in which opposing conceptions of the world order can be reconciled" (Waldheim, 1984), the UN serves as a vehicle for the dominant interests of the world superpower(s). This is a result partly of the structure of the UN itself and partly of the fact that the UN does not exist in a vacuum. Like all other bodies it is influenced by power relations outside it and like many international institutions is deliberately structured to reflect those relations. The General Assembly, in which each country is equally represented (i.e. it is, at least in terms of national representation, democratic) is limited in its power by the UN Charter. Its resolutions are only binding on matters concerning the UN budget. On all else they are merely recommendations to the Security Council which may overturn them. Once a matter has been taken up by the Security Council the General Assembly may not intervene. Finally, any permanent member of the Security Council may use its power of veto.

Members of the Security Council who do not nominally represent a superpower are not of equal influence to those

which do because like all other nations they are vulnerable to outside pressure either directly from the superpower(s) or indirectly through other institutions controlled by globally dominant interests. This pressure has been manifest in recent Security Council resolutions concerning, say, the Gulf Crisis. The US would not countenance the considerable efforts made to secure a negotiated Iraqi withdrawal from Kuwait and proved strong enough to overcome the clear reservations of co-permanent members of the Security Council, France, USSR and China, in its determination to pursue the "military option". The General Assembly has recently betrayed similar vulnerability in overturning its 1975 resolution equating Zionism with racism. This shows how effectively the US and its allies can pressurise poorer countries especially with threats concerning trade agreements, IMF "stamps of approval" and bilateral aid.

The UN has been widely presented as having recently become a more effective organisation that has finally come into its own following decades of comparative impotence during the superpower rivalry of the US and then USSR. It is precisely because there is now only one superpower in the Security Council that the UN appears effective. Its existence allows that superpower to present its global policies behind a veil of democracy yet, in all cases concerning Jerusalem, when that single superpower is opposed to otherwise globally (except Israeli) approved policy, the UN will either not finally

approve that policy or it will not receive the necessary backing for implementation. The history of Jerusalem bears harsh testament to this fact. It is a city which has received more UN attention than any other and regarding which the UN has a clearly stated policy which is formally adhered to by almost all nations. The formal, internationally recognised status of Jerusalem remains that of a *corpus separatum*, established according to UN Resolution 181 of 1947 as an international and united city beyond the jurisdiction of any state. Although in *realpolitik* most countries acknowledge West Jerusalem as Israeli territory they (including the US) do not do so officially, hence the continued presence of Consuls General representing their governments in the Occupied Territories, including the whole of Jerusalem. The UN has consistently maintained its recognition of this status. The only nation other than Israel which has not consistently voted against Israeli violations of the internationally recognized status of Jerusalem and against its abuses of international law in the Occupied Territories including Jerusalem, is the United States. Since the end of the Second World War and the establishment of the UN, the US has been either one of two or, as now, the only globally hegemonic national power. A result of this is that no significant action has been taken to implement UN policy on Jerusalem.

BACKGROUND

1) The United Nations

The UN was founded in 1945 and divided into six structures. The only structure with real power is the Security Council with five permanent members: the US, Russia, France, China, and the UK, plus ten non-permanent members, each elected for a two-year period.

The Security Council is so named because its main function is supposed to be to work for the maintenance of international peace and security. It alone of the organs of the UN is authorised to use force to implement its decisions which are "made in the name of all members". Under article 25 of the UN Charter, the member states are "to accept and carry out" Security Council resolutions. Each member has one vote, but this apparent equality or even-handedness is completely undermined by the fact that each of the five permanent members has the right to veto any resolution; they, and only they, can thereby nullify any resolution that runs counter to their policies or interests. One negative vote cast by any of the five permanent members can block action by the Security Council regardless of how many votes are cast in favour, rendering the organisation impotent. Nowhere has this impotence been more evident than in the Security Council resolutions on Jerusalem and on Palestine; their constant lack

of support from and frequent vetoing by the US has perhaps been the main cause of the city's being abandoned to the ruthless Israeli policies of faits-accomplis.

The General Assembly, as its name implies, consists of all member states, with each member state having one vote. It can hold debates, but its resolutions are merely recommendations. Its only effective decisions are those concerning the UN budget which, along with electing members to other organs of the UN, is its main responsibility. If any action is required the matter has to be referred to the Security Council, and if an issue has already been taken up by the Security Council, the General Assembly cannot interfere. The General Assembly is therefore hardly more than an international forum for discussion, so it is not surprising that its resolutions on the Middle East have been so easily and brazenly ignored.

The remaining four organs (the Secretariat, the Economic & Social Council, the International Court of Justice and the Trusteeship Council) are more concerned with development, education, aid, etc. and do not take decisions on world policy. They are therefore not relevant here.

2) The United Nations and Jerusalem

Although Britain had been all too happy to obtain the Mandate for Palestine via the League of Nations in 1922, by the time the UN was founded in 1945, it was only too anxious to be rid of it. In the rapidly deteriorating situation of 1947, exacerbated by the problem of Jewish refugees and shock over the Holocaust, the question of Palestine was referred by Britain to the General Assembly of the UN. This choice of the General Assembly rather than the Security Council reduced the serious business of what should happen to the strife-torn people of Palestine to a matter of mere debate. Perhaps, had the matter been handled more boldly from the start, with genuine regard for the wishes of the majority of the population, it would not have been allowed to dangle, at the perilous mercy of the world's powers, for the past forty-four years.

RESOLUTIONS

UNSCOP and General Assembly Resolution 181 (Partition)

Early in 1947, the General Assembly discussed the Palestine Question and established the United Nations Special Committee on Palestine, UNSCOP, to report on the situation. This eleven member Ad Hoc Committee submitted its report in August 1947 with a majority and a minority recommendation.

The majority plan called for two independent states, one Arab and one Jewish, with the City of Jerusalem (i.e. Greater Jerusalem, including Bethlehem, Shu'fat, Abu Dis and Ein Kerem) to be run by the Trusteeship Council of the U.N. Although the states were to be separate and independent, the plan also included an immediate and binding economic union between them and emphasised the need for each to have a constitution:

"Independence shall be granted to each state upon its request only after it has adopted a constitution... has made to the United Nations a declaration containing certain guarantees, and has signed a treaty creating the Economic Unity of Palestine and establishing a system of collaboration between the two states and the City of Jerusalem." (UN, The Origins and Evolution of the Palestine Problem, P. 115)

Despite Israel's non-compliance with the conditions of the Partition Plan - its lack of a formal constitution and of economic union with the neighbouring state in Palestine and the total absence of freedom for its non-Jewish inhabitants - it was immediately admitted to the UN in May 1949 on the ground that it was a "peace-loving nation". None of its subsequent aggression or abuses of human rights has caused its membership to be seriously reconsidered.

The minority plan proposed one federal state, one constitution, and one Palestinian nationality and citizenship for

Arabs, Jews and others. Jerusalem was to be the capital of this state with two separate municipalities, one for Arabs (including the Old City) and another for Jews. This state was to have continued to allow Jewish immigration under the guidance of an international commission composed equally of Jews, Arabs and UN members. The majority plan allowed for unlimited Jewish immigration into the Jewish state.

The Zionist lobby would not accept the minority option and in the end the Ad Hoc Committee favoured the plan for two separate states with economic union.

This majority plan, therefore, was the basis for General Assembly Resolution 181 passed in November 1947, with 33 votes (including the U.S.) in favour, ten abstentions (among them, conspicuously, Great Britain) and thirteen against, essentially Middle Eastern Countries including all the Arab states, and Cuba.

Resolution 181 recommended 'the adoption and implementation, with regard to the future government of Palestine, of the plan of Partition with Economic Union, and requested the Security Council to undertake the necessary measures as provided in the plan for its implementation.' In particular, the UN was supposed to take over the administration of the territory immediately and progressively as of November 1947, wean it away from the British (due to

withdraw by 1 August 1948) and hand it over to the two separate states not later than the 1st of October 1948.

Although the UN was still in the first flush of enthusiasm and with a clear majority in the General Assembly, events moved far too fast for the Security Council to take any of these "necessary measures". Violence in Palestine between Jews and Arabs escalated. The British, unable to cope, left by mid-May 1948 and it was the Israelis and not the UN who stepped in. The Security Council, according to the UN, could not take any effective decision after discussing General Assembly Resolution 181 in December 1947. The UN Commission on Palestine only got as far as meeting in the comfort and safety of New York while fighting intensified in the area for which they were supposedly responsible.

General Assembly Resolution 181 has remained one of the fundamental reference points in all discussions on Palestine, and as such is referred to in the Palestinian Declaration of Independence of November 1988: "...it is this resolution that still provides those conditions of international legitimacy that ensure the right of the Palestinian Arab people to sovereignty." At the same time the resolution is a landmark of historical injustice in so far as it deprived the Palestinians of the right to self-determination and partitioned their homeland.

With respect to the land of Palestine, Resolution 181 has effectively, though not legally, been superseded to a large

extent by, especially, Resolutions 242 and 338. With respect to Jerusalem, General Assembly Resolution 181, in conjunction with Resolution 194, clearly remains the binding UN resolution.

Under Resolution 181 Jerusalem was supposed to be a *corpus separatum* under a special international regime. This regime meant that it was to be administered by the UN Trusteeship Council for an initial period of ten years when it would be re-examined by the Council. The city was to remain neutral and demilitarised with access to places of worship and holy sites for all three religions guaranteed to citizens of both states and of the city of Jerusalem itself and to foreigners. The resolution included safeguards for the Holy Places, minorities and freedom of movement.

General Assembly resolutions 185, 186 and 187 of April and May 1948 all sought to ensure the protection of the inhabitants and Holy Places of Jerusalem. Before any of these UN resolutions on Jerusalem were implemented, however, the city was de facto divided between Israel and Jordan.

Security Council Calls for a Truce, 1948

The first Security Council decision on Jerusalem (Resolution 49 of May 22, 1948) called for a cessation of military action in Palestine, but was most concerned with negotiating and

maintaining a truce in divided Jerusalem. It requested the fighting parties "to facilitate by all means in their power the task of the UN Mediator" in negotiating a ceasefire. A week later Resolution 50 called for a four week truce and for the "protection of the Holy Places in Jerusalem, including access to all shrines and sanctuaries for the purpose of worship by those who have an established right to visit and worship at them." It repeated the appeal made in previous resolutions for all those involved to assist the UN Mediator in his tasks, but went a step further in an apparent effort to ensure implementation:

"If the present resolution is rejected by either party or by both, or if, having been accepted, it is subsequently repudiated or violated, the situation in Palestine will be reconsidered with a view to action under Chapter VII of the Charter."

A truce was eventually negotiated, but any prolonging of the truce was rejected by the Arab nations. Security Council Resolution 54 of July 15, 1948 addressed renewed hostilities in the region. It also,

"5. order[ed] as a matter of special and urgent necessity an immediate and unconditional cease-fire in the City of Jerusalem to take effect 24 hours from the time of the adopting of this resolution, and instruct[ed] the Truce

Commission to take any necessary steps to make this cease-fire effective;

"6. Instruct[ed] the Mediator to continue his efforts to bring about the demilitarization of the City of Jerusalem, without prejudice to the political status of Jerusalem, and to assure the protection of and access to Holy Places, religious buildings and sites in Palestine."

This is the first mention of the political status of Jerusalem. The previous Security Council resolutions were mainly concerned with protecting the city and its inhabitants and religious sites. The Security Council neither endorsed nor rejected the General Assembly plan for the partition of Palestine. Its first resolutions on Jerusalem asked for "the cessation of fighting and the maintenance of the truce, apparently to assert the status quo. Six countries, including four permanent members, voted for partition in the General Assembly Resolution 181, yet there was no attempt by the Security Council to execute the resolution.

The term "political status" in Resolution 54 is vague but can reasonably be inferred to mean the *corpus separatum* the UN was still hoping to implement even though the city at the time seemed irredeemably divided. The same resolution appealed to the warring nations to settle the dispute peacefully.

Resolution 56 of August 1948 renewed the call for a ceasefire in Jerusalem as set forth in Resolution 54. It stated directives for the truce urging both parties to maintain the ceasefire, to refrain from violating the truce under any circumstances and to punish violators from their territories. In these Security Council resolutions, the primary aim was apparently to secure a ceasefire. There was no expressed policy on how to maintain peace in the region, nor for that matter on how to introduce it.

General Assembly Resolution 194 and Calls for an International Regime in Jerusalem

In 1948, the last resolution on Jerusalem was General Assembly Resolution 194 of December 11 which called for an international regime in Jerusalem because of "its association with three world religions". This resolution stated that the city of Jerusalem, with boundaries as those listed in Resolution 181 of November 29, 1947, "should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control." Unlike Resolution 181, Resolution 194 recommended that the international regime be permanent. In an attempt to ensure implementation of this resolution, an appeal was made to the Security Council to bring about the "demilitarization of Jerusalem" as soon as possible. However, the Security Council

did not even issue a supporting resolution until 1958. General Assembly Resolution 194 proposed the establishment of a Conciliation Commission to assume the duties of Count Bernadotte, the UN Mediator in Palestine, who had been murdered by the Stern Gang co-led by current Israeli Prime Minister, Yitzhak Shamir. The resolution recommended that a committee from the General Assembly should elect representatives from three states to the Commission. The United States was a member of both the committee and the Conciliation Commission, but did not reveal any interest in pursuing the implementation of Resolution 194, although it had supported it.

The last two resolutions of the 'forties were also issued by the General Assembly. Resolution 303 of December 9, 1949 again invoked the notion of a permanent international regime for Jerusalem. The US, with Israel, which had recently joined the UN, voted against the resolution whereas the Arab states voted in favour, contrary to their previous voting trends. In another effort to implement the special regime, as endorsed by the majority of the General Assembly, Resolution 356 of December 10, 1949 appropriated eight million dollars as funds necessary for the internationalization of Jerusalem. These appropriations were cancelled in Resolution 468 of December 14, 1950. Jerusalem thus remained divided into an eastern Arab and a western Israeli section and, in January 1950, the Israeli Knesset proclaimed West Jerusalem as the capital of

the state of Israel. Neither the General Assembly nor the Security Council condemned this.

Security Council Resolutions and the Zone between the Armistice Demarcation Lines in Jerusalem

The Security Council issued Resolution 127 on January 22, 1958 in response to Jordan's grievances "concerning activities conducted by Israel in the zone between the Armistice demarcation lines in the area of Government House at Jerusalem". The Security Council asked the UN Truce Supervision Organization to supervise the zone which was not under the control of either party. Three years later another complaint from Jordan led to Resolution 162 which was adopted on April 11, 1961 and which "urg[ed] Israel to comply with the mixed Armistice commission concerning Jerusalem."

These, as earlier resolutions, were absolutely ignored by Israel. This, however, did not prevent the UN from continuing to overlook Israel's occupation of lands beyond those stipulated in the Partition Plan, including Jerusalem. The UN expressed little further interest in the area until the war of June 1967 changed the whole picture.

Israeli Occupation of East Jerusalem, 1967

On June 5, 1967 the Six-Day War began. On the 7th of June the eastern Arab section of Jerusalem was occupied by Israel. On June 27, 1967 the Knesset extended Israeli jurisdiction and administration over occupied eastern Jerusalem. In the interim twenty days, Israel destroyed 350 homes within the Old City in order to make space for the construction of the Plaza in front of the Western, or Buraq, Wall. In the years ahead, Israel proceeded to effectively annex East Jerusalem.

General Assembly Resolutions 2253 and 2254 on the Status of Jerusalem, 1967

UN General Assembly Resolution 2253 of July 4, 1967 read as follows:

The General Assembly,

Deeply concerned at the situation prevailing in Jerusalem as a result of the measures taken by Israel to change the status of the city,

1. Considers that these measures are invalid;
2. Calls upon Israel to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem;

3. Requests the Secretary-General to report to the General Assembly and the Security Council on the situation and on the implementation of the present resolution not later than one week from this adoption.

Ninety-nine nations voted in favour of the resolution and twenty-two abstained including the United States. Israel did not participate in the vote for it considered Jerusalem non-negotiable, a stand it has not altered since.

This resolution was followed ten days later by Resolution 2254, in which the General Assembly once again deplored Israel's non-compliance with previous resolutions and urged it not to change the status of Jerusalem. The US again abstained.

In view of the contradiction between the realities on the ground and the city's international legal status, the terms "status of Jerusalem" and "status of the city" in these resolutions are ambiguous. Since there is no reaffirmation of Resolution 181, 194 or 303 in 2253 or 2254, it is not clear whether "status" referred to the pre-1967 divided Jerusalem or to the *corpus separatum*. The phrase "all measures already taken" is equally ambiguous.

Under Resolution 2254, the Secretary General appointed Ambassador A. Thalmann of Switzerland to report on the situation in Jerusalem. He submitted his report on September

12, 1967 in which he described the "measures" taken by Israel to "integrate the parts of the city which had not been under Israeli control before June 1967."

Security Council Resolutions 250 and 251 on Israel's Military Parade in Jerusalem, 1968

On April 27, 1968, the Security Council issued Resolution 250 asking Israel to desist from holding a military parade through occupied East Jerusalem, since it might "aggravate tensions in the area and have an adverse effect on a peaceful settlement of the problem in the area." On May 2nd, Resolution 251 of 1968 stated that the Security Council "deeply deplores the holding by Israel of the military parade in Jerusalem on 2 May 1968 in disregard of the unanimous decision adopted by the Council on 27 April 1968." No reprimand against Israel was formulated by the Security Council nor did it elaborate on the future of Jerusalem.

This lack of any attempt on the part of the Security Council to make a forceful stand supporting its own declared position on the issue of Jerusalem typified its subordination to the unilateral concerns of its permanent members. It appeared more interested in expressing insipid platitudes about reducing tension in the area than in properly backing international consensus. The General Assembly, although reflecting and

expressing international consensus, was not empowered to enforce its resolutions.

UN Reaffirmation that Acquisition of Territory by Force is Inadmissible

Security Council resolution 252 of May 21, 1968 recalled General Assembly Resolutions 2253 and 2254 of the previous year. It stated that the taking of territory by force was "inadmissible" and "deplor[ed]" Israel's disregard for UN resolutions. The resolution "consider[ed] that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status."

Although, once again, the legal status of Jerusalem was not expounded upon, and although the Security Council could have referred to the *corpus separatum* of Resolution 181, 194 and 303, the statement "reaffirming that acquisition of territory by military conquest is inadmissible," includes East Jerusalem in its ambit. The resolution "urgently" appealed to Israel to refrain from altering the status of Jerusalem and asked the Secretary General to report Israel's response. Once again, the US abstained and Israel did not accept the resolution. A year later Israel was still impervious to UN resolutions. Resolution

267 of July 3, 1969 not only deplored Israel's disregard for UN resolutions but went as far as to "censur[e] in the strongest terms all measures taken to change the status of the city of Jerusalem." Another request was made to Israel to desist from any measure to alter the status of Jerusalem. The resolution expressed the UN's strongest reprimand to date: "in the event of a negative response or no response from Israel, the Security Council shall reconvene without delay to consider what further action should be taken in this matter." In spite of the fact that Resolution 267 was adopted unanimously, the Security Council did not "reconvene" to further discuss Israel's lack of adherence to United Nations resolutions.

Security Council Resolution 271 Deplores the Desecration of Al-Aqsa Mosque, 1969

Security Council Resolution 271 of September 1969 deplored the desecration of the Al-Aqsa Mosque by an arsonist. This Resolution stated that desecration of Holy Places is an impediment to peace and as such emphasizes the importance for Israel to refrain from altering the "status of Jerusalem". It condemned Israel for its total disregard for earlier resolutions and reasserted that this non-compliance might lead the Security Council to "consider what further action should be taken in this matter." The US, as on previous

occasions, abstained. Regarding Israel's illegal activities in occupied Jerusalem, Resolution 271 referred to the Geneva Conventions of 12 August 1949 and to International Law governing military occupation. This provided the legal basis for the international outcry over Israel's arbitrary practices in Jerusalem. As a member of the United Nations, Israel had pledged to adhere to and support international treaties and laws. Israel claimed the resolution was a result of the efforts of hostile Arab states to "exploit the fire in Al-Aqsa Mosque for propaganda purposes and to excite religious passion throughout the Muslim World." (UN, 1978)

Security Council Resolution 298 on Israel's Legislative and Administrative Actions in Jerusalem, 1971

Two years later, Security Council Resolution 298 of September 25, 1971 reiterated previous Security Council Resolutions 252 and 267 and General Assembly Resolutions 2253 and 2254. Resolution 298 stated that all of Israel's "legislative and administrative actions... to change the status of Jerusalem including expropriation of land and properties, transfer of population and legislation aimed at the incorporation of the occupied section are totally invalid and cannot change that status." In a departure from Security Council Resolutions 252 and 267, Resolutions 298 "urgently

call[ed] upon Israel to rescind all previous measures and actions and to take no further steps in the occupied section of Jerusalem which may purport to change the status of the City." Resolutions 252 and 267 respectively called upon Israel to refrain from "further action which tends to change the status of Jerusalem" and to "rescind forthwith all measures taken by it [Israel] which may tend to change the status of Jerusalem."

Resolution 298 is the only Security Council resolution to distinguish between western (Israeli) and occupied eastern (Arab) Jerusalem. It called upon Israel to refrain from altering the occupied section of Jerusalem - thus implicitly recognizing Israeli sovereignty over western Jerusalem as per the 1949 Armistice Line. The US, significantly, voted in favour whereas Syria, the only Arab state member on the Security Council, abstained.

General Assembly Resolutions, 1975- 1978.

On December 15, 1975, eight years after Resolutions 2254 (see above), the General Assembly issued Resolution 3525 A,B,C. The resolution did not explicitly mention Jerusalem, though some of its provisions do apply to the city. Section A condemns the Israeli "annexation of parts of the Occupied Territories," while Section B noted that Israel's illegal practices are contrary to the Geneva Convention relative to the

Protection of Civilian Persons in Time of War. The resolution stressed that these procedures are applicable to the "Arab Territories Occupied by Israel since 1967, including Jerusalem."

An appeal was made to Israel, in section B of General Assembly Resolution 3525, "to acknowledge and to comply with the provisions of that [Geneva] Convention in all the Arab territories it has occupied since 1967, including Jerusalem". The resolution was voted on in parts. The United States voted in favour of Section B and against Section A, i.e. in favour of asking Israel to observe and comply with International laws and treaties and against condemning Israel for its practices in the Occupied Territories. Sections concerning the latter usually describe what practices are in direct violation of International laws and treaties and issue requests and/or demands for Israel to refrain and/or desist from such arbitrary measures.

Since 1975 the General Assembly has issued at least one resolution every year condemning Israel's policy in the Occupied Territories and asking Israel to desist from its actions if not to withdraw from territories. In 1974, the PLO was admitted to the UN as a permanent observer. This has helped keep the Palestinian Question and Jerusalem on the yearly agenda of the international organisation.

On December 16, 1976, in Resolution 31/106 A,B,C,D, section A, the General Assembly stated once again that "all

legislative and administrative measures taken by Israel, including the expropriation of land and properties thereon and the transfer of populations, which purport to change the legal status of Jerusalem are invalid and cannot change that status."

Section B referred to Resolution 3525 B of December 1975 and repeated its call on Israel to comply with the provisions of the Geneva Convention in all the Arab territories it has occupied since 1967, "including Jerusalem". Section C stated that Israeli practices in the territories are "null and void". The US voted against sections A and C but in favour of section B.

In 1977 two General Assembly resolutions were passed in which Jerusalem resumed subordinate clause status. In Resolution 32/5 of October 28, the General Assembly:

"2. Strongly deplor[ed] the persistence of Israel in carrying out such measures, in particular in the establishment of settlements in the Occupied Arab Territories;

3. call[ed] once more upon the Government of Israel as the Occupying Power, to desist forthwith from taking any action which would result in-changing the legal status, geographical nature or demographic composition of the Arab Territories Occupied since 1967, including Jerusalem."

The US abstained.

In Resolution 32/91 A,B,C of December 13, the General Assembly reiterated earlier expressions concerning flagrant Israeli violations of the Geneva Convention and International Law.

In Resolution 33/113 A,B,C of December 18, 1978 the General Assembly referred to Resolution 3525 B, 31/106 B and 32/91 A and stressed the applicability of the Fourth Geneva Convention to all the Arab territories occupied by Israel since 1967, including Jerusalem. The US voted in favour of sections A and B, which urged Israel to comply with all UN resolutions and the Geneva Convention, but voted against Section C which condemned and deplored Israel's actions in the Occupied Territories.

Security Council Resolution 452 on Settlements, 1979.

The Security Council issued Resolution 452 on July 20, 1979 in response to the report on settlement activities in the Occupied Territories by the Security Council Commission. Resolution 452 expressed deep concern at Israel's practices in the "Occupied Arab Territories including Jerusalem" and reaffirmed the spiritual and religious importance of Jerusalem and the need to protect and preserve the Holy City. It urged the "Government and people of Israel to stop settlements in the Arab territories, including Jerusalem." The resolution called

for the Secretary General to report on the situation before November 1, 1979. The US abstained.

The Security Council's Response to Israel's Proposed Formal Annexation of East Jerusalem, 1980.

The new decade began without much change in the Occupied Territories. Israel continued its expansionist policy of building settlements and expropriating Arab land in defiance of UN resolutions.

Security Council Resolution 465 of March 1, 1980 "strongly deplor[ed]" Israel's non-cooperation with the Commission and regretted its formal rejection of Resolution 452. It reaffirmed the provisions of The Fourth Geneva Convention and strongly deplored Israel's decision to settle some of its population and new immigrants in parts of the Occupied Territories, including Jerusalem. It requested the Commission to keep the situation under observation and to report before September 1, 1980. The United States voted in favour, even though it had abstained in Resolution 452. Shortly afterwards, President Carter announced that the affirmative vote should have been an abstention and that the oversight was due to "a failure to communicate" (Mallison and Mallison, 1986).

Security Council Resolution 476 of June 30, 1980 was issued in response to the Knesset's proposed decision to formally

annex East Jerusalem and declare "united" Jerusalem the Israeli capital. The resolution repeated that such practices cannot and will not change the status of Jerusalem. The Security Council expressed deep concern over "legislative steps to change the character and status of Jerusalem". It called upon Israel to desist from such measures, stating that if Israel did not comply, the Security Council would seek means under the UN Charter to "secure the full implementation of this Resolution". The US abstained and Israel went ahead with officially annexing East Jerusalem.

Emergency Special Session of the General Assembly, 1980

Convening in response to the failure of the Security Council to adopt and implement the recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the General Assembly convened to issue Resolution ES-7/2 of July 29, 1980. The resolution noted "with regret and concern that the Security Council, at its 2220th meeting on 30 April 1980, failed to take a decision, as a result of the negative vote of the United States of America." It called upon Israel to withdraw from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem, starting before November 15, 1980. The resolution also demanded that Israel comply with all UN resolutions concerning Jerusalem especially Security Council Resolution 476 calling upon Israel

not to take legislative steps to change the status of Jerusalem and considering such steps to be "null and void". The General Assembly agreed to refer the matter back to the Security Council if Israel did not comply. The US with Israel and five other countries voted against the decision.

The Security Council and General Assembly Refuse to Recognize Israel's "Basic Law: Jerusalem", 1980

On 30 July, 1980 Israel enacted its "Basic Law: Jerusalem" which declared "integral and united Jerusalem" to be the capital of Israel. ("Basic Laws" are the building blocks of Israel's evolving and therefore malleable constitution.)

UN Security Council Resolution of August 20, 1980, refused to recognize Israel's "Basic Law: Jerusalem" or any steps by Israel to change the status of Jerusalem. Confirming that the "Basic Law" on Jerusalem is in violation of International Law, the resolution called upon those states which had established diplomatic missions in the city to withdraw them. Thirteen countries did so. The US, although it did not acknowledge Jerusalem as Israel's capital, abstained. This was the last Security Council resolution on Jerusalem for ten years.

The General Assembly continued to have Jerusalem on its yearly agenda. Although the resolutions issued each year

listed the same grievances and made the same demands of Israel, no action of any impact was taken to overturn Israel's formal annexation of East Jerusalem. The fact that the unification of East Jerusalem with West Jerusalem was illegal was not lost on the Assembly. In addition to the Emergency Session Resolution of 1980, two more General Assembly resolutions concerning Jerusalem were issued that year: Resolution 35/169 A,B,C,D,E of December 15 and Resolution 35/207 of December 16. In section A of the December 15 resolution, the General Assembly reaffirmed Resolutions 181 (II) calling for a partition of Palestine and 194 (III) calling for an international regime in Jerusalem.

Section E of the same resolution affirmed Resolutions 2253 and 2254 of 1967. It recalled Security Council resolutions regarding Jerusalem, most recently Resolution 478 of August 1980, reaffirmed that the "acquisition of territory by force is inadmissible" and stressed the illegality of the "Basic Law" designating all of Jerusalem the Capital of Israel.

The General Assembly also refused to recognize the "Basic Law" and called upon "states, specialised agencies and other international organizations to comply with the present resolution" and to refrain from conducting business with Israel in defiance of these resolutions. The US abstained.

The General Assembly in Resolution 35/207 of December 16, 1980:

"6. Further reaffirms its strong rejection of Israel's decision to annex Jerusalem, declare it as its "capital" and alter its physical character, demographic composition, institutional structure and status, considers all these measures and their consequences null and void, requests that they should be rescinded immediately and calls upon all Member States, specialised agencies and other international organizations to abide by the present resolution and all other relevant resolutions, including General Assembly Resolution 35/169 E of 15 December 1980."

General Assembly Resolution 36/15 on Jerusalem's Heritage, 1981

The first General Assembly resolution since 1967 to deal exclusively with Jerusalem, Resolution 36/15 of October 28, 1981 focused on Jerusalem's historical, religious and spiritual heritage and "the need to protect and preserve the unique and spiritual and religious character and dimensions of the Holy City of Jerusalem." Recalling and (re)iterating pertinent UN resolutions on Jerusalem, it expressed "grave concern" at the excavations and transformations which Israel was conducting in the Holy City. It noted that historical, religious and cultural sites were never endangered as under present Israeli control, and praised UNESCO's decision to include the Old City and Walls on the World's Heritage list. The General Assembly demanded that Israel desist from such actions that aim to

transform the city and made a request for the Security Council to look into the matter and for the Secretary General to report on the implementation of the resolution. The US voted against. The Security Council did not take up the matter.

The General Assembly Supports Attempts to Establish a Palestinian University in Jerusalem.

On December 16, 1981 two resolutions were issued by the General Assembly: Resolutions 36/146 A-H, and 36/147 A-G. The first resolution advocated the founding of a University for Palestinian refugees at Jerusalem and requested Israel to refrain from hindering the establishment of the University. The second repeated previous UN resolutions declaring Israeli practices in the Occupied Territories, including Jerusalem, to be illegal and in violation of International law and treaties. It demanded that Israel comply with UN resolutions.

Exactly a year later, on December 16, 1982 the General Assembly Resolution 37/120 A-K called upon Israel to "co-operate and remove hindrances" to the opening of the university. Resolution 37/123 A-F, issued on the same day, expressed more concern for Israel's practices in the Occupied Territories, again stressing that Israel's "Basic Law" as enacted by the Knesset in Jerusalem is "null and void". It also deplored

the decision by some countries to transfer their diplomatic missions from Tel-Aviv to Jerusalem in direct violation of Security Council Resolution 478 (1980) and made a request to member states to abide by UN resolutions. The US abstained.

General Assembly Resolution 38/83 A-K, of December 15, 1983, expressed anew the need to strengthen educational institutions in the Occupied Territories including Jerusalem. A request was made for the Secretary General to ensure the establishment of the University of Jerusalem (for the first time mentioning the Arabic name for the University "Al-Quds") along the lines set forth in Resolution 35/13 of November 3, 1980. Israel was again requested to cease obstructing the establishment of the university.

Resolution 40/165 A-K of December 16, 1985, commended the Secretary General for steps taken towards establishing the University of Jerusalem "Al-Quds" and urged him to continue with his efforts.

General Assembly Resolution ES-7/4 on the Ineffectiveness of the Security Council, 1982

The Security Council held an emergency session on April 28, 1982 in the wake of a sudden increase in violence in the Occupied Territories, in particular in Jerusalem where two

guards at Al-Haram Al-Shareef were shot dead and several worshippers wounded by Israeli gunfire on April 11, 1982.

The outcome of this session was Resolution ES-7/4 which expressed concern over the ineffectiveness of the Security Council due to the US veto and deplored and regretted Israeli practices in the Occupied Territories, including Jerusalem.

The General Assembly demanded that Israel "comply with all UN resolutions relevant to the status and unique character of the Holy City of Jerusalem, in particular Security Council Resolutions 467 (1980) and 478 (1980)." It condemned Israel for desecrating the Holy City, particularly Al-Haram Al-Shareef, and reprimanded the government for interfering with civil and religious establishments in the Occupied Palestinian Territory, including Jerusalem. The General assembly demanded that Israel comply with UN resolutions and the Secretary General was requested to monitor the implementation of these resolutions.

The General Assembly Remains Adamant in not Recognizing Israel's Claim to Jerusalem

Resolution 58/180 of December 19, 1983, called Israel's annexation of any part of the Occupied Territories "null and void" and in violation of International Law. It declared the

"Basic Law" and any measures culminating with the "proclamation of Jerusalem as the Capital of Israel [to be] null and void" and again called upon states to "transfer their diplomatic missions from Jerusalem in accordance with Security Council Resolution 487 (1980).

Resolution 39/146 A,B,C of December 14, 1984, expressed grave concern over the ineffectiveness of UN resolutions and continued Israeli occupation of Palestinian and Arab territories and deplored Israel's failure to comply with UN resolutions. Section C restated the General Assembly's refusal to accept the "Basic Law" and protested against Israel's violation of International Law in Jerusalem.

Section C of Resolution 40/168 A,B,C passed on December 16, 1985, deplored Israel's practices in Jerusalem and its total disregard for International Law and UN resolutions. In 1986 Resolution 41/162 A,B,C repeated the General Assembly's concerns regarding Israeli measures in the Occupied Territories including Jerusalem.

Nine years after the annexation of East Jerusalem, the General Assembly still refused to recognise Israel's claim to the "Holy City of Jerusalem". Resolution 44/40 A-C issued on December 4, 1989, deplored the action of states that transferred their diplomatic missions to Jerusalem, and asked them to reconsider their decision and comply with UN

resolutions. Resolution 44/40 A-C affirmed Resolution 42/209 A,B,C,D of January 15, 1987 and Resolution 43/54 A,B,C of December 6, 1988.

Security Council Reaction to the Massacre at Al-Haram Al-Shareef, October 8, 1990

On October 8, 1990 seventeen Palestinian worshippers at Al-Haram Al-Shareef were shot and killed by Israeli soldiers. In the midst of the Gulf Crisis, the Security Council convened and, after four days of deliberations, unanimously adopted Resolution 672 on October 12, 1990. After affirming Security Council Resolutions 476 and 478 on the status of Jerusalem (in both of which the US had abstained) and Resolutions 242 and 338 as a basis for a "just and lasting solution," the Security Council decided to send a mission on a fact-finding trip. Israel refused to welcome the delegation. The Security Council met on October 24, 1990 and issued Resolution 673, again adopted unanimously. It deplored Israel's rebuttal and asked the Israeli government to "reconsider its decision". Israel apparently did reconsider but did not change its initial decision.

Security Council Resolution 681 of December 20, 1990, the last concerning this matter, began by "reaffirming the obligations of member states under the Charter of the United

Nations". It continued to express "grave concern" over the rejection by Israel of Security Council Resolutions 672 and 673. It did not, however, make any demands or requests of Israel.

These final resolutions came at a critical time during which the US was trying to muster support for sanctions against Iraq. The Security Council, including the US, wanted to appear equally concerned over Israeli violations of international law and treaties. Despite this professed concern, UN reaction to the continued Israeli occupation of and human rights abuses in the Occupied Territories was minor. There were more requests for the Secretary General to report on Israeli practice than for Israel to abide by international law. Security Council Resolution 681 merely urged Israel to "accept the de jure applicability of the Fourth Geneva Convention to all territories occupied since 1967" and requested the Secretary General to "submit a progress report to the Security Council by the first week of March 1991 and every four months [thereafter]." Such lax terms illustrate perfectly superpower control over a purportedly international institution. Despite the need for international support in pursuit of its policy in the Gulf, the US was able to weaken UN resolutions on the Israeli occupation to the point of insignificance which had it not been for persistent US opposition, would have passed unanimously and in much stronger form at any time during the last 44 years.

CONCLUSION

The UN is almost universally recognised as the ultimate arbiter of international justice and dispenser of international legitimacy. It has a long but consistent history of resolutions dedicated or referring specifically to the status of Jerusalem.

Since 1947 and General Assembly Resolutions 181 of November 1947 and 194 of December 1948 on the status of Jerusalem as a *corpus separatum*, the UN, through various resolutions, has kept to the spirit of these resolutions. The facts, however, created by Israel in Jerusalem, including East Jerusalem which it occupied in 1967, testify to the flagrant disregard by Israel of UN resolutions and principles. The UN remains constrained in effectively sanctioning Israel for its continued violations of international will and consensus. The failure of the UN to hold Israel accountable for its actions in Jerusalem and the Occupied Territories reflects the influence of permanent members of the Security Council, in particular the United States, on rendering UN resolutions on Jerusalem and the Palestinian issue mere recommendations with no prospect for implementation.

During the decades of superpower rivalry, the UN was often relegated to the status of a talking-shop, neutered by the opposing stands of the USSR and US representatives, each of

which had the power of veto. The US, a consistent backer of Israel, vetoed or rendered ineffective resolutions on Jerusalem regardless of international opinion or even its own nominal policy. The last eighteen months have shown how vulnerable the UN is to unilateral pressure when, as now, there is only one superpower. The Gulf Crisis illustrates well how the UN can become an effective vehicle to implement international will and consensus when it suits the interests and plans of the sole superpower. One can detect here an application of double standards and criteria in the selective use of the UN to end one occupation quickly while allowing another to continue unabated for over twenty-four years.

Palestinians, given the public acknowledgment of the Palestine National Council in its nineteenth session of Resolution 181 and Palestinian willingness to participate in the peace process, have persistently called for the convening of an international peace conference, under UN auspices, to discuss all aspects of the Arab-Israeli conflict. Such a conference could have brought about real progress towards implementing relevant resolutions on Jerusalem and the Palestinian issue. UN resolutions, from the perspective of Palestinians, provide a solid basis for the peaceful resolution of their long-standing conflict with Israel.

Israel, meanwhile, continues to reject and even deride UN resolutions. It regards the organisation as unjustly hostile towards it because of various resolutions which have

repeatedly condemned its policies and practices. And yet in spite of its brazen violations of international law and persistent lack of adherence to UN resolutions and the UN charter, Israel has not withdrawn from the UN. The parties to the conflict over Palestine and Jerusalem are all members of the UN. So long as the UN is not empowered to effect a just settlement in Jerusalem, Israeli occupation appears destined to prolong the conflict's most sensitive issue.

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