

Special Article

Israel and the United Nations: Changed Perspectives, 1945–1976

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ZIONISM AT SAN FRANCISCO CONFERENCE • ESTABLISHMENT OF STATE • UN ARMISTICE EFFORTS • ISRAEL ADMITTED TO UN • PALESTINE CONCILIATION COMMITTEE • JERUSALEM • COLLAPSE OF ARMISTICE • ISRAEL CONDEMNED • ARAB REFUGEES • SECURITY COUNCIL RESOLUTION 242 (1967) • JARRING MISSION • SECURITY COUNCIL RESOLUTION 338 (1973) • JERUSALEM REVIVED • THE PALESTINIANS • ATTACK ON ZIONISM • UN AND TERRORISM • NATURE OF ISRAEL-ARAB DISPUTE • ARABS UNDER ISRAEL'S JURISDICTION • JEWISH SOVEREIGNTY • WHY REMAIN IN UN?

INTRODUCTION

THE STATE OF ISRAEL began its independent existence on May 15, 1948, with an undercurrent of goodwill toward the United Nations. This found eloquent expression in the Declaration of Independence, in which the founders of the state solemnly proclaimed that Israel would dedicate itself to the principles of the UN Charter. The story about to be unfolded is one of extreme shifts of perception and understandings, and of bitterly dashed hopes and expectations, so that by the end of 1976 the United Nations was widely regarded, both in Israel and in broader circles of Jewish opinion, with a mixture of bewilderment and execration.

One stream of 19th-century liberal international thought, especially after the Franco-Prussian War of 1870–71, began to conceive of the organization of international peace and security in terms of the transference to the international scene of the liberal concepts of the rule of law, of the *Rechtsstaat*, which were being hammered out in what at the time were the revolutionary societies of the West, including North America. Something of this found its way into the intellectual processes of Jewish political activists, especially the *maskilim*, who were attracted first to the Hibbath Zion movement and later, and more importantly, to Herzl and the World Zionist Organization. Reflection of it appears in the Basel Program itself, in its

Note: The views expressed in this article, completed in March 1977, are personal to the writer.

The customary legalistic apparatus has been omitted. A form of reference to United Nations happenings has been embodied in the text to facilitate recourse to the primary source material.

familiar language of "a home in Palestine [for the Jewish people] secured by public law" (öffentlich-rechtlich gesicherte Heimstätte für das jüdische Volk in Palästina).

To some extent Jewish political experience before 1948 could be interpreted as lending color to beliefs such as these. For example, progress in the rationalist-legalistic formulations for the definition and protection of Jewish rights could be detected in various international instruments pertaining to the protection of minorities, from the Congress of Berlin (1878) onward, which reached its peak in the minorities clauses and League of Nations actions for the protection of members of racial, linguistic, or religious minorities in parts of Central and Eastern Europe, and in Iraq, after World War I. In a similar way, the ideal of the national home secured by public law was central to the Balfour Declaration (1917) and received full international sanction through its incorporation in the Palestine Mandate, confirmed by the League of Nations in 1922. It was reinforced by the disinterested supervision exercised throughout the interwar period by the competent organs of the League of Nations. Indeed, many felt that, as relations of the Zionist movement and the *yishuv* with the mandatory authorities in London and Jerusalem deteriorated, the League of Nations showed itself to be more understanding of Zionist aspirations than the British government—a fact well reflected in the proceedings and resolutions of the 22nd Zionist Congress (Basel, 1946). And for many individual Jewish refugees from Nazi persecution the League of Nations, in the person of High Commissioner for Refugees James McDonald (who in 1948 became the first U.S. diplomatic representative in Israel),¹ had made some contribution toward alleviating their plight.

Yet one must not assume from this that Jewish political thinking had become mesmerized by any theory of internationalism, or turned a blind eye to the realities of the international political system as it was evolving in the interwar period. The collapse of the League of Nations system on the one hand, and the cynical disavowal by the British of their international commitments to the Jewish people on the other, powerfully reinforced another, historic, Jewish sentiment, that of the people that dwells alone.² The vigorous Jewish effort of the years 1945–1948 culminating in the establishment of the Jewish state combined these two strands of Jewish history.

The message of hope which the United Nations Charter, and the measured tones of its preamble and opening statement of Purposes and Principles, sent to all the war-weary peoples in 1945, engendered idealistic optimism also in many Jewish circles. The San Francisco Conference (1945), at which the Charter was drafted, had in Article 80 preserved Jewish rights

¹See his *My Mission in Israel, 1948–1951* (New York, 1957).

²Numbers 23:9. For a powerful exposition see the collection of speeches of the late Yaacov Herzog, *A People that Dwells Alone* (London, 1975).

in Palestine under the relevant international instruments, especially the Balfour Declaration.³ Another responsive chord was struck in wide Jewish circles by the Charter promises that the new Organization would devote itself to promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction of race, sex, language, or religion, on a universal scale. To be sure, however, responsible Jewish leaders were disappointed that the Charter did not specifically mention the universal protection of human rights, as Jewish delegations at San Francisco had urged. It is not surprising that in the Western democracies there was broad Jewish support for the Charter and the United Nations ideal. Later, in the desperation provoked by British repudiation of the Jewish National Home, the well-known General Assembly Resolution 181 (II), November 29, 1947, on the future government of Palestine gave general political endorsement and a green light to the aspiration to establish a Jewish state in Palestine. For a while that UN decision replaced the Balfour Declaration as the focal point of Jewish political activism.

Against such a background, the references to the United Nations in Israel's Declaration of Independence, themselves (like most of the document) a compromise between conflicting attitudes, were not mere platitudes and lip service to an ideal that was popular in many progressive circles. They were a genuine reflection of widely shared expectations of the quality of the postwar national society and of its place in the wider international community, in which room was to be found also for the Jewish political collectivity—Israel. As David Ben-Gurion was to write as late as 1954, after strenuous contacts with international realities and power politics, as played out in the UN, had certainly dampened much of the earlier enthusiasm:

The existence of the Jewish people and the security of the State of Israel, more than the existence of any other people and more than the security of any other State, are dependent upon the rule of law and of justice in international relations. The State of Israel, which embodies the historic will and aspirations of the Jewish people, is therefore duty-bound to do all in its power to enhance the moral and legal authority of the United Nations, and to strengthen its executive capability, so that it can bring law and justice to prevail in international relations and establish a system of international law which would, both in theory and practice, be above the legal systems of the individual states.⁴

³Cf. Huntington Gilchrist, "Colonial Questions at the San Francisco Conference," *American Political Science Review*, Vol. 39, 1945, pp. 990–1; Eliahu Elath, *San Francisco Diary* (Tel Aviv, 1971; Hebrew); *Zionism at the U.N.: A Diary of the First Days* (Philadelphia, 1976). For an important contemporary account of Jewish activities at San Francisco, see *The Jewish Position at the United Nations Conference on International Organization: A Report to the Delegates of the American Jewish Conference* (New York, 1945).

⁴"The United Nations and Our Security," *Davar*, March 26, 1954; for a partial English translation see *Jewish Observer and Middle East Review* (London), April 2, 1954. See also *Israel and the United Nations: Report of a Study Group Set up by the Hebrew University of Jerusalem*, prepared for the Carnegie Endowment for International Peace (New York, 1954), p. 33.

EVOLUTION IN UN

For an understanding of the evolution of the United Nations between 1945 and 1976, its history must be adequately periodized.

The years 1945–47 (first to second sessions of the General Assembly) were largely devoted to organizational questions. In essence, the UN was still a continuation of the wartime coalition. On the political side, it dealt with some important, though peripheral, matters (not directly involving the ex-enemy states) arising out of World War II, and in that sense was a partial substitute for a wide-ranging peace conference which did not take place. From the earliest days, aspects of the Near and Middle East—especially Great Power relations in a sensitive part of the world—occupied a prominent place in the work of the General Assembly and the Security Council. These included questions relating to Iran (Azerbaijan), Greece, Syria and Lebanon, and Egypt. However, the question of Palestine did not formally come on the agenda of the General Assembly until the spring of 1947, at British initiative, after failure of Foreign Secretary Ernest Bevin's attempt to reach a direct and agreed solution; and it was not put on the agenda of the Security Council until its 222nd meeting, on December 9, 1947, following General Assembly resolution 181 (II). Active discussion began several months later.

The second period runs from 1948 to 1960 (third to 15th sessions of the General Assembly). During this time, the consolidation of the United Nations came under severe strain owing to the so-called cold war. Under the impact of the Korean hostilities of 1950 and the Soviet Union's alleged misuse of the "veto power" in the Security Council, much of the original concept of the Charter was redefined, if not entirely abandoned. The so-called "Uniting for Peace" Resolution (377 [V], November 3, 1950), toward which Israel's attitude was one of reserve, marked the first major shift from the Security Council to the General Assembly as the main policy-determining organ of the United Nations. It reflected very serious weakening of the collective security provisions on which the Charter (like the League Covenant before it) was supposedly based, and posed grave challenges to the centrality of the Security Council in the Charter system. The Latin-American states were the largest group in the General Assembly, which, for the most part, was pro-Western. The fragmentation of the United Nations into power blocs became crystallized and a dominant feature, with adverse effects on Israel's relations with the United Nations. It was in this time that the United Nations agenda began to become overloaded, and matters were discussed less on their merit and more on the basis of political alignments and bloc calculations.

The United Nations was, for the greater part of this period, still a rela-

tively closed organization. Its original 51 members (including, as a political compromise, three Soviet members: the Ukrainian and Byelorussian Soviet Socialist Republics alongside the Soviet Union) had expanded to 59 members by the end of 1954. In 1955 the long-drawn-out crisis over UN membership ended when 16 new members, most of them "old" states, were admitted in a package deal. Among them were the ex-enemy states and some European neutrals which had not been pro-Allied during the war, as well as Jordan among the Arab states. That decision marked the first step in changing the very character of the UN. Since then, membership has become virtually a ceremonial attribute of independence, devoid of substantive content save in very exceptional instances. As a result, any conceptual link between the UN and the anti-Hitlerite coalition of the years 1941-1945 has long disappeared.⁵ On December 14, 1960, the General Assembly adopted its Declaration on the Granting of Independence to Colonial Countries and Peoples. This initiated the process of mass decolonization and mass membership in the UN, and thus completed the transformation of the organization's character.

The next decade, 1961-1970 (16th to 25th sessions of the General Assembly), is marked by sweeping decolonization on the one hand, and the gradual weakening of the cold-war tensions (though not to the point of disappearance) on the other. The power of policy determination in the General Assembly (in the form of resolutions having the technical standing of nonbinding recommendations) began to move from the Western-inspired majority to the so-called nonaligned countries. These, sometimes erroneously called the third world or the Group of 77, originally consisted, above all, of the African, Arab, and Asian members of the UN, but were later joined by very many South American countries (which before 1955 constituted one third of the membership and therefore had been able to prevent the adoption of resolutions requiring a two-thirds majority in the General Assembly). It was again a period of reorganization and reconsolidation, especially as the newly independent countries began to feel their way and to insist on a proportionate share of UN spoils, in both membership and the distribution of honors in UN bodies, and representation in the UN staff, in probable violation of the Charter and impairment of the independence of the international civil service.

⁵On December 31, 1976, the UN had 147 members. There was a Jewish aspect to the initial membership crisis. Among the conditions for membership laid down in Article 4 of the Charter is that the candidate state is, in the judgment of the organization, "able and willing" to carry out its obligations. The 1947 peace treaties with the ex-enemy states obliged them to restitute Jewish property confiscated during the period of Nazi domination. These provisions were not observed, a fact advanced as indicating that the states in question (except Italy) were unable, or unwilling, to live up to their obligations.

The current period began in 1971, with the 26th session of the General Assembly. Its characteristic feature is the statistically overwhelming majority of the nonaligned countries, reducing to virtual impotence the industrialized countries of Western and Eastern Europe, except when their support for a resolution or program is essential to the viability of the intended policy. Because of this chimerical situation, in which there is a wide chasm between abstract policies and programs embodied in many General Assembly resolutions and the international and national realities, the UN has finally become marginal in the policies of most countries, its debates often bordering on the farcical, its agenda repetitive and vituperative (Israel is not the only victim of this), and its sessions a caricature of any previously held notion of multilateral diplomacy. As the then United States Ambassador to the UN Patrick D. Moynihan put it in 1975, "the United Nations is the place where lies are told" (2,400th meeting, November 10, 1975). The Security Council is possibly even less directly relevant to major issues of international policies, save in the rare instances when all its permanent members are in agreement, or not sufficiently aroused to cast their veto, and then the Council may well serve as a signal of the direction in which political winds are blowing. Indeed, competent observers including Secretary-General Waldheim, have been drawing attention to the disadvantages of misuse of the Security Council for mere propagandistic purposes. "There is, in fact," he said, "a growing anxiety among the Members about the capacity of the Security Council, in the present political circumstances, to fulfil the task entrusted to it by the Charter, the maintenance of international peace and security"⁶

Israel's Wars in UN Chronology

The periodization of the UN may be linked to Israel's wars. The War of Independence (1948) clearly comes within the transition from the first to the second periods, and the falling out among the permanent members of the Security Council supplied the first powerful antidote of skepticism to the idealism mentioned before. At that time the Security Council closely followed events in the area, and the question of how to react to UN decisions was one of acute controversy in Israel.

The Suez war of 1956 belongs to the second period. The Security Council could not act because of the Anglo-French veto, and after the cease-fire came into effect, the General Assembly, concerned with the various withdrawals from Egyptian territory, ignored the underlying political factors.

⁶Speech at the biennial convention of the United Nations Association of the United States, April 18, 1977, UN Press Release SG/SM/2434, April 18, 1977, p. 5. Summarized in *UN Monthly Chronicle*, Vol. 14, No. 5, May 1977, p. 50.

That experience confirmed once and for all the lesson of the irrelevance of the United Nations to Israel's serious security problems. On the other hand, the still relatively compact organization was exposed as an instrument through which it was possible to channel Big Power politics, at all events in formal terms. This opened the way to a sharp differentiation between bilateral relationships on the strictly bilateral level, and those same relationships when projected to the multilateral level of discussion and voting in UN organs, a factor was to become particularly evident in Israel-United States relations at a later stage.

The six-day war (1967) occurred in the third period. Hostilities were closely followed in the Security Council, which, however, could do nothing about them. The Council concerned itself with laying the course for future developments, after the General Assembly had completely failed to grapple with the political issues. Failure of the Arab states to muster the full support of the nonaligned states then prevented the adoption of major anti-Israel resolutions in the July 4, 1967, plenary meeting.

The Yom Kippur war (1973), in the current period, was hardly discussed in the Security Council, and not at all in the General Assembly. As is well known, the real negotiations for that cease-fire took place outside any UN context and the outcome was presented as a *fait accompli*. The demanding susceptibilities of the nonaligned countries could only be accommodated within the framework of the settlement, for example in the relatively secondary aspects of the composition of the UN peace-keeping forces and their financing, and then not very effectively. But after the Yom Kippur war, the General Assembly came virtually completely under Arab and Communist influence in questions concerning the Middle East matters, and some of the extreme policies it has adopted, notably in relation to the Palestine Liberation Organization (PLO), have, by their incompatibility with accepted Security Council resolutions, introduced considerable uncertainty and instability into the situation.

The Secretaries-General

During all this time, four men have occupied the sensitive position of UN Secretary-General. The first, Trygve Lie of Norway, held the post from February 1, 1946, until his resignation in April 1953.⁷ He was succeeded by Dag Hammarskjöld of Sweden, who served from April 10, 1953, until his death in Africa in UN service, on September 17, 1961.⁸ Next was Burmese diplomat U Thant, who remained in office, first as Acting Secre-

⁷See Trygve Lie, *In the Cause of Peace* (New York, 1954).

⁸See Brian Urquhart, *Hammarskjöld* (New York, 1973); also Hammarskjöld's *Markings* (New York and London, 1964).

tary-General and later for two full terms as Secretary-General, from 1961 until December 31, 1971. Another professional diplomat, former Austrian Foreign Minister Kurt Waldheim, took office on January 1, 1972, and was reelected for a second five-year term in the General Assembly of 1976.

In Israel's relations with the United Nations, the Secretary-General, who is the principal administrative officer in the UN, plays a significant political role. Leaving aside *ad hoc* missions entrusted to him or his special representative by specific resolutions, important standing UN agencies are operating in Israel, notably the UN Relief and Works Agency for the Arab Refugees (UNRWA) and the various peace-keeping and observer forces, which have been differently designated from time to time in response to changing political needs. The Secretary-General is often so to speak the formal link between these organs and the political organs—the General Assembly and the Security Council. Many Security Council and General Assembly resolutions impose specific tasks on the Secretary-General, frequently leaving him with a wide measure of discretion in their implementation. In these various areas then, the actions and reports of the Secretary-General, particularly in the Security Council, can have direct influence on events. Some of the actions of the Secretaries-General have been of historic dimensions, such as Trygve Lie's unsuccessful efforts to persuade the Security Council to implement its part of the Partition Plan of 1947 notwithstanding the powerful opposition that developed; or Hammarskjöld's fruitless attempts to shore up the teetering armistice regime in summer 1956; or U Thant's decision, in May 1967, to withdraw the UN Emergency Force I (UNEF I) in face of Egyptian President Gamal Abdul Nasser's ultimatum. But for the most part the ongoing relationships, which are of considerable though varying intensity, are more in the realm of diplomatic discretion, quite unlike the strident public discussions in the political or politicized organs, and of this little is yet in the public domain.

ISRAEL: PEACE AND SECURITY

In the Beginning

The first test of Israel's UN orientation was not long in coming. Before the ink was dry on the Declaration of Independence, an all-out Arab military onslaught, organized and coordinated through the Arab League, was launched. The move had been preceded, in fact from the day of the adoption of Resolution 181 (II), by internal Arab violence and insurrection, which grew in intensity as the British administration progressively disintegrated. UN involvement derived from the original British initiative in bringing the question of the future government of Palestine before the General

Assembly. Between December 1947 and May 1948 the UN became increasingly preoccupied with the political, military, and security affairs of the country. It was then that the basic pattern was set of the General Assembly dealing with the broad political issues and the Security Council trying to cope with the military and security aspects—a pattern which was not followed, however, after the six-day and Yom Kippur wars. Disappointment was encountered in both spheres. Moreover, clearly no sharp differentiation between the two aspects could be maintained for long, and very soon the routine was established: the General Assembly would discuss year by year both the broad political problem (at first, from 1949 onwards, on the basis of a report by the Palestine Conciliation Commission) and the Arab refugee problem, following the annual report by UNRWA, while the Security Council would concern itself with the military and security situations as required.⁹

ZIONISM AT SAN FRANCISCO (1945)

As stated, Zionism's first direct contact with the UN was at the San Francisco Conference (1945), where the Jewish Agency for Palestine was represented by an unofficial observer delegation. The Conference was solely concerned with the establishment of the new international organization, not with any territorial dispositions after World War II. The Jewish Agency's prime concern (as that of all other Jewish bodies directly or indirectly represented) was therefore that nothing in the new arrangements would prejudice existing Jewish rights under the relevant instruments, including the Balfour Declaration and the Mandate. That result was achieved, despite a determined Arab effort to have these instruments canceled and an independent Palestine established. This was partly because Great Britain, for reasons of imperial policy, did not want anything in the Charter to prejudice any existing rights in its overseas possessions. Backed by a reasonably satisfactory formulation of Article 80 of the UN Charter, that operation had to be continued in April 1946 in Geneva, at the 21st Ordinary Session of the Assembly of the League of Nations, at which the League was dissolved and its remaining powers and duties, including those arising under the mandates system, transferred to the UN.

Nevertheless, the British government's decision in spring 1947 to refer the Palestine question to the UN was met with what has been described as

⁹Originally the Security Council consisted of 11 members, and a minimum of seven votes was required for the adoption of any decision. In 1965 the Charter was amended, increasing membership to 15 and now requiring nine votes for the adoption of decision, including one to convene the Council. The so-called veto power is retained by the five permanent members: China, France, USSR, United Kingdom, and the United States.

“skepticism” and “apprehension.”¹⁰ The reasons were complex and mainly revolved around the unknown quality of the General Assembly, in which Arab and Moslem powers were even then generously represented and the Communist world, with its unconcealed hostility toward the Zionist movement, was also well established. However, the initial procedural debates in spring 1947, leading to the establishment of the UN Special Committee on Palestine (UNSCOP),¹¹ in which then Soviet Deputy Foreign Minister Andrei Gromyko spoke in favorable terms about Jewish aspirations in Palestine, led to greater confidence in the outcome of the political struggle thus joined.

GENERAL ASSEMBLY RESOLUTION OF 1947

In the conditions of Jewish agony at the time, in the aftermath of World War II, the recommendation of the General Assembly that a Jewish state could be established in Palestine counterbalanced in the eyes of many such negative features as the partition of Palestine and even the exclusion of Jewish Jerusalem (including the Jewish quarter of the Old City and the Western Wall) from the proposed Jewish state. With Resolution 181(II), all the ideological expectations placed in the United Nations seemed to have found their justification.

The question of the implementation of the resolution had been a source of concern during the deliberations preceding its adoption. The inclusion of a paragraph requesting the Security Council to take the necessary measures as provided in the resolution for its implementation, it was widely felt, removed all cause for anxiety. Also, the Security Council was invited to consider, if circumstances during the transitional period required, whether the situation in Palestine constituted a threat to peace. If so, the Council was to take the necessary steps to ensure implementation. However, as already noted, Trygve Lie was unsuccessful in his attempt early in 1948 to induce the Security Council to bend all its efforts to the full implementation of the resolution in the light of these provisions.

To assist in the transition, the General Assembly established the so-called Palestine Commission consisting of representatives of Bolivia, Czechoslovakia, Denmark, Panama, and the Philippines. The Mandatory government, however, would have nothing to do with this Commission beyond

¹⁰Abba Eban, “Tragedy and Triumph,” in Meyer W. Weisgal and Joel Carmichael, eds., *Chaim Weizmann* (London, 1962), p. 295.

¹¹See Jacob Robinson, *Palestine and the United Nations: Prelude to Solution* (Washington, D.C., 1947); Benjamin Akzin, “The United Nations and Palestine,” *Jewish Yearbook of International Law*, 1948, p. 87.

permitting an advance party of its secretariat into Jerusalem, where it was subjected to curious humiliations, and really survived only because of the assistance given by the Jewish authorities.¹² The Commission became powerless to influence, let alone control events in face of the rapidly deteriorating internal situation. It was relieved of its functions in May 1948.

SECURITY COUNCIL IN 1948

The Security Council began substantive discussions at its 253rd meeting, February 24, 1948, after the Palestine Commission had reported that "powerful Arab interests, both inside and outside Palestine, are defying the Resolution of the General Assembly and are engaged in a deliberate effort to alter by force the settlement envisaged therein" (S/676, February 16, 1948). In Resolution 42 (1948), March 5, the Council issued a weak appeal to all governments and peoples "to take all possible action to prevent or reduce such disorders as are occurring in Palestine." Three weeks later, in Resolution 43 (1948), April 1, it called for an immediate truce. At the same time, surrendering to Arab violence, the Council adopted Resolution 44 (1948) calling for further consideration by the General Assembly of the future government of Palestine, in response to a United States initiative which implied abandonment of United States support for Resolution 181 (II). The second special session of the General Assembly met between April 16 and May 14, 1948, and its deliberations were concentrated mainly on the United States proposal for setting up a temporary UN trusteeship in Palestine. This move provoked the first open clash in the UN between Jewish and United States policies, and it was not the last.

Throughout, the internal situation continued to deteriorate rapidly, and further attention was given to it by the Security Council. In Resolution 46 (1948), April 17, it reiterated its call for a truce, requesting the United Kingdom, as Mandatory power, to use its best endeavors to that end; in Resolution 48 (1948), April 23, it established the Consular Truce Commission, consisting of the Belgian, French, and American consuls in Jerusalem and for a time it operated in that city only. None of these measures was effective, and the truce commission was widely regarded as making common cause with the Mandatory authorities in the closing weeks of the Mandate, against Jewish interests and concerns.¹³

¹²On this Commission, commonly known as the "five lonely pilgrims" and now largely forgotten, see *Mission in Palestine, 1948-1952* (Washington, D.C., 1966), by Pablo de Azcárate, its principal secretary.

¹³Besides Azcárate, *ibid.*, see Bernard Joseph, *The Faithful City: The Siege of Jerusalem* (New York, 1960).

INITIAL MEDIATION EFFORT

At midnight local time on May 14, 1948, in accordance with legislation passed in the London parliament, the Mandate came to an end. Israel's proclamation of independence was quickly followed by *de facto* recognition of the new state by President Harry S. Truman. This put an end to all further talk about a UN trusteeship. Instead, the General Assembly, in Resolution 186 (S-2), May 14, 1948, provided a new post of UN mediator in Palestine, to which Swedish Count Folke Bernadotte was appointed on May 21. He served until his assassination on September 17, 1948.¹⁴ That mediation effort, coming at the heels of surrender to Arab violence, was to sow the seeds of profound disillusion with the UN—its fairness, and the appropriateness of its machineries for resolving the major political problems at issue between Israel and the Arab world and establishing real peace—that was never to be removed.

Bernadotte's mediation effort had to concern itself with three separate aspects which then came to the fore: the supervision of the truce ordered by the Security Council in its Resolution 50 (1948), May 29; the mediation effort proper; and the new problems of the Palestine refugees. Of these, the most striking, and the most harmful to UN prestige and standing in Israel, was the major mediation effort.

On September 16, 1948, Bernadotte completed his progress report on his mission (A/648) and sent it to the Secretary-General for the upcoming third session of the General Assembly. True, in that report he stated firmly that "[A] Jewish State called Israel exists in Palestine and there are no sound reasons for assuming that it will not continue to do so." But on two cardinal aspects his conclusions were seen as directly hostile to Jewish opinion, which had hardened considerably through the War of Independence and the inability (or unwillingness) of the UN to do anything to alleviate the danger and suffering. The first was his recommendation for the internationalization of the whole city of Jerusalem, which had endured great hardship in the siege, all the more galling because he insisted that it be placed under what he called "effective United Nations control." The second was his recommendation that the Negev, over which a difficult political struggle had taken place in the General Assembly of 1947, should be taken from Israel and reallocated as Arab territory. Indeed, it was widely believed that his advocacy of such moves led to his assassination.

¹⁴For Bernadotte's personal account of this mission, see his *To Jerusalem* (London, 1951; published posthumously).

ARMISTICE NEGOTIATIONS

That progress report contained the germ of an idea that Bernadotte's successor, Dr. Ralph Bunche¹⁵ of the UN Secretariat, was to exploit most skillfully (and to win a well-deserved Nobel Peace prize for his efforts), namely, that the existing indefinite truce¹⁶ should be superseded by a formal peace, or, at the minimum, an agreed general armistice. Tensions along the truce line led the Security Council to adopt a number of decisions, culminating in Resolution 62 (1948), November 16, calling for negotiations for an armistice "to eliminate the threat to the peace in Palestine and to facilitate the transition from the present truce to permanent peace in Palestine." After arduous negotiations between the parties with UN assistance, four separate general armistice agreements were concluded between Israel and Egypt (February 24, 1949), Lebanon (March 23), Jordan (April 3), and Syria (July 20)—the so-called confrontation states.¹⁷ In its Resolution 73 (1948), August 11, the Security Council took note of those agreements "with satisfaction," and found that they constituted "an important step towards the establishment of permanent peace in Palestine."

With that, the War of Independence came to its formal conclusion. But that did not mean that any form of peace was established.

¹⁵On this remarkable man, who had been principal secretary of UNSCOP and had been virtually in charge of the Palestine question in the UN Secretariat, see the tribute by Philip Jessup, one-time US ambassador and judge of the International Court of Justice, in *Year Book of the American Philosophical Society*, 1972, p. 126.

¹⁶The first truce came to an end on July 9, after the Arab states had refused to prolong it. This led to Security Council Resolution 54 (1948), July 15, peremptorily ordering an immediate truce of indefinite duration under threat of sanctions against the Arab states. The second truce formally came into force on July 18, 1948. It was, however, precarious, localized fighting breaking out especially on the Egyptian front. See generally Netanel Lorch, *The Edge of the Sword: Israel's War of Independence, 1947-1949* (New York, 1961).

¹⁷See Shabtai Rosenne, *Israel's Armistice Agreements with the Arab States* (Tel Aviv, 1951). The armistice conferences, at which Bunche or his representative (Henri Vigier) presided, were held in Rhodes (Egypt and Jordan), Rosh ha-Niqra (Lebanon), and Mahanayim (Syria). On each occasion the two delegations met face to face whenever necessary in both formal and informal meetings. For example, in the Keneset, on June 4, 1968, then Foreign Minister Abba Eban described the Rhodes procedure as follows: "On the appointed day the delegations reached the same meeting place. After a preliminary discussion with the chairman to fix the procedure, they met face to face. The procedural pattern known as the 'Rhodes Conference' refers therefore to a conference in which the participants meet face to face under an agreed chairman" (*Divrei haKnesset*, Vol. 52, 1968, p. 2129). After 1967 attempts were made to deny that face-to-face meetings had taken place at those conferences. The reason is difficult to fathom. (I participated in all four armistice conferences.)

Admission into UN

It was implicit in the Declaration of Independence, and virtually uncontested in the country, that Israel would seek admission into the United Nations (although here and there doubts were expressed on the wisdom of that course, especially for a new state that wished to avoid being drawn into the cold war). Among the considerations weighing in favor of doing so was that membership would constitute final regularization of the international status of the Jewish state, both in relation to the Arab states and to all the nations of the world. A second, and more pragmatic, consideration was that membership in the UN would lead to Israel's almost automatic membership in the specialized agencies, that conglomeration of virtually autonomous international organizations having wide international responsibilities in the functional fields of economics and social, cultural, educational, health, and related areas (Charter, Article 57). A third major consideration was that Israel's own security would be enhanced if it were brought within the scope of the collective security arrangements of the Charter.¹⁸

Israel's formal application for membership was submitted on November 29, 1948, one year after the adoption of Resolution 181 (II). On December 17 the necessary recommendation was not adopted by the Security Council, where the vote was five in favor, one against, and five abstentions. After the elections to the Constituent Assembly, subsequently known as the First Knesset, the effort was renewed on February 24, 1949 (the day the general armistice agreement with Egypt was signed). By a vote of nine in favor, one (Egypt) against, and with the United Kingdom abstaining, the Security Council made its favorable determination in Resolution 69 (1949), March 4, and this was followed by General Assembly Resolution 273 (III), May 11, adopted by 37 votes to 12, with nine abstentions, admitting Israel to membership.

In the same way that the General Assembly in 1947 recommended the establishment of a Jewish state, Israel was admitted into the UN as a Jewish state. In 1947 UNSCOP noted that the establishment of a Jewish state was, in its words, the "condition of survival" of the Jews.¹⁹ In his acceptance speech (207th plenary meeting, May 11, 1949), Foreign Minister Moshe Sharett stressed this:

At the historic juncture of its admission, the first thoughts of Israel were for the Jews of all countries. The State of Israel claimed no allegiance from Jews of other lands. As a sovereign entity it rested on the loyalty of its own citizens and was alone responsible for its actions and policies. Yet Israel expressed fervent wishes for the security, dignified existence and equality of rights of Jews everywhere.

¹⁸ The Report of the Hebrew University's Study Group lists several other considerations, but in retrospect they appear as particularizations of the major considerations mentioned above. See *Israel and the United Nations, op cit.*, pp. 49-54.

¹⁹ UNSCOP report, A/364, September 3, 1947, vol. I, p. 52.

Deeply and reverently conscious of its mission in Jewish life, Israel would strive to keep the Jewish name high and to live up to the noble record of Jewish tradition.

To the extent that it was hoped that membership in the UN would contribute to the regularization of relations with the Arab world, Israel has experienced nothing but profound disillusion. On April 1, 1950, the Council of the Arab League adopted a resolution forbidding its members to conclude peace with Israel, a policy which was reaffirmed in 1967 by the Khartoum summit conference after the six-day war.²⁰

Israel's admission to the UN was quickly followed by its admission into the specialized agencies, including the International Civil Aviation Organization (ICAO; May 24, 1949), Food and Agricultural Organization (FAO; November 23, 1949), International Labor Organization (ILO; May 11, 1949), United Nations Educational, Scientific and Cultural Organization (UNESCO; September 16, 1949), World Health Organization (WHO; September 30, 1949), etc. Here, too, any expectations that practical working arrangements could be established on the functional level in matters of common concern to Israel and the Arab states were dashed. Throughout, the Arab states have adopted a policy, in the organizations, of pretending that Israel does not exist and of trying to ostracize it—the explanation for the fact that Israel is so rarely elected to any office in the UN. After 1967 that policy was accentuated, and developed into attempts to exclude Israel from all international activities and to expel it from the international organizations, or at the least to suspend it from membership. Indeed, those attacks seemed at first to have more fury in the nonpolitical organizations, such as ILO, WHO, and UNESCO, than in the UN itself.

Palestine Conciliation Commission

Following Bernadotte's progress report, new dispositions were made in the UN to deal with the Palestine situation. The military and security aspects were retained in the hands of Bunche as acting mediator, and as seen, his main task became to establish the general armistice agreements, upon the completion of which that mediation machinery was dissolved. To deal with truce supervision, Bernadotte had set up the Central Truce Supervision Board, later transformed into the UN Truce Supervision Organization (UNTSO), headed by a chief of staff. The armistice agreements of 1949 conferred certain supervisory functions on the chief of staff, and Security Council Resolution 73 (1949), contained authorization for the continuation of UNTSO.

The major political aspect was entrusted to a new organ, the Palestine

²⁰See Hussein A. Hassouna, *The League of Arab States and Regional Disputes: A Study of Middle East Conflicts* (New York, 1975), p. 256.

Conciliation Commission (PCC), its elaborate terms of reference being set forth in General Assembly Resolution 194 (III), December 11, 1948. The PCC was composed of three States, France, Turkey and the United States, and was active until 1952, when it was stifled at Arab initiative.²¹

The PCC started out on the wrong foot. The secret of Bunche's success in bringing the parties to conclude the several armistice agreements had been his insistence on having each problem treated separately, and in not permitting a common Arab delegation to negotiate a single agreement for all the fronts. The PCC opted for the opposite approach. Throughout, it insisted on regarding all the Arab states with which it dealt, i.e., the four confrontation states, as a single party—an approach which played into the hands of the Arab extremists.

The PCC occupied itself primarily with three major aspects: (a) conciliation, including the territorial questions; (b) Jerusalem, and (c) the refugee question. It convened four so-called conferences with (not between) the parties, in Lausanne (April 27—July 1 and July 18—September 15, 1949), in New York (October 19—November 30, 1949), in Geneva (January 16—July 15, 1950, with long recesses during which the Commission visited the area), and finally in Paris (September 10—November 19, 1951). The pattern was for the PCC to hold a series of separate meetings with the Arab party and with the Israel delegation, which, at no stage, met face to face (in sharp contrast to the procedure at each of the four 1949 armistice conferences).

In Lausanne the PCC managed, not without difficulty, to obtain from the two parties their signatures on the Lausanne Protocol (May 12, 1949), a document designed to constitute the “basis of work.” By that Protocol, the signatories agreed to take the map annexed to the General Assembly's 1947 resolution “as a basis for discussions with the Commission.”²² However, all proposals by Israel for the establishment of political frontiers to replace the armistice demarcation lines (and on all other aspects) were met with a flat refusal from the Arab “party,” sometimes on the ground that they constituted “a flagrant violation” of the agreed basis for discussion set forth in the Lausanne Protocol.

In 1950 the PCC tried unsuccessfully to establish a number of mixed committees. In a series of what it called “triangular negotiations,” the

²¹See Azcárate, *op. cit.*; Azcárate was the principal secretary of the PCC. Also Walter Eytan, *The First Ten Years: A Diplomatic History of Israel* (New York, 1958).

²²Since that time, Arab spokesmen have frequently alleged that, by agreeing to that Protocol, Israel formally accepted the boundaries of the Jewish State proposed by the General Assembly in its 1947 resolution and that, for example, Israel's unwillingness to withdraw unconditionally from territories overrun during the six-day war is a violation of that agreement. This far-fetched contention completely fails to recognize that the Lausanne Protocol was simply a basis for discussion which, as is usual, would ultimately be absorbed by the results of the discussion. For the circumstances in which the Lausanne Protocol came about, see the PCC's Third Report, June 21, 1949 (A/927).

Arabs insisted on the refugee problem being accorded priority, while for the Israel delegation preference had to be given to the territorial questions. Moreover, Israel preferred to negotiate with the interested Arab states individually on matters of common concern, and not collectively as was the practice of the Commission. But as the Commission reported in 1950, at bottom, "[T]he position of Israel was that the refusal of the Arab States to meet the representatives of Israel around a conference table, under the auspices of the Commission, rendered the continuation of the Commission's efforts at conciliation 'fruitless' and might even render them 'harmful'" (PCC, Eighth Progress Report [A/1367/Rev.1], September 2, 1950).

In a final effort to head off failure and to break the deadlock, the Commission decided in 1951 that it would submit proposals of its own. That, indeed, was the purpose of much of its negotiations with the governments concerned in the latter part of 1950 and in 1951. These proposals were to be preceded by a declaration of pacific intentions by the parties in the form of a preamble. As drafted by the PCC, the Arab states concerned and Israel would "solemnly affirm their intention and undertake to settle all differences, present or future, solely by resort to pacific procedures, refraining from any use of force or acts of hostility, with full respect for the right of each party to security and freedom from fear of attack, and by these means to promote the return of peace in Palestine" (A/1985, December, 1951, p. 3).

END OF PCC

The PCC proposals were the basis of the work of the Paris Conference. The preamble became the focal point of intense Arab opposition, and it was on that aspect, above all, that the Conference foundered. By that time the armistice regime was beginning to show signs of stress, and this cast a shadow over the conciliation effort, halting as it was.

It therefore is not surprising that the PCC's 1951 report ended on a pessimistic note, that "changes which have occurred in Palestine during the past three years have made it impossible for the Commission to carry out its mandate, and this fact should be taken into consideration in any further approach to the Palestine problem" (Tenth Progress Report [A/1985], December 1951).

The *coup de grâce* came during the seventh session (1952) of the General Assembly, when Israel decided to take the initiative and make one more determined attempt to steer the peacemaking effort to the right course of direct negotiation between Israel and each Arab state concerned on matters of common interest. After arduous discussion, the *Ad Hoc* Political Committee adopted a draft resolution, by 32 votes to 13, with 13 abstentions,

which would have reaffirmed the principle that the governments concerned had the primary responsibility for reaching a settlement of their outstanding differences; and would have urged them, without prejudice to their rights and claims, to enter into direct negotiations for such a settlement. In the Committee the negative votes were cast by the Arab states and their Moslem and Asian allies, and the abstentions were by the Communist states, together with some scattered West European and Latin American representatives. The tone and tenor of the debate, and that vote, made it clear that it would be difficult to secure the necessary two-thirds majority in the plenary meeting.

So it was to be. The Committee's recommendations came before the 405th and 406th plenary meetings, December 18, 1952. The Arab spokesmen made no secret of their flat refusal to have anything to do with direct negotiations. After a dramatic series of votes on amendments, designed to appease at least the more moderate Arab elements, the original draft resolution was put to the vote. With 24 for, 21 against, and 15 abstentions, the required two-thirds majority was not reached, and the resolution was not adopted. This is one of the earliest concrete instances of successful Arab arm-twisting, and it boded ill for the future. The result of the vote was acclaimed with ill-concealed glee by Arab spokesmen. Israel's chief delegate Abba Eban characterized it as hysterical gloating over the absence of peace in the Middle East.

With that, the PCC reached the end of the road. Formally, it is still in existence, and has mainly concerned itself with a number of marginal questions with regard to the identification and evaluation of abandoned refugee property. But it has ceased to have any substantive role in connection with the general political situation in the Middle East.

On that note of bitterness the General Assembly, in effect, abandoned all attempts directly and in a disinterested way to help Israel and the Arab states settle their differences.²³ Instead, with no more programmed political

²³Israel has since made efforts to persuade the General Assembly to encourage direct negotiations to settle all outstanding problems. In 1961-1963 these were formally sponsored by groups of friendly powers from all continents. See A/SPC/L.80/Rev. 1, December 19, 1961, with 17 cosponsors; A/SPC/L.89 & Add.1, December 9, 1962, with 18 cosponsors; and A/SPC/L.100 & Add. 1, November 18, 1963, with 19 cosponsors. In 1965 Israel advanced a similar proposal (A/SPC/L.115, November 12) in its own name. All were technically in the form of amendments, submitted during the annual refugee debate—the only Middle East debate held in those years. Only the first was put to the vote, and was defeated 34 to 44, with 20 abstentions. A new effort by Israel in 1976, this time during a debate on the Middle East (A/31/L.24, December 6, 1976) was in the form of a draft resolution calling for the resumption of the Peace Conference on the Middle East on the original terms laid down by the Security Council. When Arab protagonists submitted amendments that would have changed it beyond all recognition, it, too, was not put to the vote.

agenda items, the General Assembly rapidly became the forum for increasingly repetitive, vituperative, and arid debates. At first these centered on the refugee problem—a frustrating enough matter—and were held in the *Ad Hoc* (later Special) Political Committee, to emphasize the political rather than the humanitarian aspects. After 1968 the pattern changed: more and more items were added to the agenda, some, for dramatic effect, being debated only in the plenary meetings; and sometimes the nuances between different agenda items can only be described as of Byzantine subtlety. The welfare of the refugees, and of the Arabs in Judea, Samaria, Golan, Sinai, and the Gaza Strip was relegated to second place so long as Israel-baiting could continue.

Jerusalem: First Phase (1947–1952)

In the early period, the question of Jerusalem occupied a prominent place in the UN deliberations, and there was considerable confusion between the genuine political aspects and emotional and religious ones. The issue rapidly resolved itself into a choice between the concepts of territorial internationalization and functional internationalization, or, as it has been felicitously put, whether the government of Jerusalem should be organized for the sake of the Holy Places (with the emphasis in fact on the Christian ones) or for the sake of the city's inhabitants.²⁴ The underlying crucial question was whether Jerusalem should be the capital of the Jewish state, even at the cost of a quarrel with the UN.

Resolution 181 (II) opted for the first approach, but it did so in the context of economic union then proposed for the whole of Palestine. In that sense, it contained elements of both kinds of internationalization, although with heavy weight on the territorial approach. Bernadotte's insistence on retaining the approach of territorial internationalization notwithstanding, the failure of the UN to take the slightest practical measure to alleviate the hardships of the Arab siege of Jewish Jerusalem²⁵ and the disappearance of the idea of economic union destroyed any possibility that Israel could continue to accept that element of the 1947 plan.

The 1947 resolution had envisaged the establishment of the Jerusalem area as a *corpus separatum*, as an entity distinct from, but linked to, the Jewish and Arab states, to be administered through the Trusteeship Council under a special statute to be reviewed after ten years, when the inhabitants

²⁴Walter Zander, *Israel and the Holy Places of Christendom* (New York and Washington, 1971), p. 72.

²⁵For two articulate eye-witness accounts of the siege see Walter Lever, *Jerusalem Is Called Liberty* (Jerusalem, 1951); Harry Levin, *Jerusalem Embattled* (London, 1950); also the account of the governor of Jerusalem: Joseph, *op. cit.*

would be free to express their wishes regarding possible modifications of the city's regime. The area to be brought within this international regime was large, extending to Bethlehem in the south, Ein Kerem (including Motza) in the west, Shu'afat in the north, and Abu Dis in the east (except in the north, somewhat larger than the 1976 municipal boundaries). The military events of 1948 upset this scheme. At one stage, Bernadotte envisaged including the city, despite its overwhelming Jewish majority, within the Arab state, with some sort of municipal autonomy for the Jewish community and special arrangements for the protection of the Holy Places. Finally, as mentioned, he proposed placing the area under effective UN control. That idea was taken up by the General Assembly in 1948, and the PCC was instructed to present detailed proposals for a permanent international regime for Jerusalem. At the same time, the Security Council was asked to take steps to ensure the demilitarization of Jerusalem, a matter which, at its 453rd meeting, October 25, 1949, it decided to postpone indefinitely.

Public opinion by then had become a factor the Israel government could no longer ignore. During the early phase of the War of Independence, legal niceties had to be put aside in favor of the pressing problems of defending and administering a city under close siege. At the end of June 1948 Ben-Gurion announced that there was no legal distinction between Jerusalem and the rest of the state, and on August 2 the necessary proclamation was promulgated. The Supreme Court and some government departments started or resumed functioning in Jerusalem in the latter half of 1948. The Knesset established its permanent home in the city in 1949, and later in the year most of the remaining government departments were transferred to it. Thus Jerusalem was restored as the center of the national government, the capital of the country, the position it had held during the British administration. The UN found various ways to express its disapproval, the Trusteeship Council going so far as to invite the Israel government to revoke the measures taken (Resolution 114 [S-2], December 20, 1949).

On the basis of Bernadotte's conclusions the General Assembly, in Resolution 194 (III), resolved that the Jerusalem area as defined should be accorded special and separate treatment from the rest of Palestine, and placed under effective UN control. It further instructed the PCC to present detailed proposals for a permanent international regime, which would provide for the maximum local autonomy for distinctive groups, consistent with the special international status of Jerusalem. A year later, in Resolution 303 (IV), December 9, 1949, the Assembly reiterated that policy over the combined opposition of the two states in effective control of the city, Israel and Jordan, and requested the Trusteeship Council to complete preparation of the Statute of Jerusalem. Resolutions 194 and 303 were never seen as simple recapitulations of the original plan of 1947 because, in the

meantime, as Bernadotte himself had reported, the time no longer was propitious for economic union, on which the entire 1947 plan was postulated. That small element of possible compromise between functional and territorial internationalization, which it attempted to make, disappeared in 1948.

The *dénouement* came in 1950, when the Trusteeship Council submitted its final draft statute (A/1286, July 1950). The debate in the General Assembly's Political Committee showed that the trend away from territorial internationalization toward functional internationalization was in full swing, and at the 326th plenary meeting, December 15, 1950, the draft based on the territorial approach failed to obtain the necessary two-thirds majority. The same occurred when the issue was unexpectedly raised again at the 406th plenary meeting, December 18, 1952, at which, it will be remembered, the PPC's efforts to bring about peace between Israel and its neighbors came to naught.

In that way the question of the internationalization of Jerusalem, where the primary objective had to do with the Christian Holy Places in that city and Bethlehem (later also extended to Nazareth), was dropped from the UN agenda, and matters were settled pragmatically between the governments concerned and the different denominations. When the Jerusalem issue was revived in the UN after the six-day war, it was with quite different objectives, and in a quite different perspective.

The UN discussions on Jerusalem in the period 1947-1950 generated a good deal of ill-feeling in Israel, aggravated by what was regarded as the cynicism and callousness of the advocates of territorial internationalization during the siege. In the view of many Israelis, that plan failed completely to take cognizance of the deep Jewish attachment to Jerusalem. This was particularly true of the Vatican; but change in public posture since the reign of Pope John XXIII (1958-1963) has led to considerable relaxation of tension.

Armistice Regime

The general armistice agreement with Egypt was greeted by Foreign Minister Moshe Sharett with a statement pointing out that this was the first agreement since the historic Weizmann-Feisal pact of January 1919²⁶ to have been signed jointly by official Arab and Jewish representatives, and the first accord between Israel and one of its neighbors. Recognizing that it entailed sacrifices, especially the continued temporary occupation by Egypt

²⁶On that pact, see Chaim Weizmann, *Trial and Error* (New York, 1949), pp. 246-47. For text, see John Norton Moore, ed., *The Arab-Israeli Conflict*, Volume III: *Documents* (Princeton, 1974), p. 39.

of the Gaza Strip, Sharett stressed that the wisdom of its terms "will be finally vindicated if the armistice leads to a lasting and stable peace."²⁷ Since the armistice agreements did not lead to a stable peace, it has become fashionable in Israel to look upon them, and especially the agreement with Egypt, as something of a tragedy (although that pessimistic view minimizes their function in the general consolidation of the new state).

In their terms, the armistice agreements were a step in the transition from the precarious truce of 1948 to permanent peace in Palestine. That conception was stated in the relevant Security Council resolutions and incorporated word for word in each of the agreements. But in retrospect it is now clear that there was no true meeting of the minds between their parties. Rather than the embodiment of political compromise accepted by both parties as a guide to their future conduct, the agreements were a formal compliance with the Security Council's call, papering over deep rifts. The Arab states took the view that the armistice was merely an incident of war, leaving unaffected relations between the parties, which were relations of war, and that no recognition of Israel was to be implied from their signatures on the agreements. Israel, on the other hand, based its conception and understanding of the armistice regime on the widely held view that no state of war could be compatible with the mutual and reciprocal obligations of members of the United Nations under the Charter. Although this difference in approach may appear to be couched in abstract, and possibly philosophical, terms, it clearly goes to the root of the matter. The inability of the UN to bridge the gap between these two opposing views in the end destroyed the armistice system.

To this fundamental difference in approach—which in time might have been closed given favorable conditions—must be added the at first gradual and later rapid deterioration of the physical situation on the fronts, starting with the Egyptian.

One of the first indications that the difference in fundamental approach had far-reaching practical consequences in terms of the behavior of states were Egyptian restrictions on the passage of Israeli ships and cargoes through the Suez Canal. The delegation to the armistice conference at Rhodes had been given to understand that the restrictions would be removed as soon as the agreement went into force, an understanding reflected in Bunche's report to the Security Council on the successful termination of his mission. But the restrictions were not lifted. Israel then brought the issue before the Security Council which, in its Resolution 95, September 1, 1951, found the continued restrictions unjustified and called upon Egypt

²⁷Israel Ministry for Foreign Affairs, Press Release, February 24, 1949, summarized in the Report of the Hebrew University's Study Group, *op. cit.*, p. 85. For the texts of the armistice agreements, see *United Nations Treaty Series*, Vol. 42, pp. 251, 287, 303, 327.

to remove them. That call remained unanswered—probably the first time a Security Council resolution of major implications on the Palestine question was deliberately flouted. At the end of 1953 Egypt formally extended the blockade practices to the Gulf of Aqaba and the Strait of Tiran (in defiance of other Egyptian undertakings given to the United States early in 1950),²⁸ and this led to renewed discussion in the Security Council, where a draft resolution supported by the majority was vetoed by the Soviet Union (664th meeting, March 29, 1954).

TERRORIST RAIDS BEGIN

An even more sinister development took place on the armistice demarcation lines (except the Lebanese). The problem of irregular Arab forces had long been a grave one, and the armistice agreements contained engagements designed to cover it. Beginning in 1951, terrorist raids on Israel villages across the lines became a prominent feature, and Israel had always held the territorial government concerned responsible for the breach of the agreement. By 1955 the Egyptian authorities in Gaza had taken over the training and operational control of what were now called *fedayeen*²⁹ raids against the Negev villages. Between 1951 and 1955 Israeli casualties from these raids were heavy—over 700 deaths—and public indignation was great. In self-defensive retort, Israel undertook several large-scale military actions against terrorist bases and hideouts. The political qualification given those actions (though not necessarily the correct legal one) was “reprisals,” and that chain of events was to release what became a dismal cycle of raid, reprisal, and recriminatory and vituperative debate in the impotent Security Council, stymied by the Soviet veto or the threat of one. This cycle has continued to this day, after the cease-fire of 1967, only to provide fuel for Arab and antisemitic propaganda around the world, with no effect whatever on the situation in the area, except to increase Israel’s exasperation with the UN.

Hammaraskjold’s biographer graphically described this development:

The fedayeen presented a new and particularly difficult problem since no Arab government would admit responsibility for them, and moves by the Security Council to condemn such raids were subject to the Soviet veto. The UNTSO machinery was powerless to give any effective protection against this type of

²⁸M. Whiteman, *Digest of International Law* (Washington, 1965), Vol. 4, p. 373. Reporting on the implication of the agreement at the Security Council August 4, 1949, meeting, Bunche was specific that there should be free movement for legitimate shipping.

²⁹Literally “redeemers,” the evocative name given these terrorist gangs by President Nasser. They later were absorbed into al-Fatah, the military arm of the Palestine Liberation Organization.

clandestine and ostensibly unofficial activity. Israel's massive reprisals, on the other hand, were a clear violation of the clause in the armistice agreements forbidding hostile acts against the other party, and were almost invariably condemned by the Security Council. This anomaly added to Israel's increasing embitterment with the UN.³⁰

With variations, this sorry tale repeated itself in relations with Jordan and Syria.³¹ In the latter case, the problems were aggravated by the loosely drafted clauses of the armistice agreement concerning heavily populated demilitarized zones on the Israel side of the line (including Ein Gev)—loosely drafted because of the general feeling in 1949 that the agreements would shortly be replaced by the peace being negotiated through the PCC. The structural weaknesses were seized by the Syrians as affording legal pretext for actions designed to thwart the Huleh drainage scheme and the national water plan, intended to transfer surplus sweet water from the north to the arid south. When Syria did not succeed, it deployed its artillery to the Golan Heights and bombarded the Israeli villages in the Jordan and Huleh Valleys (the headquarters of this operation were located in the provincial capital of Kuneitra) and interfered with fishermen on Lake Kinneret. The bombardments grew progressively more intense in the 1960s. That bitter experience left deep scars, and has come to have a profound influence on all Israeli thinking on the future of the Golan Heights and relations with Syria.

Relations with Jordan were poisoned by its refusal to implement armistice agreement terms relating to Jerusalem, in particular the resumption of free access to the Holy Places (above all, the Western Wall) and of the normal functioning of Hadassah hospital and the Hebrew University on Mount Scopus. Here, too, the UN (in the person of Hammarskjöld) was to identify itself closely with Jordan's position, with little regard for Israeli sensitivities on these matters.

HAMMARSKJÖLD'S MISSION

When, by 1956, it was obvious that the armistice agreements were likely to break down completely, the Security Council encouraged Secretary-General Hammarskjöld to undertake a personal mission to restore their efficacy (Resolution 113 [1956], April 4). He left on his mission immediately thereafter.

³⁰Urquhart, *op. cit.*, p. 136. The author is in error when he places the beginning of the raids in 1955. For the correct version, see David Ben-Gurion, *Israel: A Personal History* (Tel Aviv and New York, 1972), p. 460.

³¹A convenient account of the principal controversies of that period is found in *Israel and the United Nations*, *op. cit.*, pp. 100 ff.

Hammarskjöld was able to obtain from all the governments concerned assurances that they would observe an unconditional cease-fire, except in case of self-defense, but made no progress in reestablishing "full compliance with the various other clauses of the general armistice agreements" (as he was to formulate the problem in his report to the Security Council, S/3594, May 2, 1956). One of the issues, and for Israel then a principal one, related to difficulties which, in Hammarskjöld's words, "have their origin in differences of opinion as to the interpretation of various obligations, or their mutual relationship." But the visit did lead to a temporary, if superficial, relaxation of tensions. The Security Council, in its Resolution 114 (1956), June 4, asked him to continue his good offices to bring about full compliance with the agreements. Any hopes of a general improvement, however, were dashed with the major international crisis triggered by Nasser's nationalization of the Suez Canal company on July 26, 1956.

Hammarskjöld had concentrated on only one provision of the armistice agreements, playing down the significance of the others. But for Israel, as Ben-Gurion explained in the Knesset on June 19, each agreement was a "single unit" which it was prepared to uphold in its entirety, and faithfully, provided the other side did the same; "otherwise it simply did not exist."³² Ben-Gurion was critical of many aspects of Hammarskjöld's report. The idealization of Hammarskjöld's effort at personal diplomacy as for example, by his biographer,³³ is not reflected in authoritative Israeli sources. Ben-Gurion was to call him "obdurate,"³⁴ and Golda Meir wrote, "I expect that he sensed my feeling that he was less neutral as far as the situation in the Middle East was concerned. If the Arabs said no to something—which they did all the time—Hammarskjöld never went any further."³⁵

The Secretary-General did not become actively and disinterestedly involved in the major peace-making efforts in the Middle East after that.³⁶

COLLAPSE OF ARMISTICE (1956)

With the Sinai campaign (October 29–November 5, 1956), matters entered a new stage. The Israel-Egypt armistice agreement of 1949 finally collapsed, and ultimately a new UN peace-keeping force, the UN Emer-

³² *Divrei haKnesset*, Vol. 20, June 19, 1956, p. 2070.

³³ Urquhart, *op. cit.*, pp. 132 ff.

³⁴ *Israel: A Personal History*, *op. cit.*, p. 522.

³⁵ Golda Meir, *My Life* (London, 1975), p. 243; she became Foreign Minister of Israel on June 18, 1956.

³⁶ Even the much heralded mission of Sweden's Gunnar Jarring as special representative of the Secretary-General, under Security Council Resolution 242, November 22, 1967, after the six-day war, was marginal to the major diplomatic efforts of the time. It was abandoned in 1973 without having achieved any positive result.

gency Force (UNEF) I, was deployed on the Egyptian side of the armistice demarcation line and at Sharm-el-Sheikh (Strait of Tiran), with the general objective of acting as a deterrent, if not of putting a stop to, the *fedayeen* raids from the Gaza Strip and the interference with freedom of passage through and over the Strait of Tiran and the Gulf of Aqaba—the two major factors in the breakdown of that agreement. On the other hand, Hammar-skjold's efforts to secure some relaxation of Egypt's blockade measures in the Suez Canal were unsuccessful.

But any illusion that UNEF I was leading to improved relations in the area was shattered in May 1967, when the Force was unexpectedly withdrawn at Nasser's request³⁷ and the way was opened for those very actions which had led to the breakdown in 1956.

ISRAEL CONDEMNED

The collapse of the Egyptian armistice in 1956 did not at first affect the other agreements. However, the *fedayeen*, prevented from operating from their bases in the Gaza Strip, moved to other fronts, where the cycle of raid, reprisal, and recriminatory debate in the Security Council leading to a formal condemnation of Israel was to repeat itself. This was aggravated by intensified Syrian efforts, backed by the Soviets, to interfere with Israel's water plans. The growing dependence of the Arab states on the Soviet Union, with its promises to veto any resolution unpalatable to them, further distorted proceedings in that body, and only led to increased embitterment in Israel with the UN.

At the same time, the Security Council and, under its lead, the various mixed armistice commissions working under UN chairmanship, abandoned its traditional diplomatic role of assisting the parties in a disinterested way to adjust their differences, which had characterized its major actions in 1948. The sessions of the mixed armistice commissions deteriorated, confining themselves to hearing charges and countercharges in a summary way and pronouncing judgment, not based on objectively established facts, but determined by political expediency at a given moment; and the Security Council rarely interfered. This procedure was assisted by the change in the composition of the UN after 1960 and the increased statistical weight of the unconcealed anti-Israel forces in the organization.³⁸

Arab and Communist spokesmen—and antisemites generally—

³⁷ Cf. Meir, *op. cit.*, p. 295-96, for U Thant's account of the withdrawal, see his report to the General Assembly, A/6730/Add,3, June 26, 1967; also Rosalyn Higgins, *United Nations Peace-Keeping, 1946-1967: Documents and Commentary* (London, 1969), Vol. 1, *passim*.

³⁸ For an account of this evolution in relation to one armistice agreement, see N. Bar-Yaacov, *The Israel-Syrian Armistice: Problems of Implementation, 1949-1966* (Jerusalem, 1967).

thoroughly exploit the long series of resolutions of different international organs "condemning" Israel for a particular action or its policies. For a just and realistic appraisal of these "condemnations," one must remember how they were obtained, and their unconcealed political context. It must also be borne in mind that since 1968 Israel has not initiated complaints in the Security Council against Arab violations of any of the agreements. The reason is simple: the built-in Soviet veto would make it pointless to do so, as experience has amply demonstrated. As Foreign Minister Eban once explained to the Knesset: before complaints can be initiated in the Security Council, a realistic appraisal of the consequences must be made; for it is conceivable that, given the composition of the Security Council and the Soviet attitude, the consequences of a hasty initiative might, at best, be unproductive and, at the worst, downright harmful.³⁹

Arab Refugees

The first significant political document relating to the Arab refugee problem was a telegram of August 1, 1948, from mediator Bernadotte, reporting a conversation with Sharett a few days earlier. Bernadotte had then suggested that, without prejudicing larger issues, a limited number of refugees, especially former residents of Jaffa and Haifa, be permitted to return. Israel's replied that, as long as a state of war existed, the government could not readmit on any substantial scale Arabs who had fled, and that the matter would come up when the Arab states were ready to conclude a peace treaty with Israel, as part of the general settlement and with due regard to Jewish counterclaims (S/948).

In that way, it seems, formal UN involvement in the refugee problem began. There the basic antithesis between a concept of "return" and Israel's view of peace as a requisite for "return" originated.

As foreshadowed in Bernadotte's progress report (A/648), the General Assembly included in its Resolution 194 (III), December 11, 1948, which set up the PCC designed to lead to a permanent settlement, the following paragraph 11:

The General Assembly

Resolves that the refugees wishing to return to their homes and live at peace with

³⁹ *Divrei haKnesset*, Vol. 54, 1969, p. 2663; Vol. 58, 1970, p. 2605. The situation in the Security Council has become even more delicate since the admission of Communist China at the end of 1971.

The surrealist quality of UN condemnations is illustrated by the following: In 1973 Israel was condemned in seven General Assembly resolutions, in 1974 in six, in 1975 in nine, and in 1976 in 14! Not all related to Israel's policies and actions in the Middle East, but all are grist for the Arabs' mill.

their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible; *Instructs* the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations.

This dealt with the political aspects of the problem. At the same session, the General Assembly adopted another resolution establishing the UN Relief for Palestine Refugees with responsibility for the over-all planning and implementation of the relief program (Resolution 212 [III], November 19, 1948, adopted on the recommendation of the Third Committee). In 1949 that temporary arrangement was replaced by the UN Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA), still in existence. Since 1949, UNRWA's reports have been discussed exclusively in one of the political committees of the General Assembly.

There is no doubt that in 1948 both Bernadotte and the General Assembly were thinking that permission would be granted by the Israel government for the return of individual refugees to the actual homes they had abandoned during the 1948 fighting, as a partial solution of the refugee problem within the framework of a general peace settlement. Neither the mediator, nor the General Assembly, then contemplated dissociation of the political aspects of the refugee problem from the clarification of the broader issues that could lead to a peace settlement. The word "repatriation" in paragraph 11 of Resolution 194 was intended to convey the idea of bringing the refugees back to their homes where they still existed, provided that the individuals concerned had made the choice to return and live at peace with their neighbors. In the course of time all those fundamental aspects were to be brushed aside by the General Assembly.

It would be wearisome to enter into details of what has become a festering sore in UN handling of the Middle East question. Year after year the debates in the Special Political Committee became the setting for increasingly hostile and intemperate public discussion, while many of the refugees and their offspring (now reaching the third and perhaps fourth generations) continue to languish in refugee camps, living on public charity supplied by voluntary contributions to UNRWA. (Many others have reestablished themselves elsewhere in the Arab world or overseas.) Nothing Israel was to do would make the slightest impression on the Arab representatives, apparently guided not by the welfare of the refugees and their descendants, but by the opportunity to exploit the UN as the arena for stimulating and spreading hostility toward Israel. In this, a significant role was played by the refugees' spokesmen, who were allowed to address the Committee.

Initially, they were the directors of the Beirut and New York Palestine Arab Refugee offices, replaced in 1960 by a so-called Palestine Arab delegation, in fact extremist representatives of the former Arab Higher Committee, to which was added in 1965 a delegation of the PLO (in each case authorization to address the Committee was given after procedural difficulties, and without implying recognition of the organization and delegation in question).

Israel always took the position (which, despite differences of construction, was also that of Bernadotte) that a close connection existed between the solution of the refugee problem and the "territorial problem" in that until there was agreement on the ultimate boundaries of Israel, it would not be possible to determine how many refugees could be permitted to return to the country. What may not have been fully appreciated in 1948 was the relation between the territorial problem and refusal of the Arab states to recognize Israel. Nevertheless, Israel agreed to limited proposals for the unification of families and to some compensation payments on an individual basis from time to time. It informed the PCC in 1950 that the refugee problem could be placed as the first item on the agenda of joint discussions of a general peace settlement, but explained that agreed repatriation must form part of a comprehensive plan for the settlement of the entire refugee problem and would be put into effect only as an integral part of a general and final peace settlement. During the active life of the PCC there were considerable variations in the relationship between the ultimate peace settlement and the repatriation aspect of the refugee problem; and between repatriation and the resettlement of the refugees elsewhere in the Middle East. But those deliberations, too, had no concrete result.

CHANGED GENERAL ASSEMBLY APPROACH

A radical change in UN approach to the refugee problem took place after the PCC abandoned its active search for a general settlement in 1952. At this point, paragraph 11 of the 1948 resolution was detached from its context and the general political problem, and began an independent existence of its own, in the course of which its form and content were to be remolded beyond all recognition, with the long-term result that what started out as a matter of the physical return of individual refugees to homes which they themselves had abandoned during the fighting of 1948 has become redefined in the course of time. It is now put forward as a collective right to "return," not to abandoned homes where still in existence, but at large, to a territorial-political unit in which those homes had been situated, and which they still call "Palestine." Thus the refugee problem has ceased being a humanitarian matter; and from being something of an annual

irritant for the UN, of little direct relevance to the real situation (when even then its humanitarian aspects were ignored), it has developed into a major element of the general political situation as it appears in the UN. Israel has never accepted this recommendation of the General Assembly and votes against it.

Security Council Resolution 242 (1967) contained renewed affirmation of the need to achieve a just settlement of the refugee problem, thus reflecting the thesis that a proper settlement of the refugee problem could only be achieved within the framework of a settlement of all major outstanding issues. Nonetheless, that very reaffirmation has become a cause of resentment among Arabs. The rapid rise of PLO on the international scene, the assertion of its "personality" and "representative character," and its insistence on obtaining a form of recognition and parastatehood on the international level, are not only designed to foil all efforts to link the solution of the refugee problem to the general peace efforts. They go far beyond that, and in the guise implementing emotionally charged but ill-defined concepts such as the "right of return" and the "right of self-determination," somehow linked to the Universal Declaration on Human Rights, transform the refugee problem into an instrument for an attack on the very existence of Israel. The willingness of the General Assembly to accommodate itself to that thesis has become one of the major reasons for Israel's refusal to accept the UN, in any form, as the appropriate aegis under which peace negotiations can henceforth be conducted.

ISRAEL AS HOST STATE

In the period 1948–1967 the refugee problem generally related to matters outside Israel. True, under the original definitions, both Arabs and many Jews in Israel would have been technically refugees. By 1950, however, all these had been absorbed into the Israel society and economy and were no longer the concern of UNRWA, which conducted no operations in the country. In 1956 mutual arrangements were made between Israel and UNRWA for the continuation of the agency's operations in the Gaza Strip where, during the period of Egyptian occupation, conditions had been particularly bad and oppressive. For a time there were hopes that an imaginative resettlement plan for those unfortunates could be evolved, but all this vanished when Israel was forced to evacuate the Gaza Strip and Sinai.

The six-day war brought a radical change. Israel's control over Judea and Samaria and the Gaza Strip brought under its charge large numbers of refugees in UNRWA-administered camps together with the nonrefugee Arab populations. However, a secondary refugee problem arose when, in 1967, during some of the heavy fighting with Jordan in the vicinity of refugee camps, many of their inhabitants and neighbors fled the areas. Here,

too, Israel has taken the consistent position that this aspect of the refugee problem, grave though it is, cannot be separated from the broader problems to which Security Council Resolution 242 (1967) now addressed itself.

Another result of the six-day war was that Israel has become, in the full sense of the term, a "host country" to UNRWA. As in 1956, arrangements were now made for UNRWA to continue necessary operations in Israel-controlled territory, especially in the Gaza Strip, and UNRWA maintains large installations both there and in the Jerusalem area. However, relations with it are not easy. UNRWA has become a sprawling, virtually autonomous organism within the UN, one closely identified with the refugees, from whose ranks most of its staff (other than its international personnel) are drawn. It has not been cooperative with the Israel authorities in their efforts to alleviate the particularly poor physical condition of refugees in the Gaza Strip, for example, through the development of new housing schemes (frequently much better than the *shikkunim* in Israel's own development towns) to replace the delapidated, over-crowded, unhygienic refugee camps. Since 1971 the General Assembly has, almost as a matter of routine, called for the cessation of all Israel's efforts to clean up the camps and replace them with modern housing; and considering the quality of the new accommodations, and the easy financial terms on which they are made available, this attitude has increasingly become a cause for ridicule in Israel.

UNRWA receives its funds not from the regular budget of the UN, as the Arab states apparently would desire, but from voluntary contributions, thus far mainly from the United States and the industrialized countries of the West. Their contributions have been generous, and little attempt was made to link the provision of funds with political progress. Since the six-day war, however, UNRWA has been beset by serious and growing financial difficulties, clearly a matter of grave concern. So far, the Arab states, especially the wealthy ones, have not contributed any significant share.

REFUGEE RESETTLEMENT IGNORED

Throughout its history, UNRWA has placed primary emphasis on relief work, virtually ignoring resettlement. Two efforts have been made to come to grips with this. The first, in 1949, by the UN Economic Survey Commission for the Middle East, headed by Mr. Gordon Clapp, chairman of the Tennessee Valley Authority and staffed by agricultural, engineering, and economic experts, attempted, though unsuccessfully, to remove the refugee problem from the political to the economic sphere. The underlying idea was that the resettlement of the refugees in various parts of the Middle East could lead to significant economic improvements in the area (A/1106, December 28, 1949). The second was promoted in 1959 by then Secretary-General Hammarskjöld. In a report to the General Assembly, entitled

“Proposals for the continuation of the United Nations assistance to Palestine Refugees” (A/4121, June 15, 1959), he analyzed various factors regarding the order of investment required over a ten-year period to bring about a sufficiently accelerated rate of development for the region as a whole to provide enough new jobs for the natural increase of the indigenous population as well as for the refugees. He also noted that such a development would require the prior, or at least concurrent, resolution of political and psychological problems. In the subsequent debate in the 1959 General Assembly, the Arab delegations registered vehement opposition to all such ideas, and regarded their rejection by the General Assembly as a positive achievement.

The result is that UN jurisprudence on the refugee problem has come to consist in repeated reassertions of paragraph 11 of Resolution 194, which pays lip service to the parallelism of repatriation or resettlement without any serious effort to implement the resettlement aspect. This has led to the emergence of ill-defined conceptions of a “right to return,” which in their turn have been interpreted to imply the disbandment of Israel as a Jewish state.

FROM 1967 ONWARD

Security Council Resolution 242 (1967)

The six-day war swept away the remaining armistice agreements in fact (however, the UN Secretariat sometimes seems to regard them as technically still in force—a curious instance of dry legalism conflicting with political common sense—although by now it is generally conceded that they have fallen into desuetude). Under the terms of the 1967 cease-fire, some reporting functions were conferred on UNTSO. More important, the war left Israel in control of the whole of the formerly mandated territory of Western Palestine (including the unified city of Jerusalem and the Gaza Strip), as well as part of Syria (the Golan Heights) and Sinai as far as the Suez Canal, which for the second time since 1948 was closed to all shipping. Acrimonious discussions in the Security Council⁴⁰ and the General Assem-

⁴⁰The “Situation in the Middle East” was placed on the agenda of the May 24, 1967, meeting of the Security Council on the initiative of Canada and Denmark. Singularly futile discussions took place for the rest of the month. This was partly because the representative of Nationalist China was the Council’s president then, and a national of that country its secretary, and the Soviet Union and several other Council members refused to have any contact with either. On June 1 the presidency was routinely assumed by the representative of Denmark, and the discussions became more businesslike. But by then it was no longer possible for the UN to defuse the situation.

bly throughout the summer and fall of 1967 demonstrated the polarization of the organization and its inability to produce any constructive results in terms of political progress in the Middle East. A consensus then emerged that a neutral resolution should be adopted, which would immediately move the whole issue out of the glare of public discussion and back into the sphere of discreet diplomacy. This is the origin of the much-discussed Resolution 242, November 22, 1967 (largely American-inspired, although formally presented by the United Kingdom representative), which outlined the main elements of a peace settlement. Because of its importance, the full text of that resolution, in its original and negotiated English language version⁴¹ is given here:

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East, *Emphasizing* the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
 - (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
 - (ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;
2. *Affirms further* the necessity
 - (a) For guaranteeing freedom of navigation through international waterways in the area;
 - (b) For achieving a just settlement of the refugee problem;
 - (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;
3. *Requests* the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

On the basis of paragraph 3, Ambassador Gunnar V. Jarring of Sweden was designated the special representative of the Secretary-General.

⁴¹For the interpretation of the versions of the five official languages of the Security Council then—Chinese, English, French, Russian, and Spanish—see Shabtai Rosenne, "On Multi-Lingual Interpretation," *Israel Law Review*, Vol. 6, 1971, p. 360.

JARRING'S MISSION

From the outset, the Jarring mission was severely handicapped by fundamental disagreement between all concerned (including Jarring himself) on the proper meaning to be given to the resolution of the Security Council (aggravated after the admission of Communist China at the end of 1971). The war of attrition unleashed on the Suez front by President Nasser (spring 1968—summer 1970) in effect suspended the mission. It was temporarily revived by the so-called Rogers ceasefire initiative (named after U. S. Secretary of State William P. Rogers), when the absence of underlying agreement between the permanent members of the Security Council (and above all, the two super-powers), whose interests in the Middle East collided, prevented significant progress. The unbridgeable differences between Israel and the Arab states were on the issue of withdrawal from territories overrun in 1967: Israel insisted that any withdrawal to lines to be agreed upon could only take place within the context of a formal and all-inclusive peace, while the Arab states, on the basis of their reiterated policy of nonrecognition of Israel, insisted that in principle there must be total withdrawal from the territories before any negotiations on an over-all settlement of what would then be the outstanding issues could take place. This was simply the new dress of the fundamental schism which in the 1950s had obstructed the work of the PCC. The failure of the Jarring mission, aggravated by the excessively broad interpretation he gave to his terms of reference (see S/10929, May 18, 1973), was the subject of another acrimonious debate in the Security Council in the summer of 1973, which came to an end when the United States vetoed a one-sided draft resolution favorable to the Arab thesis (1717th to 1735th meetings, June 6—July 26, 1973).

Security Council Resolution 338 (1973)

The Yom Kippur war led to another change in direction by the Security Council, which attempted to convoke a peace conference. In Resolution 338, October 22, 1973, the Security Council

1. *Calls upon* all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;
2. *Calls upon* the parties concerned to start immediately after the cease-fire the implementation of Security Council Resolution 242 (1967) in all of its parts;
3. *Decides that*, immediately and concurrently with the cease-fire, negotiations shall start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

Resolutions 242 and 338, which contain the terms of reference of the Peace Conference on the Middle East, sometimes called the Geneva conference, are significant for Israel. They are the first resolutions to use the word

"peace," with Resolution 338 being taken as endorsing the Israeli thesis that peace can only be achieved through direct negotiations, under appropriate auspices, between the states parties directly concerned. It was indeed through military subcommittees of the conference (which so far has held one set of formal meetings, on December 21, 1973) that the various agreements on the disengagement of forces were negotiated between Israel and Egypt and Israel and Syria, early in 1974 and in September 1975.

The Yom Kippur war and those agreements also led to renewed peace-keeping efforts by the UN. UNTSO, which remained in existence throughout, was reorganized and a few Soviet officers added to its personnel, something the United States had resisted since 1948. UNEF II was established on the basis of Security Council Resolutions 340 (1973) and 341 (1973), October 25 and 27, for observation and forces separation service on the Sinai-Suez front. Later, Resolution 350, May 31, 1974, created a new UN Disengagement Observer Force (UNDOF) for similar service in the Golan Heights area, in accordance with the Israel-Syrian disengagement agreement of May 1974. (The difference between UNEF II and UNDOF is essentially one of name and has its roots in Syrian susceptibilities.)⁴² The mandates for these forces are for six months, and as they come up for renewal by the Security Council, signs of nervousness can be detected. UNTSO continues to operate in the Lebanese and Jordanian sectors, governed by the 1967 cease-fire agreements.

Beyond the peace-keeping aspects, which are deemed very important, it is now accepted that the UN has no more than a marginal and ceremonial role in the diplomatic efforts for the establishment of durable peace in the Middle East.⁴³ If the prime responsibility for reaching agreement rests on the negotiating parties (through the Geneva peace conference mechanism,

⁴² For a useful survey of Israel's experience with the various UN forces, see Michael Comay (permanent Israel representative through most of the period of UNEF I), *UN Peace-Keeping in the Israel-Arab Conflict, 1948-1975: An Israeli Critique* (Jerusalem 1976).

⁴³ The Peace Conference on the Middle East was convened under the active cochairmanship of the Soviet Union and the United States. Although Security Council Resolution 344, December 15, 1973, authorizing the move, called for the Conference "to begin shortly under the auspices of the United Nations," the "auspices" were in fact closely circumscribed, with the UN providing technical facilities and the Secretary-General occupying a delicate ceremonial office with no substantive function. Abba Eban, Israel's Foreign Minister in 1973, explained (*Jerusalem Post*, December 17, 1976) the reasons why the Conference was created as a "sovereign, extra-UN instrument immune from the arbitrary influence of UN majorities," and the element of courtesy in inviting the Secretary-General to convene the Conference and organize its sessions without being conference chairman. Since 1973 the General Assembly has tried to increase the UN's substantive role in the Conference, both in terms of the general directive to the Conference and the function of the Secretary-General. Israel is opposed to this, not the least because of the General Assembly's insistence on injecting the PLO directly into the Conference (Resolution 31/61, December 9, 1976).

or in some other way), it is also widely understood that their ability to reach agreement among themselves would be severely circumscribed without accommodation among the permanent members of the Security Council directly concerned.

*HEP! HEP!*⁴⁴

We have seen that in the critical UN debates in the summer of 1967 the Arabs failed to muster the necessary support in the General Assembly for the adoption of their proposals and that Security Council Resolution 242 (1967), not all to the Arabs' liking, was an attempt to present a reasonably neutral text to permit diplomatic processes to restart. The lesson of this was not lost on the Arab politicians, and the change soon came. The efforts to consolidate the nonaligned states behind the Arab position went hand in hand with a sustained campaign to depict Israel in the bleakest possible terms. The campaign began in the Commission on Human Rights in March 1968 and at the International Conference on Human Rights held in Teheran, Iran, later that year (to mark the 20th anniversary of the adoption of the Universal Declaration on Human Rights). The pretext was what was called the oppressive situation of the Arabs in the occupied territories. That issue then firmly established itself also in the General Assembly, where it remains to this day. Among other new issues sucked into the scope of this process has been the question of Jerusalem and the matter of the "inalienable rights of the Palestinian People in Palestine."

All these are specific items, to which must be added the unremitting Arab attempt to inject some anti-Israel or anti-Zionist element into whatever proposal can lend itself to this, however remotely. The annual Arab refugees debate assumes new importance in the general onslaught on Israel in the UN and the specialized agencies. As a result, the sessions have become veritable orgies of hatred, in which restraints have only rarely been imposed. It is widely believed that the main objective, apart from the obvious propagandist motives, is to ensure the complete isolation of Israel in the UN—its reduction to a *pariah* or "untouchable" status. This would undo the major implication of Israel's admission into the UN—the normalization of the international status of the Jewish people through the Jewish state. It also could adversely affect Israel's general security situation.

In this ongoing process—of which the end is not yet in sight—virtually all the accepted canons of UN parliamentary diplomatic procedures have been reduced to naught. The tightly consolidated grouping of Arab, Communist, and hostile third-world forces easily commands a simple majority

⁴⁴ *Hierosolyma est perdita* ("Jerusalem is lost")—rallying cry of Jew-baiters in the Middle Ages.

in the General Assembly, enough to enable it to bend all rules of procedure to its intent. Also, since 1971 it has been numerically sufficient to swamp any opposing third of the voting members, making the necessary two-thirds majority an automatic feature. Even the Charter itself is not spared. In 1974 the Algerian president of the General Assembly, Foreign Minister Abdelaziz Bouteflika, demonstrated in connection with another matter how, with no possibility of being overruled, he could order the virtual exclusion of a delegation from the Assembly through some sleight of hand with its credentials (with the connivance of the majority on the Credentials Committee); and while rejection of a delegation's credentials in the General Assembly is technically not the same as suspension (which requires a Security Council recommendation), its practical effects are not much different. The precedent (of questionable legality) has added to Israel's concerns in the General Assembly and in other similar organs and conferences.

The process was vastly accelerated after the Yom Kippur war, with its devastating impact on the world economy through the Arab states' drastic revision of crude-oil prices, in which the other members of the Organization of Petroleum Exporting Countries (OPEC) joined. As such, these economic moves had nothing to do with Israel-Arab relations, but can be seen as part of the general endeavor of the former colonial and semicolonial territories to receive more realistic prices than before for prime commodities at their disposal. In the case of petroleum, however, the timing of the move was certainly linked to the situation in the Middle East, and the Arab representatives were skillful in exploiting the anxieties of the outside world, itself largely, though by no means entirely, dependent on that product. In consequence, on many, sometimes improbable, matters which the Arab delegations have brought up in the UN as a stick with which to beat Israel, they have been able to mobilize impressive majorities—virtual unanimity in fact—quite unrelated to the real political relationships between different states forming those majorities and Israel, or to the merits of the proposal. On the other hand, attempts to embroil the General Assembly in the major political settlement, which in practice remains governed by Security Council Resolutions 242 and 338, have achieved less impressive results.

Parenthetically it may be observed that the attempts to drive Israel out of the specialized agencies, especially ILO, WHO, FAO, and UNESCO, occurred in this context. Here advantage has also been taken of imperfectly drafted clauses in their constitutions, which, while making admission into these organizations dependent on membership in the UN or prior decisions by the Security Council and the General Assembly, do not follow the pattern of the UN Charter and make exclusion from them dependent only on prior decisions by these two organs. In the cases of ILO, WHO (where the process started as far back as 1971), FAO, and UNESCO, the Arab

moves were only checked when it became clear that powerful outside forces, among them the United States Congress, would react in a severe way, possibly even leading to dismantling of those organizations in their present form, if Israel's rights of membership were to be curtailed. Here, too, the manipulation of accepted procedures has followed the pattern of the UN itself.

Jerusalem Revived

The question of Jerusalem was raised in a form quite different from that of the period 1947–1952. It no longer is a matter of disinterested concern for the Holy Places. On July 4, 1967, the General Assembly adopted Resolution 2253 (ES-V) which called upon Israel to rescind all measures already taken to change the status of the city, and to desist forthwith from any further action “which would alter the status of Jerusalem.” This call was reiterated in Resolution 2254 (ES-V), July 21, 1967. The matter was later taken up by the Security Council, as in Resolution 252, adopted May 21, 1968, with the United States and Canada abstaining, which stated that all Israel legislation and administrative measures and actions tending to change the legal status of Jerusalem “are invalid and cannot change that status.” The meaning of these resolutions has never been made clear. The “status of Jerusalem,” as determined by previous UN General Assembly resolutions, applied to territorial internationalization, which never materialized and was dropped in 1950 and 1952, while no UN organ is authorized to discuss the validity of legislation of a member state.

On this issue, it is difficult to take seriously much of what has been done in the name of the UN since 1967. For example, in 1969, after an attempt by a demented non-Jewish tourist to set fire to the Holy El-Aqsa Mosque in Jerusalem, which caused extensive damage, the Security Council determined (Resolution 271, September 15, 1969) that that execrable act emphasized the immediate necessity of Israel's rescinding forthwith all measures and actions designed to alter the status of Jerusalem. In so doing the Security Council ignored the fact that there was no causal relationship between those measures and the insane man's arson, or that one of Israel's “actions” had been to develop in the unified city efficient fire-fighting services, which kept the damage to a minimum and probably saved the building. These repetitive and tendentious resolutions also refuse to acknowledge that, since the reunification of the city, the physical protection of, and freedom of access to, its Holy Places, as well as freedom of worship and of conscience, have been fully restored—possibly to a degree exceeding that which prevailed at all events toward the end of the British mandate—and that the protection of the Holy Places

and of rights in and over them have been assured to general satisfaction.

There has been nothing constructive in all the debates which, unlike those of 1948–1952, were not motivated even by a semblance of concern for the spiritual values of the city. Indeed, the credibility of the whole operation is placed in grave jeopardy since one of its leading protagonists is the world's leading atheistic power. Underlying these debates (and those on the subject of archaeological research in Jerusalem in an organization like UNESCO) is the Arabs' refusal to accord the slightest recognition to the deep Jewish tie with Jerusalem,⁴⁵ or to accept the inevitability of the Jewishness of Israel.

The Palestinians

The question of the inalienable rights of the Palestinian people came to the fore after the Rabat Arab summit conference of October 1974, in which Yasir Arafat's PLO was recognized by the Arab leadership as the sole representative of the Palestinian people—a decision probably connected as much with inter-Arab rivalries as with Israel. That decision gave PLO enormous prestige and enabled it through 1975 to force not only the Arab states, but also all their supporters and the “automatic majority,” to take extreme positions in the General Assembly. (There was to be some falling back from this in 1976, after PLO defeats in the Lebanese civil war and consequent loss of standing.) The Rabat decision was followed by a series of dramatic episodes in the General Assembly, under Algerian presidency, which have changed the direction of UN action (AJYB, 1976 [Vol. 76], pp. 140–44, 156–58).

A new item was added to the agenda (ensuring more sterile public debate, full of incitement to violence): “The Question of Palestine,” alongside “The Situation in the Middle East” in use since 1967. Contrary to all accepted diplomatic usage limiting appearance in the plenary meetings to the representatives of states, the General Assembly recognized the Palestinian people as “the principal party to the question of Palestine” and invited PLO—recognized as its representative by a majority in the General Assembly—to participate in deliberations on the Palestine question in plenary meetings (Resolution 3210 [XXIX], October 14, 1974), and to participate in the

⁴⁵ The extreme lengths to which this posture can go is well illustrated by the Hebrew-language newscasts on Jordan television. When referring to the city, its Hebrew name, Yerushalayim, is never used, only its Arabic name, El-Quds, so that many listeners probably have not the slightest idea what the commentator is talking about. Incidentally, Hebron, too, is always called by its Arabic name, El-Khalil. Israel's Arabic services, on the other hand, call Jerusalem by its Arabic names.

efforts for peace in the Middle East (Resolution 3375 [XXX], November 10, 1975).⁴⁶ Arafat, who was invited to address the General Assembly on November 13, 1974, was received by Bouteflika with all the honors normally reserved for a head of state paying a ceremonial visit (as opposed to a head of state participating as a member of his country's delegation). Israel's delegation was absent. Later that year the General Assembly issued a general invitation to PLO to take part in all its meetings as an observer, and in all conferences convened by the General Assembly, thus in effect granting it a condition indistinguishable from that of a member state (Resolution 3237 (XXIX), November 22, 1974). Since then, and largely as a result of those events, PLO has certainly gained substantial international standing.⁴⁷

In 1975 the General Assembly established the Committee of Twenty on the "Exercise of the Inalienable Rights of the Palestinian People" (increased to 23 in 1976 on PLO insistence). Resolution 3376 (XXX), November 10, 1975, specifically referred to the exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty, and the inalienable right of Palestinians to return to their homes and property "from which they have been expelled and uprooted." The mandate of the Committee of Twenty was to recommend a program of implementation to enable the Palestinian people to exercise those rights. No Western or Latin American country (except Cuba) consented to serve on that committee; and only one of its members, Rumania, maintains

⁴⁶ These decisions went far beyond General Assembly action in 1947 to secure adequate Jewish and Arab representation in the discussions on the future government of Palestine. In Resolution 104 (S-1), May 5, 1947, the General Assembly decided that the First Committee could "grant a hearing" to the Jewish Agency for Palestine (whose status derived from specific provisions in the Palestine Mandate), and in Resolution 105 (S-1), May 7, it endorsed a decision of the First Committee to grant a hearing to the Arab Higher Committee. An observer delegation of the Jewish Agency took part in the 1947 sessions of the General Assembly in the committee stages only. Israel was also represented by an observer delegation in the 1948 and early 1949 sessions, again in committee only, until Israel's admission into the UN in May 1949. Those observer delegations could only participate in the debate on the Palestine item. On refugee representation in the subsequent General Assembly debates on the refugee problem, see section on the subject above.

⁴⁷In the Security Council, PLO was first invited to participate in a debate with the "same rights of participation as were conferred when a Member of State was invited to participate under . . . the provisional rules of procedure" at the Council's December 4, 1975, meeting. That decision was adopted by nine votes to three (Costa Rica, United Kingdom, USA), with three abstentions (France, Italy, Japan), but this is regarded as a procedural matter to which the "veto" does not apply. That decision goes much further than the 1948 decisions regarding the Jewish Agency and the Arab Higher Committee: they were made under a rule which enables the Security Council to invite competent persons to supply it with relevant information or otherwise assist it.

normal diplomatic relations with Israel. The first report of the Committee of Twenty (S/12090, May 29, 1976) mirrors the official PLO program of the progressive dismantling of Israel as a Jewish state, and its replacement in due course by a secular Palestinian state. It was endorsed by the General Assembly as a "basis for the solution of the question of Palestine" in its Resolution 31/20, November 24, 1976, after it had been defeated in the Security Council, where the United States voted against it and France, Sweden, and the United Kingdom abstained (meetings of June 9 to 29, 1976). The same resolution authorized the Committee to exert all efforts to promote the implementation of its recommendations and to promote the greatest possible dissemination of information on its progress through non-governmental organizations and other appropriate means, thus harnessing the UN's public information services to the aims of PLO.

By these actions the General Assembly sought to arrogate to itself certain aspects of the functions of the Security Council and to rewrite Resolutions 242 (1967) and 338 (1973). Its decisions, violative of Article 12 of the Charter, became an obstacle to the reconvening of the Geneva Conference, since Israel refuses to recognize PLO as the representative of the Palestinians, and is willing to negotiate only with the original participants—the confrontation states. Their uncompromising nature has led many Jewish and other circles, inside Israel and elsewhere, to the conclusion that, if the General Assembly continues along these lines, its own actions could become a threat to peace in the Middle East.

Human Rights in the Territories

A special technique has been evolved by the General Assembly with regard to what it calls respect for, and implementation of, human rights in occupied territories. It consists in the adoption of resolutions which condemn Israel for its alleged disregard of fundamental freedoms and human rights in occupied territories, and charge a special committee (the so-called Committee of Three) to investigate "Israeli practices affecting the human rights of the population of the occupied territories." This was first done in Resolution 2443 (XXIII), December 19, 1968, and has been repeated annually. The Committee of Three is composed of Sri Lanka, Senegal (replacing Somalia since 1974), and Yugoslavia. The fact that none of these states maintains diplomatic relations with Israel enhances the inherent bias inseparable from the Committee's terms of reference which dictate to the Committee how it is to report. For those reasons Israel has refused all truck with it. Its reports, which do not make pleasant reading, are based on what the Committee gleans from the press (and Israel is proud of its free press), or on oral presentations by some of the extreme anti-establishment personalities found in every free society, and Israel is no exception. The Com-

mittee also has not shrunk from falsified evidence, the veracity of which it does not bother to check.

The General Assembly action can be traced to Security Council Resolution 237, June 14, 1967, later welcomed by the General Assembly in Resolution 2252 (ES-V), July 4, 1967. Among the resolution's recommendations to all governments was scrupulous respect of the humanitarian principles governing the treatment of prisoners of war, and of civilians in time of war, contained in the relevant Geneva Conventions of 1949. Israel has always interpreted that resolution as applying in equal measure not only to Arabs under its control, but also to the Jewish minorities in the Arab countries, especially those which suffered harsh treatment as a result of the wars and tensions in the area.

That interpretation was at first upheld by the Secretary-General in connection with the mission, under the resolution, of his special representative, Ambassador Nils-Göran Gussing of Sweden (S/8158, October 2, 1967). Later, however, U Thant changed his mind (S/8699, July 11, 1968), and although both he and other senior officials continued to manifest some interest in these unfortunates, they were inclined to do so on an individual and exceptional basis, and not as part of their mandates under the guiding resolutions. This lack of balance gravely impaired Israel's ability to cooperate closely with the Secretary-General and his representatives in the fulfillment of their later humanitarian missions. Then the General Assembly dropped all semblance of evenhandedness and, in dealing with humanitarian issues, followed the earlier practice of completely ignoring the lot of Jews in Arab lands, whose treatment, with some notable exceptions, has been outrageous since 1948.⁴⁸

For reasons that cannot be separated from the language of the Geneva Convention and from fundamental questions of the status of Judea and Samaria and parts of Jerusalem, all illegally annexed by Jordan in 1950,⁴⁹ Israel does not acknowledge the applicability of the Fourth Geneva Convention of 1949, on the protection of civilian persons in time of war. At the same time, it has accepted that, in principle, its policies and actions in those areas will be governed by the spirit, and as much as possible by the letter, of that important instrument; and a *modus operandi* has been evolved with

⁴⁸Israel's position on the mission of the Special Representative of the Secretary-General was fully explained by the Foreign Minister (Eban) in a detailed account to the Knesset on December 10, 1968 (*Divrei haKnesset*, Vol. 53, 1968, p. 635). In 1968 the Commission on Human Rights began to interest itself, in a tendentious way, in the problem of human rights in the territories, and it was there that the technique of condemning first, and investigating later, was first employed.

⁴⁹Cf. Y.Z. Blum, "The Missing Reversioner: Reflections on the Status of Judea and Samaria," in Moore, *op. cit.*, vol. 2, p. 287, revised version of an article originally published in *Israel Law Review*, Vol 3, 1968, p. 279.

the International Committee of the Red Cross in Geneva.⁵⁰ Only overriding policy considerations compel it to adopt this position, especially as the practical results are identical with what the Geneva Convention would require of Israel, were it applicable.

Attack on Zionism

Relations with the UN reached crisis point when the General Assembly, after bitter debate in its Third Committee and later in the plenary meeting, adopted Resolution 3379 (XXX), November 10, 1975, with the innocuous title "elimination of all forms of racial discrimination" (a worthy objective with which Israel wholeheartedly associates itself). The last sentence of that resolution states: "The General Assembly . . . Determines that zionism [*sic*: lower case z] is a form of racism and racial discrimination." The resolution was adopted by a vote of 72 in favor, 35 against, 32 abstentions, and three states absent,⁵¹ after an African proposal to defer the vote for one year was defeated on Arab insistence by a vote of 45 in favor, 68 against, 16 abstentions, and 13 absences.

That was not the first attack of this kind on Zionism in the UN. In 1964, during a discussion in the Commission on Human Rights on the draft UN Convention on the Elimination of All Forms of Racial Discrimination, the United States put forward proposals for the inclusion of a reference to anti-semitism in the draft's general condemnation of racial segregation and *apartheid*. When the matter came before the Third Committee of the General Assembly in 1965, the USSR submitted an amendment (A/C 3/L. 1231 and Corr. 1, October 13, 1965) to condemn antisemitism, Zionism (upper case Z), Nazism, neo-Nazism, etc. This gave rise to a bitter discussion ending in a compromise by which references to specific forms of racial

⁵⁰See Meir Shamgar (former attorney-general and now a justice of the Israel Supreme Court), "The Observance of International Law in the Administered Territories," *Israel Yearbook on Human Rights*, Vol. 1, 1971, p. 262, and *passim*; also Morris Greenspan, "Human Rights in the Territories Occupied by Israel," *Santa Clara Lawyer*, Vol. 12, 1972, p. 377; Asher D. Grunis, "The United Nations and Human Rights in the Israel Occupied Territories," *The International Lawyer*, Vol. 8, 1974, p. 271; Moshe Drori, "Municipal Elections in Occupied Judea and Samaria," *Israel Law Review*, Vol. 9, 1974, p. 97, and his *The Legislation in the Area of Judea and Samaria* (Jerusalem, 1975; Hebrew).

⁵¹The total membership of the UN on November 10, 1975, was 142 states so the resolution was adopted by slightly over 50 per cent of all members. General Assembly procedure today affords no protection to a minority, and this often makes it not worth while for states to vote with the nays, however much they may disapprove of a proposal.

For a remarkable account of this incident and in its broader context, see Daniel P. Moynihan, "Abiotrophy in Turtle Bay," *Harvard International Law Journal*, Vol. 17, 1976, p. 465; also Sidney Liskofsky, "UN Resolution on Zionism," *AMERICAN JEWISH YEAR BOOK*, Vol. 77 (1977), pp. 97-126.

discrimination (the "isms") were dropped, except that to *apartheid*, which had already been adopted. The compromise was accepted by a vote of 82 to 12, with 10 abstentions. Israel was among the States voting "nay," since it thought antisemitism should be specifically mentioned in the Convention. It further considered the Soviet proposal to include a specific reference to Zionism "an affront to Israel and to the Jewish people everywhere"⁵² In the form adopted, the Convention was finally opened for signature on March 7, 1966.⁵³

In 1973 the General Assembly adopted a resolution on the policies of *apartheid* of the government of South Africa, which spoke of collusion between Portuguese colonialism, South African racism, zionism (lower case z) and Israeli imperialism, and condemned the "unholy alliance" between them (Resolution 3151 G [XXVIII], December 14, 1973). At the World Conference of the International Women's Year held in Mexico City from June 19 to July 2, 1975 (AJYB, 1977 [Vol. 77], pp. 115-18), the Declaration of Mexico on the Equality of Women and their Contribution to Development and Peace, 1975, contained several derogatory references to zionism, always lower case z, for the elimination of which it called.

However, it does seem that the sponsors of these statements soon came to realize that they had gone too far, and that for them to perpetuate the equation Zionism equals racism and is a form of racial discrimination would be self-defeating. In many parts of the world, Resolution 3379 was met with unconcealed disapproval and even hostility, from which indeed the president of the General Assembly (Gaston Thorn of Luxembourg)⁵⁴ did not shrink. It was widely felt that to continue along those lines could even lead to the disintegration of the UN—a result which very few governments, however critical of the UN, desire. Consequently, during 1976 more circumspect formulations were found, and these can only achieve that curious equation—if at all—through a devious process of interpretation, which

⁵²The USSR made no attempt to justify its proposal on the record. For a full account see N. Lerner, *The U.N. Convention on the Elimination of All Forms of Racial Discrimination: A Commentary* (Leyden, 1970), pp. 78 ff.

⁵³Israel signed the Convention, but has not yet ratified it. Egypt, Iraq, Kuwait, Libya, Syria, and the United Arab Emirates made statements to the effect that their participation in this Convention shall not amount to recognition of Israel, nor establish any treaty relations with Israel. Despite this and Israel's failure so far to ratify the Convention, various Arab governments have instigated the Committee on the Elimination of Racial Discrimination, the machinery set up by the Convention for its implementation by the parties, to find fault with Israel and to condemn it, even unheard—abusive procedures which the General Assembly has seen fit to encourage in its Resolution 3266 (XXIX), December 10, 1974, on that Committee's report. The preamble to the Charter speaks of establishing conditions under which "justice and respect for the obligations arising from treaties . . . can be maintained;" but this is one more Charter provision consigned to oblivion.

⁵⁴Press release GA/5383, November 11, 1975.

many countries are not disposed to make and which at best is not self-evident. But it is not to be inferred from this retreat that important Arab elements have dropped the equation from their diplomatic arsenal.

Reaction to Resolution 3379 in the Jewish world, as in liberal circles everywhere, has been severe. In Israel, for example, the Knesset devoted its November 11 session to a protest, in which the irony of the General Assembly's action on the anniversary of the *Kristallnacht* (AJYB, 1939–1940 [Vol. 41] p. 40) was not lost.⁵⁵ The *Jerusalem Post* (November 11) summed up feeling in a lead article entitled, “UN Debauch,” which said in part: “It is this very extremism which makes the Assembly actions pointless, except perhaps as signal posts in the demise of the UN as a meaningful world organization.”

From Resolution 181 (II) of November 29, 1947, to Resolution 3379—*me-igara rama le-bhera 'amiqta* as the Talmud says—⁵⁶ that is the measure of the downfall of the UN in the eyes of Israel and of many others, Jews and non-Jews, wherever they feel free and able to express themselves.

Promotion of Human Rights

The United Nations, as stated, had its origin in the great anti-Hitler coalition of World War II, from which, indeed, it received its evocative name.⁵⁷ The Charter, both in its language and philosophical motivation, mirrors the distresses and the yearnings of those by now distant days. Considering the exploitation of antisemitism by the Nazis in their conquest of Europe, it is not surprising that Israel together with the responsible Jewish nongovernmental organizations have, from time to time, tried to use the appropriate organs of the UN as instrumentalities to ward off dangerous manifestations of antisemitism in the postwar world.

A major effort in this direction was made after a rash of swastika-daubing and other displays of antisemitism in the late 1950s. On January 11, 1960, Israel sent to the Sub-Commission on Prevention of Discrimination and Protection of Minorities (of the Commission on Human Rights) a communication stating that the people of Israel were shocked and disturbed by the recent outbreaks of hatred and anti-Jewish sentiment in Germany and other

⁵⁵*Divrei haKnesset*, Vol. 75, p. 313.

⁵⁶Tractate Hagiga 5b: “From a roof so high to a pit so deep,” a popular Jewish euphemism for “downfall.”

⁵⁷It was first given to the wartime coalition by the Treaty of Washington of January 1, 1942 (embodying the Atlantic Charter), and is said to have been inspired by a passage in Byron's *Childe Harold's Pilgrimage*; see J. Lash, *Roosevelt and Churchill 1939–1941* (New York, 1976), p. 18.

countries. The note continued (in a powerful demonstration of the implication of the Jewishness of Israel):

The Government and people of Israel are sensitive and alert to everything liable to cause injury to our brethren wherever they may be. The Government of Israel is confident that the authorities of countries in which these outbreaks have occurred will take vigorous measures to eradicate them lest they result in disaster for entire peoples and for mankind as a whole (E/CN.4/Sub. 2/202).

After discussion in the Sub-Commission and the Commission on Human Rights,⁵⁸ as well as in the Economic and Social Council, the matter came before the General Assembly, which adopted a watered-down resolution condemning manifestations of racial and national hatred, in which specific mention of antisemitism was dropped (Resolution 1510 [XV], December 12, 1960). Discussions continued, however, and in 1962 the General Assembly adopted stronger resolutions on the subject, and moved to prepare international conventions and declarations on the elimination of all forms of racial discrimination and religious intolerance (Resolutions 1779 [XVII], 1780 [XVII], and 1781 [XVII], December 7, 1962). (It was indeed in that context that the direct formal Soviet attack on Zionism, mentioned above, was launched, then doubtless as much a foil to charges of Soviet antisemitism as a sop to Arab sentiment.)

In practical terms, these discussions were useful in that they led the authorities in many countries to take measures against a recrudescence of antisemitism.⁵⁹ Similarly, it may be said that specific references, in the Sub-Commission and the Commission on Human Rights, in 1965 and again in 1968, to known antisemitic propaganda in parts of the Soviet Union led to some alleviation and even the withdrawal of particularly offensive publications.⁶⁰

Nevertheless, the record of the UN in human rights matters concerning the Jews is not an encouraging one. Israel has twice been a member of the Commission on Human Rights, from 1957 to 1959 and from 1965 to 1970.

⁵⁸*Report of the Twelfth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights*, E/CN.4/800, February 8, 1960, p. 58; Commission on Human Rights, *Report of the Sixteenth Session*, E/3335, June 1960, p. 21.

⁵⁹Cf. Hernán Santa Cruz, Special Rapporteur, *Racial Discrimination* (E/CN.4/Sub.2/307/Rev.1), paras. 948-1076 and 1127-1138, on "The Danger of the Revival of Nazism and Racial Intolerance" (New York, 1971). See also the curiously named Chapter XII on "Questions Originating in Events which Culminated in the Second World War," in *United Nations Action in the Field of Human Rights* (ST/HR/2, New York, 1974, p. 120). These official accounts are, of course, not disinterested, and it should be noted that neither the government of Israel nor the Jewish nongovernmental organizations in consultative status with the Economic and Social Council are listed as offering much cooperation to the special rapporteur on racial discrimination.

⁶⁰Cf. Ronald I. Rubin, "The Soviet Jewish Problem at the United Nations," *AMERICAN JEWISH YEAR BOOK*, Vol. 71, 1970, p. 141.

The second period coincided with the radical change in the very texture of the UN, as a direct result of the decolonization process, and its exploitation by the Arabs as a forum for anti-Israel activities. One of the consequences has been that excessive obsession with local and regional problems like *apartheid*, grave though they are and fully warranting maximum international action for their eradication, has in effect distorted the very conception of the promotion and encouragement of human rights everywhere, which is the keystone of this aspect of the Charter. To this must be added the intensive Arab efforts, since 1968, in the organs dealing with human rights no less than elsewhere, to create a general association of ideas between Israel and *apartheid* and racial discrimination, however impalpable the association may be, as part of the broader political operation of winning over African support for the Arab thesis and the isolation of Israel in the UN. It may be recalled here that it was to a very great extent on Jewish insistence, above all through the American Jewish Committee, that the US delegation at San Francisco in 1945 agreed to the introduction of the promotion and encouragement of human rights references into the relevant provisions of the Charter.⁶¹

This deformation is indeed well illustrated by the General Assembly's speedy completion of work on the International Convention on the Elimination of All Forms of Racial Discrimination (1966), compared with its slow progress on the instruments for the eradication of all forms of religious intolerance.⁶² Furthermore, Israel has never been able to secure a full airing of the problems of oppressed Jewish minorities, in the Soviet Union or in countries like Syria or Iraq, and even less adequate UN action on their behalf, in any way comparable to what different UN organs, particularly the General Assembly and the Commission on Human Rights, are doing in relation to Arabs under Israel control. The political composition of the relevant organs of the United Nations precludes all possibility of adding appropriate items to the agenda.

UN and Terrorism

It is in line with the foregoing that the unsatisfactory actions of the UN on terrorism are seen. The issue of aircraft hijacking—grave the world over,

⁶¹Naomi W. Cohen, *Not Free to Desist: The American Jewish Committee 1906–1966* (Philadelphia, 1973), p. 270; A. Leon Kubowitzki, *Unity in Dispersion: A History of the World Jewish Congress* (New York, 1948), p. 314. See also *The Jewish Position at the United Nations Conference . . .*, *op. cit.*

⁶²See Moses Moskowitz, *International Concern With Human Rights* (Dobbs Ferry and Leyden, 1974), *passim*, especially p. 67: "United Nations preoccupation with *apartheid* has been exploited as a convenient ploy and as an excuse for forsaking themes of human rights of a more universal character. It has served to mask political opportunism of every kind and as an occasion for staging extravagant propaganda exercises."

but particularly spectacular and politically motivated when involving Israel aircraft or flights to or from Israel—has led to carefully balanced resolutions in the General Assembly and the Security Council.⁶³ These stand in sharp contrast to the repetitive and shrill condemnations on the two occasions, both in 1973, when Israel's conduct toward enemy aircraft was found not to measure up to what the UN required of Israel: the unfortunate, and obviously unintentional, shooting down of a Libyan airliner which, through faulty navigation and direction from the Cairo air-control authorities, strayed over the military lines in Sinai,⁶⁴ and the temporary detention of a Lebanese airliner believed to be transporting dangerous terrorists. It was only with difficulty that a Security Council condemnation of Israel for the Entebbe rescue (see article on Israel in this volume) was averted in 1976.

After the murder of Israeli athletes by Palestine terrorists at the Munich Olympic Games in 1972, Secretary-General Waldheim, moved to take personal action, tried to place on the agenda of the General Assembly an innocuously worded item: "Measures to prevent terrorism and other forms of violence which endanger or take innocent human lives or jeopardize fundamental freedoms." It was reworded in General Committee (the Steering Committee of the General Assembly, which recommends on the agenda of each session) in a tendentious way and distorted beyond all recognition, as follows:

Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes.

This led to one of the bitterest debates the normally serene Legal Committee of the General Assembly ever experienced, and to the establishment of 35-member *Ad Hoc* Committee on International Terrorism, from which Israel was excluded (Resolution 3034 [XXVII], December 18, 1972). The report submitted by the Committee in September, 1973 (A/9028) is one of the most depressing documents to have emerged from the United Nations. For several years, amid protests by the Israel delegation and one or two others, further discussion on this item has been "deferred." It was, however,

⁶³General Assembly Resolutions 2551 (XXIV), December 12, 1969; 2654 (XXV), November 25, 1970; Security Council Resolution 286 (1970), September 9, 1970. Pressure was brought to bear on the Israel delegation not to participate in any of these debates, on the ground that for Israel to speak would damage all prospects of having even a "mild" resolution.

⁶⁴See report of the investigation of the International Civil Aviation Organization, ICAO document C-WP/5764, May 7, 1973.

revived in 1976 on Arab initiative, and the *Ad Hoc* Committee was given some new instructions, though to what end is not clear (Resolution 31/102, December 15, 1976).

This has virtually become a consistent pattern in the General Assembly. In 1973, after murderous assaults on Israeli and other diplomats (including American, in Khartoum), a draft convention was examined, designed to strengthen international cooperation for the protection of diplomats and the prosecution and punishment of the perpetrators of such crimes. In the process, a politically "neutral" instrument was badly mauled and its efficacy gravely impaired, for the final text excluded from its scope persons who perpetrated such acts in the struggle against colonialism, foreign occupation, racial discrimination, and *apartheid* (Resolution 3166 (XXVIII), December 14, 1973).

Something similar is happening to a proposal by the Federal Republic of Germany (after several incidents, including that at Entebbe, June 1976) for an international convention against taking hostages. Some Arab spokesmen did their best to wreck the proposal. They did not succeed during the preliminary, largely procedural, deliberations at the 1976 General Assembly, which, however ended in a compromise that will enable them to resume those efforts in later deliberations (Resolution 31/103, December 15, 1976).

A fuller discussion of the disappointments with the way the UN has developed since 1945 its methods of dealing with human-rights matters, and especially their Jewish aspects, is beyond the scope of this article. Yet it is here, as much as in the purely political facets, that the discerning observer can discover that heterogeneity of aims—to borrow the language of sociologists—by which institutions set up for the achievement of definite purposes grow to fulfill tasks not wholly identical with those which were in the minds of their authors at the time of their creation.⁶⁵ In any evaluation of the changes in Israel's national attitude towards the UN since 1945, this less spectacular and infrequently articulated aspect, but nonetheless one deeply felt especially in intellectual circles, cannot be disregarded.

⁶⁵Sir Hersch Lauterpacht, *The Development of International Law by the International Court* (London, 1958), p. 5. In 1942 Lauterpacht had been commissioned by the American Jewish Committee to prepare a study on human rights (*An International Bill of the Rights of Man* [New York, 1945]; revised edition: *International Law and Human Rights* [London, 1950]). Written with prophetic fervor, the study had, at the time, great influence on Jewish and liberal thinking, and on action for the promotion of human rights, especially in the formative period of the United Nations.

AFTERWORD

Some Figures

Before attempting to formulate some conclusions which are suggested by this account of Israel's experience in the UN, a few statistics should be noted. From its initiation in January 1946 until the end of December 1975, the Security Council held a total of 1,869 formal meetings, of which 420, or 22.5 per cent, were devoted in whole or in part to some aspect of the Israel-Arab dispute. During that period, it adopted 384 formal resolutions, of which 81, or 21 per cent, concerned that question. Of all these, 204 meetings, and the adoption of 45 resolutions (or over 55.5 per cent), occurred since the six-day war in June 1967. In the 1946-1975 period, too, the General Assembly held 30 regular sessions, five emergency special sessions (two devoted exclusively to the Israel-Arab question in November 1956 and June-September 1967), and seven special sessions (two, in 1947 and 1948, devoted exclusively to that question), with 2,444 plenary meetings. Of the last, 243, or 10 per cent, were devoted, in whole or in part, to some aspect of the question. It adopted a total of 3,541 formal resolutions, of which 106 (3 per cent) were substantive resolutions on the dispute, with 40 (38 per cent) of them adopted since the six-day war.

The 31st session of the General Assembly (1976) adopted 208 formal resolutions. Of these, eight (one of these in five separate parts and another in four), directly related to the Middle East (one concerning the establishment in the Middle East of a nuclear-free zone); two (one in four parts) on administrative and budgetary matters concerning UN activities in the Middle East, and three others (one in two parts), mentioned Israel by name in a derogatory sense. As mentioned, they contained in all no less than 14 condemnations of Israel.

These figures illustrate the high degree of preoccupation with the situation in the Middle East shown by the two major political organs of the UN. They also vividly demonstrate the strain which is imposed on the diplomatic services of the countries concerned. Indeed, it would be safe to say that the primary task of the Israel foreign service is to explain Israel's position in the debates in United Nations organs (including the specialized agencies) and to urge other countries to support it, or at all events to adopt a balanced stand and not give blind support to Arab propositions. This is diplomatic trench warfare, one of tremendous efforts producing minuscule results. In this diplomatic slogging match, the general public is an intent spectator. Coverage of UN happenings in all Israeli media is extensive, and in-depth reporting a regular feature. Despite the inherent intricacy and subjective

complexity of the matter, the Israel public is relatively well informed on what happens in the UN.

As the figures show, there has occurred a marked intensification of this diplomatic struggle since the six-day war, which in fact has been even more marked since the Yom Kippur war. There is little doubt that the Arabs have made the UN a major forum, if not the major forum, for the public-relations aspect of their diplomatic campaigns against Israel. In this, they have been greatly assisted by the profound changes in the composition of the UN as a whole, and in its working methods and conceptions, which bear little resemblance to the conduct of multilateral diplomacy in the first two decades of UN existence.

Nature of Israel-Arab Dispute

Despite the increasing intensity of the UN's concentration on the affairs of the Middle East, it has never shown itself to be efficient diplomatic machinery for resolving the conflict. If anything, the opposite is the case; the regularity of the annual sessions of the General Assembly places quite unjustified strain on the diplomatic machinery at large. The nine-month interval between the end of one session and the opening of the next, together with the apparently obligatory annual reports leading to annual debates, are incompatible with the requirements of successful diplomacy. While it can be accepted that the inherent weaknesses, structural and procedural, that have developed within the different UN organs over the three decades of their existence are a major factor in this situation, it is believed that there are other explanations for this phenomenon.

These, it is suggested, can be found by a closer examination of the real characteristics, of the physiognomy, of the Israel-Arab dispute. This is a matter which affects every issue that has come before the different organs of the UN (and of the specialized agencies), but to which they have not been sufficiently responsive or shown adequate sensitivity.

The dispute bears little resemblance to the traditional international disputes, in dealing with which diplomacy, both bilateral and multilateral, is most at ease. These are, above all, disputes in which the two parties are laying claim to the same object, for instance territory. Nor does the situation in the Middle East concern a dispute over the practical consequences to be drawn from the correct interpretation of controlling texts (although that element is frequently brought into the picture, not in the sense that an acceptable or authoritative interpretation will lead to the settlement of the dispute, but solely to score some meaningless propaganda points for a new and advantageous public relations scenario). Those kinds of dispute are symmetrical; they exist between two parties that are formally and nominally on a footing of equality, each possessing comparable attributes of indepen-

dent states, and neither denying the legitimacy of the other. The situation in the Middle East is not a dispute over, or related to, the process of decolonization (although this element, too, is frequently brought into it, essentially for emotional and propagandistic reasons).

No. The main feature of the Israel-Arab dispute is that on the one hand, the Israeli and Jewish societies and political thinking have no difficulty in recognizing the legitimacy of the existence and the right to existence of the Arab peoples in their own political organization with its own territorial basis. The Jewish aspiration is to reach a relationship of peace with agreed and secure boundaries, fixing once and for all where the Jewish territorial sovereignty begins and the Arab territorial sovereignty ends. On the other hand, there exists today no known Arab government, and virtually no known Arab political or social organism or grouping, least of all among the Palestinians, that is prepared to acknowledge the Jewish people's right to self-determination and to come to terms with the existence of Israel as the legitimate expression of that self-determination, or with Zionism as the Jewish national liberation movement.⁶⁶

True, some Arab governments, especially those of the neighboring confrontation states, accept in a pragmatic way that there is an Israel with which they must have limited contacts, and there is very restricted discussion of such matters by Arab publicists (but, again, not including Palestinians). This, however, does not imply acceptance of the legitimacy of Israel; even less does it convey any implication whatsoever for the rest of the Arab world. This was well brought out in 1967 by the reluctance of the distant Arab states to agree to the Security Council's cease-fire, despite their active, and not always symbolic, participation in the six-day war (S/7985, S/8279, June 15 and November 30, 1967). Acceptance, marking only the impossibility of avoiding some contacts with Israel, is kept as short-reined and as conceptually restricted as possible.

Thus, there is as yet for them no question of establishing formal boundaries distinguishing the territorial basis of Arab sovereignty from the territorial basis of Jewish sovereignty in Israel. The armistice demarcation lines of 1949 are for them nothing more than provisional lines dictated exclusively by military considerations existing at the time; and the lines of ceasefire and separation of forces are no different. There is as yet no visible

⁶⁶For example, I have several times asked personal friends in the United States who have close contacts with Arab intellectual circles whether they have encountered in those circles any genuine attempt to grapple with the problems of Israel and the Jews, in any way comparable to the kind of grappling with Arab problems one finds in various Jewish intellectual circles. The answer has always been a firm "no." This view is not changed by the fact that some unofficial contacts are being maintained (January-February 1977) between some Israelis and presumed representatives of PLO.

political assurance that the Arab world in general, and the confrontation states in particular, are prepared to accept any of those lines as the point of departure for relations of political normalcy with Israel; while for Israel the armistice lines are today unacceptable because of the bitter experiences throughout the armistice period. In brief, the main feature of the Israel-Arab dispute is its lack of symmetry, its asynallagmatic character. This is a new experience for international diplomacy.

Arabs Under Israel's Jurisdiction

In this situation, the Arabs under Israel's jurisdiction and control are in an anomalous and exposed position, reflected in a certain ambiguity in Israel attitudes toward them. This, in turn, offers convenient excuses for hostile foreign elements to develop further their criticisms of Israel, not with the objective of effectuating changes in Israel's policy, but rather of accumulating additional condemnations of Israel on the international scoreboard. With appropriate variations, this is as true of the Arab populations of Judea and Samaria and the Gaza Strip as of the Arab citizens of Israel. The latter might be called a "frontier society" or a "frontier minority." It lives athwart, or on, the *de facto* existing dividing line between the Jewish sovereignty in Israel and the areas of Arab sovereignty. Since the establishment of Israel, that dividing line has never been an abstract line on a map, such as the 49th parallel; it is a military front, across which prevail relations of hostility, and at times actual warfare of great severity and violence.

Here, certain factors based on Jewish minority experience have come to operate. The traditional patterns of Arab social and religious organization have been left undisturbed. Arabic is recognized as an official language. The full protection of the law is extended to Arab Holy Places and institutions, and Friday or Sunday, as appropriate, as well as other official religious holidays and rites (including the pilgrimage to Mecca),⁶⁷ are protected. No attempt has ever been made to disturb the reception of Arab radio and television broadcasts. The "open bridges" policy has led to permanent contacts with Jordan, both official and unofficial, and it is hoped that the "good fence" with Lebanon will have similar results. More important is the kind of psychological framework that has come into existence. There is tacit acceptance of the fact that there are practical limits to the degree of loyalty towards Israel as a Jewish state that can, in all fairness and equity, be expected from Israel's Arab citizens, and that one must tolerate some degree of dual loyalty on their part, so long as it is not inimical to national security

⁶⁷The Arab states do not permit the pilgrimage of Israeli Moslems to Mecca.

or treasonable. This is all the more true of the Arab populations of Judea and Samaria and the Gaza Strip.

In that sense, the Arab communities to a large extent constitute a privileged minority, existing with an enormous hinterland of over 100 million Arabs and vast territorial sovereignties stretching from the Atlantic to the Indian Oceans. In that huge Arab world, all the non-Arab peoples are a small segment. Included in the non-Arab peoples are, of course, the Jews, in Israel and elsewhere, and many others, very few of whom are willing to accept the totalitarian Arab political and cultural domination.

There is a widespread assumption that racial, linguistic, and religious majorities (to repeat the language of the 1919 instruments), especially when they have political power, are necessarily vicious and oppressive by nature, and that minorities are necessarily virtuous. This is a superficial and fallacious attitude, which can find no support in the history of the minorities in Europe or elsewhere in the world. The more palpable position is that the relations between a majority and a minority will vary according to time and to place.

It follows that the Arab minority and the Arabs of the territories possess a number of special common characteristics differentiating them sharply from minorities in other countries and other groups "under alien domination" (to take a common UN formula), such as the Negro community in the United States, or the victims of *apartheid* in South Africa. Perhaps the closest historical parallel in modern times can be drawn with the German minorities in Central and Eastern Europe between the two World Wars. There, too, one found a number of strategically placed "frontier minorities," a projection, so to speak, of powerfully concentrated national groupings. The experience with those minorities—especially the so-called *Auslandsdeutsche*—showed their military and political exploitation by an unscrupulous and skillful government across the frontier; for they were one of the principal instruments used by the Nazis to bring about the breakup and dismantling of two states they particularly hated, and whose legitimacy they denied—Poland and Czechoslovakia.

It is in this respect that the United Nations has not been helpful. In general, the accumulation of Arab-inspired resolutions, whether relating to the political situation (including those purporting to grant international status to PLO) or to specific issues, tends to preserve, and even to accentuate, the asymmetrical character of the dispute. At the same time, the specific resolutions dealing with Arab populations have the effect of blurring the specificity of those populations in the asymmetrical dispute, and of giving unbridled encouragement to tendencies to demand for them ever more privileges without requiring of them any obligations. The General Assembly's handling of the refugee problem throughout has had the effect of

perpetuating, not of assuaging, tensions produced by the difficult surgical operation which the UN encouraged in 1947. Even before 1967 Israel had formed the impression that the perpetuation of the Arab refugee problem, regardless of the human misery to which its victims are condemned, is an essential element in the broader Arab policy of refusing to accept the legitimacy of the Jewishness of Israel; and it has seen the General Assembly (and UNRWA) as giving direct political and material succor to that policy. That, for Israel, is one of the implications of the continuation of General Assembly jurisprudence on the refugee problem, based as it is on the repetition *ad nauseam* of paragraph 11 of the 1948 resolution of the General Assembly.

On these matters, the Security Council has hitherto been able to maintain a more balanced position. But the continuous formulation by the General Assembly of policies contradicting those of the Security Council is undermining what little authority is left to the Council.

The Jewish Sovereignty

A further explanation for the failure of the UN to exert beneficial influence on the evolution of events in the Middle East may be found in the UN's appreciation of developments within the Jewish world. One consequence of the establishment and consolidation of Israel is that, in UN perception, the Jews there are no longer a minority. In terms of political thought, the 1947 plan of partition with economic union was based on the postulate that it was just and desirable that the Jews should not be forced into minority status in Palestine, and that they be given the opportunity to exercise Jewish sovereignty as an instrument for solving Jewish problems (which included then the question of Jewish immigration). This conception is now being transferred by the UN to the Palestinians, but with the significant difference that it does not require acceptance by the Palestinians of the idea of a Jewish majority anywhere.

In its turn, the contact of this Jewish sovereignty with the harsh realities of international politics and responsibilities has had a sobering effect on the idealistic approach to the very concept of international organization which was current in many Jewish circles during the middle 1940s and to which Ben-Gurion gave such eloquent expression as late as 1954. We may quote Ben-Gurion in 1972 as witness to that change in evaluation: "The United Nations Charter is a wonderful document, stressing fraternity and peace. So far, however, it has remained little more than a scrap of paper."⁶⁸

We are thus brought back to the heterogeneity of aims. What is clear today,

⁶⁸Ben-Gurion, *Israel, A Personal History*, *op. cit.*, p. 2. Yet on p. 4 he wrote that we should not deny completely the organization's role in strengthening world peace.

with the advantage of hindsight, is the unpredictability of the evolution of the UN. Nothing about it can be taken for granted. By its presence, and by its activities, it creates political facts which contemporary diplomacy must take into account. That diplomacy must also take into account, and evaluate correctly, what President Gerald R. Ford has pointedly called the "tyranny of the majority."⁶⁹ The UN is passing through a phase in which, for many reasons (not all of them connected with the Middle East situation; indeed most of them are not) a powerful coalition of Arab, Communist, and Third World states has created a statistical majority, which the rest of the world is virtually powerless to arrest, save in the relatively rare cases requiring the active support of the major industrialized states. In that situation, doubtless a transient one, Israel is easy prey to an illogical concatenation of hostile forces able, largely for opportunist reasons, to impose their will on the General Assembly (less on the Security Council, which is not as much swayed by emotional currents). It is as though the outrages formerly perpetrated on the individual Jew as the scapegoat for society's ills have now been turned on the international personification of the Jewish collectivity—Israel.

Why Remain in UN?

In factors such as these lies the explanation for the widely held view that in present circumstances the UN as a whole, and its major organs (including the Secretary-General), can perform no useful role in helping Israel reach a viable normalcy with the Arab world; that, indeed, if it continues along the lines of the last few years, renouncing all initial disposition to seek out reasonable compromises, it will become an active factor in the generation and perpetuation of hostility and warfare in the area. In 1958 a distinguished Israeli observer of the United Nations wrote:

Neither in letter, nor in spirit, nor in substance is the United Nations what it was supposed to become at the San Francisco Conference. It is different from what it was intended to be. What happened is the adjustment of a man-made organization, based largely on the experience of the League of Nations, to the realities of life; the pressure of the new (and old) States to join the organization, the opportunities offered by the Organization for the promotion of national aims, the hopelessness of the procedures of enforcement, the lack of respect for law in a dynamic age, the overriding of legal texts by agreement of the majority, or the quasi-totality, of membership. The general conclusion that the organization today is different from its original design is no *jugement de valeur*. And still, the United Nations is neither a myth nor a utopia, but a political tool. As for the future, the Organization will be what its members want it to be. Its real capital

⁶⁹Address to the September 18, 1974, plenary meeting of the General Assembly, *Department of State Bulletin*, Vol. 71, 1974, pp. 465, 466.

is not in New York but in the capitals of the world. It is there that the fate of the United Nations is being decided day by day. In the meantime States continue to rely on such old-fashioned, but apparently eternal devices, as a rational foreign policy, a strong army, and the formerly notorious "system of alliances."⁷⁰

These words, applicable equally to the greatest as to the smallest of the members of the United Nations, appropriate for Israel as much as for any other country, lose none of their potency with the passage of time. They also give the answer to the hitherto unasked question of why Israel continues to tolerate the outrages vented upon it in the UN: because the United Nations is a political tool, and as such is to be used, and evaluated.

⁷⁰Jacob Robinson, "Metamorphosis of the United Nations", *Academy of International Law, Recueil des Cours*, Vol. 94, 1958-II, 493 at p. 582.