

The United Nations and the Middle East

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Mar 9, 1998

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Brief Analysis

Establishing the Guidelines for Settlement. The United Nations has been dealing with various aspects of the Arab-Israeli conflict since its inception. There are two basic UN resolutions that have had a direct bearing on shaping the future of the Middle East. First is General Assembly Resolution 181 (1947), the partition resolution which resolved to establish two states in Palestine, an Arab state and a Jewish state. On the basis of that resolution, Israel declared its independence. In other words, the legal basis for Israel's existence is a UN resolution. The Arab state envisaged in that resolution has yet to be declared.

Second is Security Council Resolution 242 (1967) which includes certain vital principles that were unanimously emphasized by the Security Council. First, is the inadmissibility of the acquisition of territory by force; this would mean that the territories occupied by force in 1967 should be "deoccupied". Second, is the right of all states in the region to live in peace within secure recognized boundaries. This second point does not refer to new boundaries but rather those existing.

In the last 25 years some of the implementation of these resolutions has been carried out outside the UN-proper, e.g., in direct negotiations. But even when the process of negotiation and of resolution of the Arab-Israeli conflict takes place outside UN parameters, UN resolutions always constitute the terms of reference.

Negotiating with Likud. The peace process started in Madrid in 1991 should be considered by everyone to be irreversible. There is a general alarm in the Middle East as a result of certain trends advocated by the current Likud government in Israel. These trends reflect philosophical changes and relate to the Likud's pronounced reluctance to honor contractual undertakings. To advance the argument that the present government is not bound by undertakings entered into by the Rabin and Peres governments is both legally wrong and politically dangerous.

The bilateral agreements signed by Israel and the Palestinian Authority, as well as the implementation protocols, commit both parties to refrain from taking any measures that might prejudice the outcome of the negotiations on final status issues: Jerusalem, the refugees, settlements, borders, and security arrangements. In fact, in Chapter 5, Article 31, Paragraph 7 of the interim agreement signed in Washington in September 1995 states: "Neither side shall initiate or take any steps that will change the status of the West Bank and the Gaza pending the outcome of permanent status negotiations." The international community is entitled to read this provision as prohibiting Israel from settlement activity in the West Bank and Gaza.

Security Council Resolution 425, adopted in 1978, called for the withdrawal of Israel from occupied territories in Lebanon and calls for a peacekeeping force, UNIFIL, to be established. UNIFIL is currently there to help the Lebanese maintain order in the area. There is nothing to stop the full and immediate implementation of this resolution through Israeli withdrawal.

UN Resolutions on Israel and Iraq. Iraq is a unique case, which should not be compared with any other country. Iraq not only invaded Kuwait, but claimed the entire country as its own, something that has not happened since 1945. At the same time, there is no basis for arguing that resolutions about Iraq are less binding than those about Israel. To be sure, the Iraq resolutions were adopted under Chapter VII of the UN Charter while those about Israel either make no reference to the authority being used (as is the case for UNSCR 242) or refer to Chapter VI of the Charter. However, there is no force to the argument that Chapter VII resolutions are compulsory and Chapter VI resolutions are voluntary. Since all parties including Israel have accepted UNSCR 242, they are committed to its implementation. Furthermore, when the reactions of the UN to Iraq or Libya are compared with those of the UN to Israel it becomes clear that Israel gets away with impunity, irrespective of what the resolution calls for.

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Israel's Commitment to Peace. Everyone in Israel agrees the current government should implement the agreements signed by the previous government; whatever was signed by the previous government will be implemented by the current government. There are those that assert that Israel does not keep its commitments. But if one were to go through the list of Palestinian and Israeli responsibilities in the Note for the Record prepared by Ambassador Dennis Ross after agreement by both sides in January 1997, one finds something that defies conventional wisdom: Israel has fulfilled every single commitment in the Note for the Record, and the Palestinian Authority has not fulfilled a single one.

A Double Standard in the UN System? It has been raised as an accusation that the United Nations and the whole world is mobilized against Iraq, while that is not the case with their treatment of Israel. Israel rejects out of hand this notion of a double standard. First of all, Iraq is a unique case; it is a rogue state that has used weapons of mass destruction, both against the Iranian army and against innocent Iraqi civilians, particularly Iraqi Kurds in Kurdistan. To draw a comparison between Iraq and any other country in the Middle East is unacceptable.

The UN system rejects the notion of a double standard as well and for that reason the resolutions with reference to Iraq, dating back to the time of the Iraqi invasion of Kuwait, make specific reference to Chapter VII of the UN Charter, which deals with cases of aggression. In contrast, the resolutions with reference to Israel and the Arab states were promulgated under Chapter VI of the Charter, which does not deal with cases of aggression, but rather peaceful resolutions of disputes. This distinction is very important because resolutions that fall under Chapter VII are self-enforcing-the UN itself or member states enforce the resolutions-while those that fall under Chapter VI require the parties to sit down and negotiate. The two cases, therefore, are very different.

The UN and the Arab-Israeli Conflict. Israel has some serious problems with how the UN has been operating with respect to the Arab-Israeli conflict; it is not a problem with the UN Secretariat but rather with the structure of the United Nations. A situation has developed where Israel is constantly being accused, while far more serious issues have arisen in the international system that are either ignored or not dealt with by a UN resolution. For example, Israeli construction on Har Homa, while controversial, generated the convening of emergency special sessions of the UN General Assembly, sessions reserved for immediate threats to international peace. As another example, there has been a campaign to convene an emergency session of the high contracting parties of the 1949 Fourth Geneva Convention to discuss the application of the Convention to the West Bank and Gaza, territories that were acquired in a defensive war. The high contracting parties have not been convened in any other case since 1949, not even for the

Soviet invasions of Afghanistan and Czechoslovakia, or for the Iraqi invasion of Kuwait.

The UN system, however, is beginning to change; it is beginning to recognize that these distortions do not serve anyone's interests. Furthermore, the world situation has changed. The Palestinian struggle as it emerged in the 1960's and 1970's came in the context of decolonization, a worldwide campaign at the time. Today, the international community is beyond the central preoccupation of decolonization. We are now in an era in which more countries in the international system are concerned with global "Lebanonization," the breakup of countries according to ethnic, religious, or linguistic lines. This current focus gives many countries pause before supporting the PLO's effort to be a full non-voting member of the UN. It appears as though there has been a sobering of many UN countries so that the automatic majorities that have supported many of the UN General Assembly resolutions against Israel may not be there in the future.

Israel in Structural Isolation. Israel is not part of a regional grouping at the UN, where such groupings are the basis for much UN work. This is a fundamental problem because it leaves Israel structurally isolated in the world. There is no league of states with which Israel can associate that will automatically advance pro-Israel resolutions in the United Nations. Palestinian and other Arab interests, on the other hand, are advanced by the Arab League; they draft a resolution, then move from the Arab consulting framework to the non-aligned movement or the Group of 77, which means the resolutions are advanced with the support of well over 100 of the 185 members. Israel's non-membership in any regional group also blocks Israel from nomination to the Security Council and many other UN bodies. Even if this structural issue was resolved, there would still be a conceptual reason why Israel would be uncomfortable with too active a role in Arab-Israeli issues. Even if a bloc existed that would advance pro-Israel resolutions in the UN, Israel holds to the fundamental belief that the best way to resolve differences between the Arab countries and Israel is through bilateral direct negotiations and not through the UN framework.

❖ This Special Policy Forum Report was prepared by Eytan Fisch.

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