

## THE LAW OF WAR IN THE ARAB-ISRAELI CONFLICT: ON WATER AND ON LAND

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In the light of history, the conflict between Israel and the Arab States—now seen as a series of outbreaks of violence—will be viewed as one protracted war beginning with the termination of the mandate for Palestine in 1948. The duration of the violence may be such that the war will, like the Hundred Years War or the Thirty Years War, come to be identified by its duration.

The twenty-three years of the war have been rich in episodes and in drama. The conduct of the war in both its land and maritime dimensions has given rise to a correspondingly wide range of legal questions turning on the *ius in bello*. One might have expected that in a war fought by legally sophisticated states in full view of the international community and with ample discussion in the United Nations, international law would have played an important part in the restoration and maintenance of order. International law has bulked large, but disagreement about its application has not given it the stabilizing influence that might justifiably have been expected of it.

The grim fact is that narrow legal questions, such as the applicability of the Geneva Civilians Convention of 1949 in the areas occupied by Israel or the right of ships carrying goods of Israeli origin to pass through the Suez Canal, have not been approached on a narrow and technical basis. Instead, their resolution has turned on political determinations or mixed legal and political considerations. As I will have occasion to show, there is actually a hierarchy of questions, so ordered that what may lawfully be done in a particular instance depends on the answer to yet more general questions. And those general questions will be answered in one way or the other according to the view taken of the ultimate political question of the very existence of Israel itself.

Let me be more specific about this hierarchy of questions: In the case of the two major international waterways controlled at one time by the United Arab Republic—the Suez Canal and the Straits of Tiran—questions have arisen about the right of Israeli-flag vessels and neutral ships carrying goods to or from Israel to pass through the waterways. The United Arab Republic naturally attempted to take advantage of its strategic position athwart these waterways to interdict the passage of ships and cargoes that might aid its enemies. Neither the customary law or the treaty law on passage through these waterways is free of ambiguity and doubt. However, the central problem at a number of junctures has been whether the United Arab Republic is entitled to exercise what are essentially belligerent rights when conditions of peace had been or should have been established. Was there any con-

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tinuing need to exercise rights of visit and search and to seize vessels and cargoes? Now that the Sharm el Sheikh area is controlled by Israel and the Suez Canal is blocked, these problems may seem to be of only historical interest. But with the reopening of the Canal and a shift of fortunes in the control of the Gulf of Aqaba, these issues could become live ones again. And consideration will certainly have to be given to them in any peace settlement that is worked out.

In the Six-Day War of 1967, Israel occupied large areas that had formerly been under the control of Arab States. It has refused, however, to acknowledge that it is under a legal duty to administer all of these areas in conformity with the rules laid down in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War.<sup>1</sup> The legal case of Israel has been that much of these areas was never lawfully under the sovereignty of the Arab States that claimed them. Therefore there is no belligerent occupation of enemy territory, and the law of belligerent occupation and the Geneva Civilian Convention are not for application.

Legal issues such as these might seem on superficial examination to be ones that could fairly readily be resolved by resort to familiar legal techniques of amassing and analyzing the evidence of the law, interpretation of the treaties and so forth. But these are not narrow and technical questions. As has been seen, they can be answered only on the basis of answers to other questions with a higher political content. If there is no longer a state of war—or if there never was one—between Israel and the Arab States, there is no longer any basis for Egyptian interdiction of the passage of ships and cargoes through the waterways it controlled. The legality or illegality of Israel's administration of the occupied areas depends on where sovereignty over those areas lawfully rests. And one must also ask whether there has been only one prolonged conflict or, on the other hand, a series of conflicts such that each new outbreak of violence must be seen as a new act of aggression to be met by a new exercise of the right of self-defense. In the latter events, each new resort to force must be measured against the standards of article 2, paragraph 4, and article 51 of the United Nations Charter, prohibiting the use of force except in self-defense. Israel and the Arab States have quite different perspectives on the situation. Questions of this order turn out to be mixed legal and political ones. They cannot, however, be answered satisfactorily, under the present state of the law, without resolution of the fundamental issue that has been the cause of twenty-three years of intermittent fighting. That issue is the right of Israel to exist, to be recognized, and to be secure. And that ultimate issue is a political one.

It is to the interest of Israel to consolidate its position as the State that has, in the perspective of today, prevailed in the war. For this reason it demands recognition of its existence by the Arab States, direct negotiations with those States to symbolize that recognition, and proper measures for its security. Over the course of the years, this has been a recurrent theme—that the war is over, that peace has been reestablished, and that peaceful

<sup>1</sup> Dated at Geneva, Aug. 12, 1949, 6 U.S.T. 3516, T.I.A.S. No. 3365.



relations must be carried on. So long as Israel is looked upon as an inter-loper, an expansionist, and an aggressor, the Arab States desire to carry on the conflict. In their view, Israel must not be allowed to retire from the field of battle in secure possession of the spoils of 1967. Either a peace settlement or force must deprive Israel of what it has gained.<sup>2</sup> The existence, dimensions, and security of the State of Israel are at stake. For that reason, Israel talks of peace, while the Arab States contemplate war. To leave the dimensions of Israel as they are now would be to the advantage of Israel. To change them, if necessary by force, would serve the interests of the Arab States.

And so the hierarchy may be observed: At the bottom, rules of international law to be applied to specific ships, specific people, specific buildings; in the intermediate rank, mixed legal and political questions about the recognition of the State of Israel, the extent of its territory, and the existence of war; and at the apex, like the *grund-norm* of Kelsen's system, the question of the existence and preservation of Israel. Thus the answers to the majority of narrow legal questions have depended on the position taken on the paramount political question.

With this mode of analysis in mind, let us now turn to the question of passage through international waterways controlled by the United Arab Republic. When war broke out between Egypt and Israel in 1948, the Egyptian Government instituted inspection of ships passing through the Suez Canal and provided for the seizure of cargoes and ships in conformity with the normal law relating to prize and contraband in time of war. Egypt was not precluded from such action by the fact that it did not recognize the newly established State of Israel. So far as Israeli warships were concerned, it would have been foolhardy for any such ships to attempt passage through a narrow artificial waterway running through Egyptian territory. The waterway had been closed to enemy ships in previous conflicts, and the restrictions imposed by Egypt were in conformity with past practice, including that of Great Britain during the Second World War.

The Convention of Constantinople of 1888, which was and remains the basic instrument regulating international use of the Suez Canal, provided that the Canal is "to be free and open, in time of war as in time of peace, to every vessel of commerce or of war, without distinction of flag."<sup>3</sup> That this did not confer a right of passage on Egypt's enemies in time of war was made clear by article X of the Convention:

Likewise, the provisions of Articles IV [dealing with the passage of vessels of war of belligerents], V [dealing with the embarkation and disembarkation of troops in the Canal area], VII [prohibiting the stationing of vessels of war in the Canal], and VIII [charging the agents in Egypt of the signatory powers with supervision of the execution of the treaty] shall not stand in the way of any measures which His Majesty the Sultan and His Highness the Khedive in the name of His

<sup>2</sup> This political problem is central to the dispute over the correct interpretation of Security Council Resolution 242, Nov. 22, 1967, U.N. Doc. S/RES/242 (1967), calling for "Withdrawal of Israeli armed forces from territories occupied . . .".

<sup>3</sup> Art. 1, 15 Martens, N.R.G. 2d ser. 557 (1891).

To understand this argument, one is forced to go back to the Mandate over Palestine, concluded under the auspices of the League of Nations. The subject of where sovereignty over a mandated area lies used to be a favored subject of academic disputation—In the people of the area? The mandatory power? The League of Nations? The Principal Allied and Associated Powers? Sovereignty, the argument went, must lie somewhere; territory cannot be left in a vacuum.

When Great Britain terminated the Mandate over Palestine in 1948, hostilities broke out. In the course of these the Kingdom of Transjordan and Egypt sent troops into Palestine. In doing so, they were, according to the legal case made out for Israel, guilty of an act of aggression against the newly established State of Israel in violation of Article 2, paragraph 4, of the United Nations Charter. The Armistices that were concluded in 1949 continued similar provisions, of which the following is typical:

It is . . . recognized that no provision of this Agreement shall in any way prejudice the rights, claims and positions of either party hereto in the ultimate peaceful settlement of the Palestine question, the provisions of this Agreement being dictated exclusively by military, and not by political considerations.

According to this line of argument, the West Bank remained under belligerent occupation—belligerent occupation by the forces of the Arab States. It is by no means clear whether under the Charter, an aggressor can claim the rights of a belligerent occupant, but it is not necessary to decide that question.

If these premises are accepted, then Israel during the Six-Day War drove a belligerent occupant out of the Old City of Jerusalem and the West Bank. Its forces and administration filled a vacuum left by the expulsion of the belligerent occupant unlawfully present there. Israeli sovereignty, the argument continues, may lawfully be extended to these areas, since no state may lawfully oppose it. No state can show a better title, as Dr. Yehuda Blum puts it.<sup>33</sup> The logical consequence of this line of argument is that Israel is not legally obliged to comply with the Geneva Civilians Convention of 1949 and the Hague Regulations.

This view is not shared by the majority of the members of the United Nations. In response to complaints that Israel was changing the status of the Old City, the General Assembly adopted resolutions on July 4 and 14, 1967, calling upon Israel "to rescind all measures already taken and to desist forthwith from taking any action that would alter the status of Jerusalem."<sup>34</sup> That injunction indicates that the occupied portion of Jerusalem was not territory to which Israel has a better title than any other state.

The Israeli conduct particularly complained of, was the application of Israeli laws to the occupied areas and the expropriation of property.<sup>35</sup> As

<sup>33</sup> Blum, Y. Z., *The Missing Revisioner: Reflections on the Status of Judea and Samaria*, 3 Israel L. Rev. 279 (1968), at 294.

<sup>34</sup> Res. 2253 (ES-V), July 4, 1967, and Res. 2254 (ES-V), July 14, 1967, U.N. Gen. Ass. Off. Rec., 5th Emerg. Sp. Sess., Supp. No. 1, at 4 (A/6798) (1967).

<sup>35</sup> For a defense of the Israeli administration of occupied areas generally, see *Legislation and Administration of Justice in the Israel-Held Areas*, 8 International Problems 36 (1970).



early as 1968, the Security Council asserted that all legislative and administrative measures, including expropriation of land and properties, which tended to change the legal status of Jerusalem are invalid.<sup>36</sup> The same assertion was made more urgently in Security Council Resolution 267 of July 3, 1969.<sup>37</sup> There were complaints of the violation in particular of Articles 53 and 54 of the Geneva Civilians Convention, respectively forbidding the destruction of property and alteration of the status of public officials.

The burning of the Holy Al Aqsa Mosque on August 21, 1969 led to a resolution of the Security Council which for the first time expressly mentioned the Geneva Conventions, which Israel was called upon "scrupulously to observe."<sup>38</sup>

In justice to Israel, it must be observed that these resolutions of the Security Council and of the General Assembly were largely politically motivated. They do not necessarily constitute authentic interpretations of the proper scope of application of the Geneva Civilians Convention. But law and politics can never be separated, and what is decided in a political forum like the Security Council must inevitably have some effect on the law.

Enough has been said to show the nature of the fundamental difference between Israel and the Arab States about the law applicable to Israel's occupation forces and administration. It is unfortunate that Israel has not been persuaded to act on the basis of the situation *de facto* that existed in mid-1967—that is to say, the long occupation of the area by Jordan—and accordingly, to apply the law governing belligerent occupation. Perhaps the law should operate on the principle that territory in dispute should be regarded as protected by the law of belligerent occupation as against any state which displaces the authority of the state which is normally in control of the area or has been long in control of it. Alternatively, both parties might be held to an obligation to respect the laws in force within the disputed area.

Against this background of controversy about the applicability of the Geneva Civilians Convention of 1949, the precise measure of the obligations of Israel is not altogether clear. Although it is undisputed law that the annexation of enemy territory which is belligerently occupied is forbidden while the war is still in progress, Israel would maintain that the rule does not apply to the West Bank, which in its view of history constitutes *terra nullius*.<sup>39</sup> Israel has thus far avoided the overt annexation of territory, which could properly take place only at the time of a final peace settlement, but there has been a certain creeping annexation. This has been accomplished through extension of the law of Israel to the occupied areas, the transfer of population to the areas over which it exercises military control, and by integration of the economy of the occupied areas with that of Israel. Israeli destruction of

<sup>36</sup> Res. 252, May 21, 1968, U.N. Security Council Off. Rec. 23d year, Resolutions and Decisions 9 (S/INF/23/Rev. 1) (1970).

<sup>37</sup> U.N. Security Council Off. Rec. 24th year, Resolutions and Decisions 3 (S/INF/24/Rev. 1) (1970).

<sup>38</sup> Res. 271, Sep. 15, 1969, *id.* at 5.

<sup>39</sup> The principle was expressly recognized by the International Military Tribunal at Nuremberg. Nazi Conspiracy and Aggression; Opinion and Judgment 83 (1947).

buildings from which hostile activities have been carried on has been one of the more dramatic ways of asserting authority in the occupied areas.<sup>40</sup> It has been asserted that this conduct is in violation of Article 33 of the Civilian Convention, which forbids collective penalties and reprisals. The response of Israel has been that the destruction has not been accomplished by way of punishment but as a measure for the protection of its occupying forces and its nationals.

There can be no doubt about the applicability of the Geneva Prisoners of War Convention of 1949 to the continuing war between Israel and the Arab States. The record here is not a perfect one, although probably superior on the whole to the record of compliance with the Civilian Convention. There were charges, for example, that Egyptian soldiers whose positions had been overrun and who had been disarmed had simply been allowed to wander in the desert during and after the Six-Day War, until they were returned to the United Arab Republic through the assistance of the International Committee of the Red Cross.<sup>41</sup>

The guerrilla warfare that has been waged against the occupying forces of Israel has given rise to problems—not altogether novel—about the eligibility of captured persons for treatment as prisoners of war under the pertinent Geneva Convention. There is a question about whether guerrillas meet the qualifications of lawful combatants under Article 4 of the Prisoners of War Convention. Their status is also affected by whether they operate in Israeli territory or in occupied territory or whether they are based on Arab territory that is not occupied by Israel but enter Israeli-held territory on raids. If members of Al Fatah or the Popular Front for the Liberation of Palestine come from within Israeli territory and operate there, they are engaged in non-international armed conflict with Israel and are therefore covered only by Article 3 common to the four Geneva Conventions of 1949. This article provides minimum safeguards for persons involved in civil conflict but makes no reference to treatment of combatants as prisoners of war. If the attacks come from persons within the occupied areas, then the position of the combatants will turn on the political status of the territory, illustrating once more how the operation of legal rules may be dependent upon the political perspective taken on the status of territory. If the occupied areas are assumed to be Israeli territory, then those persons who attack the occupying forces are participants in a civil conflict and are protected only by Article 3. But if the territory is actually, for example, Jordanian, then they participate in an international conflict, and it is necessary to decide whether they qualify for treatment as prisoners of war under Article 4 of the Prisoners of War Convention. Irregulars must meet four requirements if they are to be held as prisoners of war: They must be "commanded by a person responsible for his subordinates," they must have "a fixed distinctive sign recognizable at a distance," they must carry arms "openly," and they must conduct "their operations in accordance with the laws and customs of war." While the first of these

<sup>40</sup> N.Y. Times, Nov. 6, 1969, p. 1, col. 2; The Economist, March 16, 1968, p. 26.

<sup>41</sup> International Committee of the Red Cross, Annual Report, 1967, at 7.



requirements can probably be satisfied by most "freedom fighters" or guerrillas, the others are incompatible with the policy of stealth and surprise which is essential to the successful conduct of irregular warfare. The General Assembly in its Resolution 2621 (XXV) called for treatment in conformity with the Geneva Prisoners of War Convention of 1949 of all "freedom fighters under detention."<sup>42</sup> Although the main thrust of the resolution was against colonialism, a sufficiently latitudinarian construction of "freedom fighter" would permit the inclusion of those who fight against foreign occupation. And that might sweep up members of Al Fatah or the Popular Front for the Liberation of Palestine.

The investigations that have been conducted by United Nations organs of the Israeli occupation have been strongly politically colored. They have been inspired by the Arab States and have received the support of developing countries. As early as 1968, the Security Council had asked that a humanitarian mission in the Middle East be conducted by the Secretary-General.<sup>43</sup> The Arab States allowed in the Special Representative of the Secretary-General, but he was refused entrance into "the Arab territories under military occupation by Israel."<sup>44</sup>

The General Assembly also established a special committee to "investigate Israeli practices affecting the human rights of the population of the occupied territories," made up of Ceylon, Somalia, and Yugoslavia—none of which was friendly to Israel or could even be regarded as neutral in its policy.<sup>45</sup> On the basis of the report submitted by this body, the General Assembly called on Israel to comply with the Geneva Conventions of 1949, the Universal Declaration of Human Rights, and various resolutions adopted earlier.<sup>46</sup> The Committee called for further investigations and for cooperation with the International Committee of the Red Cross. It proposed in particular a new form of investigation, in which each occupied state and Israel would each nominate a neutral state. The General Assembly would arrange that the interests of the Palestinian people would be represented by a state or by an international organization. The complaint would then be investigated by representatives of the complaining and responsible states. Nothing has come of this proposal.

The Human Rights Commission established in 1969 a sub-committee with the same membership as the working group on the treatment of political prisoners in Southern Africa.<sup>47</sup> In 1970, it reported that, although it had not been allowed into the areas concerned, it had heard of unlawful detentions, denials of a fair trial, and pillage. It called for the return to their proper

<sup>42</sup> Para. 3(6)(a), U.N. Gen. Ass. Off. Rec. 25th Sess., Supp. No. 28, at 1 (A/8028) (1971).

<sup>43</sup> Res. 259, Sep. 27, 1968, U.N. Security Council Off. Rec. 23rd year, Resolutions and Decisions 11 (S/INF/23/Rev. 1) (1970).

<sup>44</sup> Report by the Secretary-General in accordance with the Security Council Resolution 259 (S/8851) (1968).

<sup>45</sup> Res. 2443 (XXIII), Dec. 19, 1968, U.N. Gen. Ass. Off. Rec. 23rd Sess., Supp. No. 18, at 50 (A/7218) (1969).

<sup>46</sup> Res. 2546 (XXIV), Dec. 11, 1969, U.N. Gen. Ass. Off. Rec. 24th Sess., Supp. No. 30, at 55 (A/7630) (1970).

<sup>47</sup> Res. 6 (XXV), March 4, 1969, Commission on Human Rights, Report of the Twenty-fifth Session 183 (E/4621, E/CN.4/1007) (1969).

place of residence of persons who had been deported or transferred and for the compensation of those whose houses had been unlawfully demolished.<sup>48</sup> It is not clear that all of the acts complained of were actually violations of international law, even under the assumption that they took place in belligerently occupied areas. An occupant can intern inhabitants of the occupied area, assign residence, and may move individuals about for military purposes within the limits established by the Geneva Civilians Convention.<sup>49</sup>

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The facile response to all of this tangled history of dealings between the Arab States and Israel is to say that all of these problems will be resolved when the peace settlement is reached. This conclusion is true but trivial when there is no peace settlement in prospect. One must rather look to the lessons which should be learned for today.

The first task in any legal analysis of these issues is to segregate the purely legal questions from the political context in which they arise. How the two elements are intermingled has been a recurrent theme of these remarks. In the course of performing this operation of distinguishing the legal from the political, it will be seen that different views of the political situation and different recognition policies are at the root of controversy about when and where certain accepted bodies of law apply. Whether a state of war exists or not will determine whether the law of visit, search, and seizure is operative. Whether territory is Israeli, Jordanian, or *res nullius* will dictate what body of law governs the treatment of combatants placed *hors de combat*. The most satisfactory criteria for the applicability of law are thus seen to be factual ones—not political ones and not for that matter legal ones, for political and legal criteria governing the application of legal rules unfailingly turn out to be subjective criteria dictated by policy or prejudice.

The content of the law must also be neutral. The governing rules are unsatisfactory if, in time of war, they turn on the legality or morality of the cause for which the war is fought. The belligerents must be on a basis of equality, and no preference should be given to one side over the other. Preferential treatment strikes at the root of the reciprocity which is the main support—under certain circumstances the only support—of compliance with the law.

In time of war, particular emphasis must be placed on the protection of individuals and of non-participant states, for both human beings and governments can be caught in the cross-fires of war. It must be a particular task of the law to limit the scope of war and to free as many persons and entities as possible from its effects. If the situation is seen in this light, there is a relationship between protecting civilians from unnecessary suffering and the protection of neutral states from unnecessary interference. At this point the

<sup>48</sup> Report of the Special Working Group of Experts. Feb. 11, 1970 (E/CN.4/1016/Add.2) (1970).

<sup>49</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War, dated at Geneva, Aug. 12, 1949, arts. 78 and 49, 6 U.S.T. 3516, T.I.A.S. No. 3365.



law of war and the law of neutrality—the law of belligerent occupation and the law relating to the passage of neutral merchant ships—reflect a similar policy.

And finally, if there are to be supervision, scrutiny, and control exercised over the conduct of belligerents, those functions must be performed by impartial international entities, such as Protecting Powers or the International Committee of the Red Cross, rather than through political agencies, even though they be constituted under the auspices of the Security Council or the General Assembly of the United Nations. Again, neutrality and detachment must be the dominant themes. The bodies that have been set up to inquire into Israeli conduct in the occupied areas have lacked credibility because they were politically motivated and politically constituted.

These are the standards that should be applied. Without them the law can falter and then collapse under the weight of the political problems, as, one regrets to say, the law often seems to have done in the Arab-Israeli conflict.





## UNITED STATES' INTERESTS IN THE MIDDLE EAST

Charles Burton Marshall\*

The topic assigned to me concerns United States' interests in the Middle East with specific reference to the issues at stake between Israel and its Arab adversaries.

The concept of *interests* is somewhat ambiguous. Interest is what we pay out in money for a joint stock venture. Interest is what we collect on savings and securities. Interest is what arouses our attention and concern. The word also stands for the attention and concern aroused. Interest denotes a hope of sharing in gain. It also denotes an obligation, a liability incurred, or a responsibility.

In testifying before a committee at the Capitol, just over a dozen years ago, not long after the 1956 hostilities in the Suez Canal area, a United States Under Secretary of State, Mr. Herbert Hoover, Jr., since deceased, vehemently disavowed any United States motivations related to considerations of interest in the Middle East. The implication was as if it would be unworthy of a nation to have interests or to pay heed to them in projecting its policies.

Now our discourse is not burdened by any such dodges and obscurations. Last autumn, in addressing the United Nations General Assembly, President Nixon described the Middle East candidly as a place where United States' interests are involved. Indeed, he described the interests concerned as vital interests—a standard euphemism in international affairs for those interests held to be serious enough to warrant fighting for in the final analysis. The President acknowledged that the Soviet Union had similar interests at stake in the area. The 1971 version of the President's annual summation entitled *U.S. Foreign Policy in the 1970s* contains more of the same weighty evaluation of the area.

The President's pronouncements do not labor the sum total of reasons why the U.S. Government feels materially and psychically concerned over what happens in the region. These reasons are not hard to figure out.

The Middle East is an inherently strategic region. Let me elucidate that word "strategic." It denotes an inherent relevance to the matters which those in authority must take into account when they class other countries and regimes according to their degrees of friendliness or animosity and ponder possibilities of hostilities. The mind of man runneth not back to a time when the Middle East was otherwise than a strategic region. The trait is inherent in its position embracing the connections among the Black Sea, the Mediterranean, the Indian Ocean, the Red Sea, and the Persian Gulf. The characteristic is underlined by the bearing of the Middle East on the southern flank of NATO.

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A second circumstance is that the Middle East contains some 65 per cent of the world's known petroleum reserves. It should be pointed out that petroleum, constitutes some 90 per cent of the energy supply for industry over the world. The petroleum resources of the Middle East are enormously important—I think one can accurately say vitally important—to great positions with which the United States is allied in Europe. Petroleum is an indispensable factor in relation to economic development in the emerging states, the so-called Third World. Command of access to the region is therefore of great importance to the United States, irrespective of whether the Middle East's petroleum is directly needed in this country. American-based companies are concerned in the production and marketing of Middle East petroleum, which is an important source of profit and foreign exchange for the U.S.

Thirdly, the United States has a special concern for the welfare and the survival of the state of Israel. I do not need to elaborate on the point that the security and continuity of that country have a bearing on political conditions within the United States. No political party with hopes of coming into responsibility for national policy here can profess or practice indifference with respect to Israel's future.

President Nixon's foreign policy summation does not touch very penetratingly, or even at all, on these aspects of our concern for the Middle East. The statement accords the area the "grim distinction" of being the scene of "our most dangerous" problem—this in view of its "potential for drawing Soviet policy and our own into a collision that could prove uncontrollable." Furthermore, Nixon states, "America's interest in the Middle East—and the world's interest—is that the global structure of peace not be allowed to break down there."

In other words, we have an interest in abating risks which are entailed as consequences of our other interests. The President's statement strikes me as somewhat oversimplified in focusing on peace as an interest—I should say, *the* interest—which we have in the Middle East. If peace were our only interest, then we could realize it merely by capitulation. It is accurate enough to say that we have a strong preference, or interest, in trying to make sure that our interests in the area are maintained without our having to engage in hostilities, but to single out peace as our interest, as if it were a sole concern, represents the problems as simpler than they really are. The United States and the Soviet Union are, I should think, alike in wishing to avoid the condition of war as they pursue their interests in the Middle East, but to say that tells us little about the contest which focuses on that area.

I see little, and I have little to propose, in the way of solutions for the problems of the Middle East, if one takes a solution to mean a formula for neutralizing the causes and bringing to an end to the basic issues. Here I am reminded of something said a generation ago by Paul Valéry, the now deceased French poet and literary critic, who had great insights into the problems of international politics.



In times past, Valéry observed, policy gambled on the isolation of events. History consisted of events susceptible of being localized. A disturbance had the possibility of creating in one point on the globe a boundless medium in which to reverberate. Its effects were nil at a sufficient distance. Prediction, calculation, and successful action were feasible then. The globe afforded room enough for one or even several great policies well planned and well carried out.

In contrast, Valéry went on, conditions as they have developed in the contemporary world ensure interaction over an enormous scope. Henceforth, he said, every action was bound to be re-echoed on every side. The effect of effects would be felt almost instantly at any distance. The expectations of any predictor would always be disappointed. Duration, continuity, and recognizable causality would diminish in the situation of multiple relations and contacts. Accident and disorder would tend to predominate. Accordingly, an expert or inspired game would no longer be possible. Prudence, wisdom, and genius would be baffled by such complexity. The profound thought of a Machiavelli or a Richelieu would not avail in such an environment.

I believe that the conditions whose emergence was perceived by Valéry now tend to predominate globally, and particularly in relation to the Middle East. There, one may say, the conditions perceived by Valéry to be developing over the world in general have long prevailed. In the words of a report issued a few years ago by the Senate Foreign Relations Committee, ". . . the area remains a most disorderly part of the world; geographically, racially, culturally, economically, and above all, politically, there is a profound inconsistency about the area. For every rule there is an exception, for every premise a contradiction."

Such an area is inherently aberrant to American preconceptions. American approaches to world affairs are inclined to be rationalistic. Rationalism puts a premium on symmetry and balance. That attitude assumes all human problems to be solvable. It banks on a postulated inherent harmony of interests among human groups. The attitude goes hand in hand with a supposition that communication will unfailingly resolve differences. "Getting to Know You," a song in *The King and I* puts the idea, "getting to know all about you, getting to like you, getting to hope you like me." This approach, applied to international politics, vests great faith in negotiation. It is impatient of history's obduracy. It tends to relegate cultural and ethnic differences to secondary or tertiary importance.

I suppose that these assumptions were evident in the alacrity with which this Government, a quarter century ago in Mr. Truman's presidency, joined with other powers in sponsoring the emergence of the state of Israel in Palestine in succession to the expiring League of Nations mandate exercised by Great Britain. I refer explicitly to the lack of recognition then of the consequences of that action in relation to Arab ambitions and sensibilities. There certainly were within the Government a considerable group of officials who sensed that the Arabs would take deep offense, nevertheless, the prevailing assumption was that the Arab response would be one of pique which

would be assuaged fairly readily by time, by development projects, and by a demonstration of even-handedness on the part of U.S. policy. The assumption was that, with time, the Arabs would become reconciled to the existence of Israel.

Subsequently, the United States has persistently sought to practice that attitude of even-handedness. Yet in the circumstances that goal has been beyond reach. What the Arab attitude objects to basically is the existence of Israel. Of all the sponsors of the creation of Israel, the U.S. is one with the resources and the disposition to continue to be a mainstay of support for Israel's existence. This Government is the one which is stuck with the role of being sponsor and guarantor of Israel. It is the mainstay of that to which the Arab states object most strongly and persistently. In that situation, the even-handed role is difficult, even to the point of impossibility.

Michael Adams, in his *Chaos or Rebirth: The Arab Outlook*, spells out the consequences:

It goes without saying that Israel's penetration of the Arab world, with the displacement of an Arab population to make room for Jewish settlers, constitutes the central Arab grievance. But what is interesting is that the Arabs . . . often feel a keener resentment against Israel's western sponsors than against Israel herself. In a sense . . . the explanation lies in the fact that they can at least understand the motives of the Israelis who, after all, are only fighting to gain a place in the sun; what they cannot understand, except in terms of hostility to the Arabs or of some kind of conspiracy by Zionist interests in America, is the American attitude of professing neutrality in the middle east while giving automatic and unequivocal support to Israel, even at the expense of America's own substantial interests in the Arab world.

Our national attitude toward external problems is greatly affected, at the present time, by recent experiences. A pertinent word is fatigue. The tired mood is linked to a sense of bafflement about strategic endeavors. Our reputed best minds in an Administration which made much of its devotion to intellectual excellence took charge in relation to Viet Nam a decade ago. The consequences were not such as to inspire confidence in the role of intellect in handling great affairs. A companion factor is discontinuity of memory, a phenomenon related to generational change. The assumptions and perceptions underlying a broad array of United States commitments and obligations in the world are not persuasive to significant portions of the population. It is not enough to say that they have forgotten the reasons for national involvement, because they probably never have understood and accepted them.

All of these considerations have a bearing on a circumstance of very deep importance. For perhaps the first time in our national history, the general welfare has become a claimant against the common defense. The major political parties are in substantial agreement that the current rate of diversion of resources into the public sector, that is to say, the present rate of taxation, shall not be exceeded. In the absence of some drastic and unforeseeable change in circumstances, any change in that consensus seems



most improbable. In other words, taxes are not going to go up within the calculable future.

Meanwhile, however, demands upon the public sector have been growing dynamically. That is so because of the general acceptance of an unprecedentedly large conception of basic rights. In a sense unknown to the past, government has come to be held responsible for the fulfillment of a great range of needs and aspirations entertained by large numbers of the population—an array embracing sustenance, medical attention, housing, training, and even subjective aspects of well-being. Every one of these things requires money. In view of the consensus on the present level of taxation, how are the great expenses imposed to be met? The pressure is on to meet them by displacing military expenditures. That part of the budget is, so to speak, on the defensive as never before, and certainly in a way that marks a drastic shift from the situation as it was only a few years ago.

Because of a variety of interrelated circumstances, the United States, I think it accurate to say, does not project as formidable an image in the military or strategic aspects of policy as it did only a few years ago. Keep in mind also that it was only fifteen years or so ago that the United States' policy respecting the Middle East was devoted to the idea of keeping Soviet influence out of the area. Such was the aim, for example, of the Baghdad Pact, which the late Secretary of State John Foster Dulles sponsored as the cornerstone of our policy in that area. In contrast, the United States now pins hopes on some sort of a settlement in collaboration with the Soviet Union. There is a tendency to extend that wishful line of thought to the point of postulating that, because of a shared desire to avoid direct military engagement between the United States and the Soviet Union, the two powers have come into a sort of partnership in regard to the Middle East.

As for the Soviet Union, I claim no great insight concerning a regime which is so far away, in whose territory I have never been, whose language I do not understand, and which has not imparted to me any of its secrets. Indeed, I have a hard enough time interpreting and predicting the course of my own government, in whose jurisdiction I live, whose language I share, and which seems to have much trouble keeping its secrets at all.

I suspect that the Soviet regime does mean what it says in regard to national liberation wars; that is to say, with respect to its assertion of the inherent historic legitimacy of any forcible development within other countries conducive to the Soviet Union's advantage. I am sure of the Soviet Union's sincerity with respect to the so-called Brezhnev Doctrine, which asserts the special prerogative and duty of the Soviet Union to maintain, by intervention when necessary, socialist rectitude and momentum in any country which has come within the socialist fold.

Yet it is not necessary, and indeed it would lack pertinence, to invoke either of these basic elements of Soviet policy to explain Soviet interests and undertakings in the Middle East. A point is often made—and I tend to believe it without being able to prove whether it is true—that the Russian state would probably take about the same attitude toward the Middle East

even if the revolution of 1917 had never occurred and the Czar's rule were still in effect. This point is plausible. State reasons, as distinguished from revolutionary purposes, would surely cause Russia to be concerned for the future of an area that lies athwart Russia's maritime connections with the outer world.

The Soviet Union's interests in the Middle East tend to be the obverse of United States interests, not only with respect to the importance of the Middle East as a great crossroads but also with respect to its huge potential in petroleum. That aspect presents a possibility of getting leverage on the fuel supply of Central and Western Europe in particular, thus to abet the process of Finlandization—a term representing the goal of rendering the European countries to the west of the Communist-dominated area not necessarily Communist but at least pliable and anxious to please.

Surely the Soviet Union's appraisal of the area is linked to the new importance as a naval power in rivalry with the United States. For the background of this, one should go back to the Cuban missile crisis of 1962. The outcome was much cheered at the time as an achievement for the United States. It still is credited as such. I do not see it in that perspective, but I acknowledge that the outcome might have been worse. The Soviet Union did give way in some respects because of two factors. First, the Soviet Union's missile capability was distinctly inferior to that of the United States—a fact which could not be concealed or compensated for by bluff. Second, the Soviet Union was distinctly inferior to the United States in strength available at the scene of action—that is to say, naval strength.

While the Soviet Union has not imparted the secrets of the assumptions behind its decisions, I think we can safely infer that, in the sequel to the missile crisis, those in charge of Soviet policy became resolved not to be caught in such disadvantageous circumstances again. Rather, they attempted to ensure that in any future confrontation the United States rather than the Soviet Union would be the one under major pressure to yield. The results of this decision in the nuclear realm are surely a huge factor in the changed strategic circumstances of the United States as of now in comparison with a few years ago. The naval aspect is manifest. The Soviet Union has been devoting great resources and effort to challenge United States' primacy at sea. The effects are especially apparent in waters appurtenant to the Middle East.

The role aspired to there is not possession of the region. Rather, I should say, the Soviet Union aspires to become arbiter of the region. It would like to establish itself as heir to the primacy in influence which, in a former epoch in Middle Eastern affairs, was exercised by Great Britain. A corollary of this is the reduction or elimination of United States influence in the region. The aim calls for Soviet cultivation of the Arab states. The Soviet Union strives to establish itself as the champion of Arab interests. It seeks to alienate the Arab states from the United States and vice versa. As a corollary, the Soviet Union wishes to have the United States identified in a singular way, for the short run, as protector and advocate of Israel's interests. For the longer run, the Soviet Union probably wishes to put the Israeli state



in position of having to sue for Soviet intercession with the Arab states on behalf of Israeli security and interests.

However little I can be absolutely certain of in regard to Soviet perceptions and purposes, I must confess to knowing less even about the Arab states. With respect to them the need of distinguishing between appearance and reality is strong. Great activity and reactivity are apparent within Arabdom. Recurrent unity conferences, from which ringing statements of common goals and joint determination, are held. Great projects for political amalgamation or combined commands are announced from time to time, with rhetorical flourishes of implacable hostility to the very existence of Israel. How much of all this is real, and how much merely rhetorical?

Arab bitterness against Israel's existence is certainly not mere pretense. Israel's existence impinges on the Arab's asserted goal of reinvigorating the great past when Arab order and Arab unity dominated from the Atlantic shores of northwest Africa to the Persian Ocean. The establishment of Israel occurred concomitantly with the general emergence of Arab peoples into independence following World War II. Israel crystalized into reality at the very center of the Arab zone, bisecting it, at the historic moment of the casting off of Arab subordination to outside states. Israel was established and was subsequently aggrandized by military conquests in face of Arab hostility and despite Arab advantages in numbers, an insulting circumstance.

Pride compels the attribution of these events to outside factors. Israel must be accounted for as an artificial, aggressive presence, imperial in character and self-aggrandizing, a foreign presence lacking in legitimacy.

Self-fulfilling prophecies operate here. The Arab insistence on regarding Israel as expansionist and aggressive is linked with the refusal to legitimize its position by recognition and formal peace. Israel's response, given the inherent insecurity of living in the midst of hostile neighbors, confirms the accusation. Israel's military efficacy, verified in war, induced that degree of shame which issues in intransigence. On the basis of Arab protestations of irreconcilability to Israel's presence, Israel professes to be justified in mistrusting its Arab neighbors. Israel, taking Arab hostility as unappeasable, feels compelled and justified in insisting on conditions which are humiliating to Arabs and thus tend to render them implacable even if they were not so already.

Israel is in many respects the most interesting element in the situation. The state represents a nation maintained in the consciousness of its members over many millenia. As a nation in the sense of being the territorial embodiment of a people, Israel has existed about a quarter of a century. It stands as an amalgam of peoples drawn from a diversity of lands and backgrounds by their consciousness of the ancient identity and by the vicissitudes of contemporary times. Their main problem in trying to exist as an organized entity is the lack of legitimacy in so far as adjoining neighbors are concerned. Hence, psychically, as well as in fact, the Israelis are a beset and besieged people.

Its governing institution is a parliament elected by universal suffrage. The system of representation is fashioned to concepts of proportional representation associated with continental Europe in an age when politics reflected rationalistic assumptions. The result is a prolixity of parties. A stable preponderance as a basis of government is lacking. A basic factor of discontinuity affects the political institutions. *Le Monde* has described the basis of the regime as "a tenuous synthesis of often contradictory views." The result is a degree of ambiguity and ambivalence in policy. The main element of that ambiguity and ambivalence have tended to be contrasting habits of thought and attitude toward the exterior world, both habits rooted in the historic past.

One outlook is a reflection of the centuries of experience in the dispersion. It is an outgrowth of the adaptations necessitated by having to get along amid divergent environments in minority positions. It puts stress on finesse, temporizing, abatement, avoidance of confrontation, and the need of coming to terms with neighbors. It reflects also awareness of the correlation of forces in the exterior world.

The other outlook regards the dispersion as a parenthesis in history. It emphasizes a conception of Israel as a reembodyment of the ancient kingdoms of the same. This outlook shuns any hint of clientage to the outside world or any part of it and rejects the notion of Israel's origin as a creature of the United Nations or any other combination of outsiders. In this view, the rebirth of Israel was, as with the historic kingdoms of old, due to willingness to fight for territory. It sees militancy as the basis of whatever chance for survival Israel may have. It puts a premium on audacity under siege, as recounted in an ancient context in Josephus' history of *The Jewish War*. This approach puts great faith in tactical shrewdness and celerity in the modern tradition of Ord Wingate.

These two attitudes are not mutually exclusive. Sometimes both are evident in Israeli policy simultaneously, as when the Foreign Minister, Abba Eban, voices the conventions of negotiations while General Dayan, the Defense Minister, vaunts the territorial acquisitions of the 1967 war as permanent facts.

In a general way the 1967 war was a triumph of the second attitude as I have described them, in contrast to the conduct of policy in the period immediately preceding, which had been marked by caution almost to the point of obsequiousness particularly in dealing with the Soviet Union. The degree of accommodation seemingly manifested in the preceding phase may very likely have emboldened both the Soviet Union and its Arab clients into assuming the existence of opportunity to score heavily against Israel by threats turned on and off and on again. The suddenness of the shift from one attitude to the other as the dominant one within Israel was a main circumstance in catching both the Arab adversaries and the Soviet Union off guard and opened the way for the great military successes in operations conducted with extraordinary intrepidity and sense of timing.



Boldness, however, was combined with a prudent regard for the correlation of exterior forces. In a canny way, the Israelis counted on the U.S. to neutralize the Soviet Union. To quote Michael Howard and Robert Hunter:

Above all it will be seen how Israel observed a principle which appears in few military textbooks and which armed forces neglect at their peril: the Clausewitzian principle of Political Context, which the British ignored so disastrously in 1956. The Israeli High Command knew that it was not working in a political vacuum. It worked on the assumption that it would have three days to complete its task before outside pressures compelled a ceasefire. In fact it had four and needed five. . . . The lesson is clear. So long as there remains a tacit agreement between the superpowers to cooperate in preventing overt conflicts which threaten international peace and security, a nation using open force to resolve a political problem must do so rapidly, if it is to succeed at all. Once it *has* succeeded, the reluctance of the great powers to countenance a second conflict means that it is likely to preserve its gains. The lesson is a somber one, placing as it does a premium on adventurism and preemption.

One of Israel's purposes in launching the attack in 1967 was to get rid of the necessity of intermittently having to stand to arms at the dictate of Israeli's Arab enemies whenever it suited their preferences to put on the pressure. This purpose was achieved, and the benefits for Israel continue.

A second purpose was to shore up Israel's security by extending the radii of defense in order to overcome the necessity of having to stand on tactically unfavorable ground. This purpose also was achieved. The improvements gained, from the Israeli standpoint, are impressive. The warning time for the core of Israeli's land base, in event of an air attack launched from the Arab side, has been extended from twelve to thirty minutes. On the other hand, the time for launching an air attack from the Israeli side on Arab positions has been cut from a half-hour to five minutes.

A third purpose which Israel had in mind was to establish such a situation as would compel Israel's Arab neighbors, notably Egyptians, the ones that count mainly, to negotiate directly. Thus the Egyptians would be forced into diplomatic dealings and, in effect, into recognition and legitimization of Israel's existence. As a corollary, the business of having third-party interposition between Israel and the Arab states, and the effects in cluttering up their relations, would be avoided. This purpose has been disappointed. The Arab states, and notably the Egyptians, have not budged.

Instead, there has occurred the renewal of war by attrition in the abandonment by Egypt, that is to say, the United Arab Republic, in March of 1969. In retaliation the Israelis carried bombing into Egypt in an attempt to press the Egyptian armed forces to seek relief from their hazards by overthrowing President Nasser, regarded by Egypt as the mainstay of Arab intransigence. Therein the Israelis displayed willingness to experiment with high danger. Perhaps here the Israelis departed from their usual regard for

the correlation of forces, for every humiliation for Nasser involved also a humiliation for the Soviet Union, whose pride and arms are staked on the Arab cause.

Let me sum up the Israeli attitude as it manifests itself. One element is disdain for the United Nations. This element is understandable. In view of the record, especially with respect to the sudden dissipation of the United Nations Emergency Force in the spring of 1967, the United Nations is strictly unreliable as an instrument for Israeli security. A second element is disdain for guarantees. Foreign Minister Abba Eban is wont to refer to "the inefficacy of guarantees."

Let me quote, in that connection, an answer by Professor Bernard Lewis of the University of London to a pertinent question put at a hearing before Senator Henry Jackson's subcommittee on National Security and International Operations at the Capitol a few weeks ago:

Experience isn't terribly encouraging, is it? In Cyprus, and Kashmir, and Palestine, it hasn't worked terribly well. The difficulty is — who is to provide troops? If they come from small countries, obviously there is no real authority behind them. The governments of those small countries would almost certainly want to snatch them away as soon as there is a risk of their being involved in anything unpleasant. If they come from major countries, there are two possibilities. Either the major countries would become involved in every border skirmish, which would be extremely dangerous to world peace, or they would not become involved, which ultimately would mean that the guarantee is worthless.

Here again the record lends confirmation.

As a corollary, what counts, in the Israeli estimate, is territory, position. I doubt that Israel is going to budge merely in deference to some new arrangement akin to what failed in 1967.

Israel's negotiating position is that it does not explicitly renounce all theoretic chances of getting a reliable peace and a concession of legitimacy from its Arab antagonists, but it does insist that the bargaining be direct.

Israel's purpose with respect to the United States, I believe one can say with some certainty, is that whatever strings may entangle the United States in the Middle Eastern situation must lead directly from this country to Israel, rather than tying the United States in as one guarantor among others in some bilateral arrangement with the Soviet Union, some quadrilateral arrangement involving Great Britain and France as well as the Soviet Union as co-guarantors with the U.S., or some other collective arrangement with U.N. blessing. Israel is obviously against any system of guarantees subject to veto. It wants a direct and unequivocal U.S. involvement in underwriting Israel in distinction to one which is full of contingencies and complexities.

Israel relies on the assumption, which is probably correct, that the United States in the last analysis cannot afford to let Israel down. The United States is, as it were, ineluctably Israel's sponsor, but Israel, in return,



will not be a client even though the Soviet Union and the Arab governments insistently regard Israel as a U.S. client.

Thus curiously, in a way, Israel's policy is parallel to that of the Soviet Union in trying to get the United States absolutely on Israel's side, with no hint of even-handedness in practice. The United States obviously wishes that circumstances were otherwise. It covets an opportunity to work its way convincingly back into the mediatorial position which it essayed before the 1967 war and away from which it has been forced by the developments of that war and its sequel. This aspect of the matter seems to me the most paradoxical viewed from the standpoint of United States preference and interests.

Will the United States, through diplomatic assiduity, be able in the next few months to work toward the realization of some arrangement more akin to its preferences? I suspect that there will be much more activity than accomplishment along that line.





## SUGGESTED SOLUTION TO THE MIDDLE EAST DISPUTE

Don Peretz\*

In American terminology, "the Middle East dispute" has usually come to represent the conflict between Jews and Arabs over Palestine. However, this is only one of many conflicts in the Middle East which have aroused recent international concern. Others have been totally unrelated to the Arab-Israeli conflict. For example, at present there are major disputes between oil producing states and Western oil companies which vitally concern Europe. Russia still disputes the status of the Turkish Straits. In the eastern Mediterranean the threat of confrontation between Soviet and American fleets is in reality more a part of the East-West conflict than the Arab-Israeli dispute. With Great Britain's announcement of its intention to evacuate the Persian Gulf by 1971, Iran has proclaimed its aspirations to replace the "power vacuum" to be created when the British leave. Within the region there are also ideological disputes between the radical Arab states and the traditionalists. While the conflict between Israel and the Arab States is an aspect of some of these disputes, it is not integral to any of them. Each would probably threaten the *status quo* interests of Western powers had there been no Israel. Thus it is essential in discussion of Middle Eastern disputes to identify the conflict in question.

Some form of Middle East dispute has been a focal point of international relations ever since the 17th Century when Czarist Russia sought to expand its frontiers deep into the Ottoman and Persian domains. At the beginning of the 19th Century Napoleon sought to destroy British influence in the Middle East when he invaded Egypt. During the rest of the century the Western powers tried to prevent Russia from attaining a dominant position in the area. European diplomacy was plagued by the so called "Eastern Question" in which, then as now, the major powers disputed each other's roles in the Middle East, each attempting to strengthen its position there at the expense of its rivals.

By the beginning of the 20th Century imperial Germany had succeeded Russia as the principal competitor of Great Britain and France, each of which was seeking to maintain a kind of *status quo* to protect their respective vital interests in the Middle East. Both Germany and Italy sought to change the *status quo* established by the World War I treaties which partitioned the Arab provinces of the Ottoman Empire into British and French dominated zones. The struggle for power balance in the area continues until today with new actors replacing those with traditional imperial interests.

The United States has replaced Great Britain and France as protector of the *status quo* while Russia continues as the principal protagonist of

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change in the power balance. Thus great power competition in the area is not new. The Middle East, as always, continues to be a focal point of confrontation between *status quo* and revisionist powers in their attempts to maintain or alter the world power balance through maintaining or altering it in the Middle East.

Palestine has frequently been involved in the history of these confrontations. Even before the modern era, the capture of the Holy City of Jerusalem symbolized domination of the region. From the time of the Crusades until the present Jerusalem has been a prize sought by all contenders. The Crimean War was sparked by religious disputes over control of, and rights in the churches of the Holy Sepulcher in Jerusalem and the Nativity in Bethlehem. Kaiser Wilhelm II made a special point of entering Jerusalem, paying homage at the holy sites of Christendom and proclaiming himself "protector of Islam." Until today possession of the Holy City has remained a major goal of all aspirants seeking to dominate Palestine.

Since other participants in this program will be discussing the Arab-Israeli dispute, I will deal with suggested solutions to it. This conflict has many faces. It is a conflict that involves not only Israel and its immediate Arab neighbors. It also has inter-Arab aspects, and is closely related to the Soviet-American confrontation. Still another aspect has been much neglected is the tension between Israel and Palestine Arab nationalism.

During the past fifty years diverse solutions have been offered for the Arab-Israeli conflict. They might be divided into those seeking to keep Palestine intact and those which recommended division of the country, usually into areas under Jewish, Arab and international control.

Prior to establishment of the state of Israel in 1948 various international and British royal commissions recommended one or another form of a partition. Because of their insistence that Palestine remain intact, the Arab population and Arab governments of the surrounding countries usually found themselves at odds with the international community, the British mandatory authorities, and the Jewish community of Palestine.

Only a small group of Zionists at each end of the political spectrum opposed partition. On the one hand there were militant Jewish nationalists who opposed it because they wanted all Palestine to be Jewish. On the other hand Jewish binationalists opposed partition because they believed that the country should be neither Jewish nor Arab, but a nation of two peoples living in co-existence.

During the mandatory era nearly all Palestine Arabs agreed that Palestine be kept intact as a single country. Then, and until recently, most Arab nationalists were reluctant to concede that Jewish nationalism had any valid claims to even a part of Palestine. They envisaged a Palestinian Arab nation which would grant the country's Jewish minority equal rights within an Arab state. Until 1948 Palestinian Arabs were strengthened in their stand by virtue of the fact that they constituted the overwhelming majority of the population.



Since establishment of Israel the demographic character of Palestine has radically changed. With the influx of over a million Jewish immigrants after 1948, the country acquired a Jewish majority equal in proportion to the two-thirds Arab majority living there when Israel became independent. After the exodus of three-quarters of a million Arab refugees during the first Arab-Israeli war, and another quarter of a million from Gaza and the West Bank since the 1967 war, the population balance now stands at about one-third Arab and two-thirds Jewish. Furthermore, as a result of the 1967 victory, Israel expanded its control beyond the 1949 armistice frontiers to include all mandatory Palestine, as well as Sinai and the Syrian Golan Heights.

These demographic changes have also altered political positions of the protagonists. Among a small minority of Jews the binational concept has been revived. They now believe that Jews and Arabs could coexist as two nations within the frontiers of a single state in a federation or a confederation of Palestine. At the other end of the present political spectrum are supporters of the Greater or Land of Israel Movement which seeks to establish Jewish dominion, not only over all Palestine, but over all territories acquired during the Six Day War relegating the Arab third of the population to a minority status in a Jewish state. Most Israeli Jews, cognizant of demographic realities, disavow the proposals of both the new bi-nationalists and of the Greater Israel Movement.

Various other proposals have been put forward by Israeli leaders for border rectifications that would, on the one hand establish "secure frontiers" by taking into account Israel's 1967 victory, and on the other hand, maintain a predominantly Jewish population and Israel's Jewish character. These include the so-called "Allon plan" proposed by the deputy prime minister which offered some degree of political autonomy to the predominantly Arab Gaza Strip and the West Bank; but at the same time assuring Israeli military control along all frontiers. Since the 1967 war until the present even the Israeli "minimalists" have asserted that security requires Israel to hold all Jerusalem, Gaza, Golan, and access to Sharm al-Sheikh. A few significant voices have called for return of all territory occupied in 1967 except Jerusalem, if a guaranteed and directly negotiated peace settlement with the Arab states could be attained.

There are many voices in Israel with diverse definitions of peace and security. In the words of a leader of the Association for Peace and Security, whose members are much concerned about the dangers of expansionism, territory is less essential to security than establishment of bona fide peace arrangements with the Arab states. This distinguished Israeli member of the Hebrew University law faculty declared that: "A border is secure when those living on the other side do not have sufficient motivation to infringe upon it . . . We have to remind ourselves that the roots of security are in the minds of men . . ."

The Arab equivalents of the new binationalism and of the greater Israel Movement are the Palestinian commando movements which call for establishment of a democratic, secular, and in some instances, socialist Arab state.

The concept includes the return of all Palestinians from the post 1948 diaspora and reestablishment of an Arab majority.

Since the Six Day War there have been significant changes in Arab perceptions of a realistic and acceptable peace settlement. They range from the recently announced willingness of the UAR to accept, not only the state of Israel, but negotiations for a peace settlement (this is a radical departure from the inflexible position maintained for over twenty years), to new proposals made by Palestinians living on the West Bank. These views, based on recognition of Israel's strength as a major Middle Eastern power, vary from support for a Palestine state on the West Bank; a Palestine to include Jordan, the West Bank and Gaza; to support for a binational Palestine in which both national entities would coexist within the borders of a single state. All depart radically from the most militant Arab nationalist views.

This wide spectrum of views within both Arab and Israeli political communities contradicts the polarized image that exists in the United States where the tendency is to regard Israel and Arab views as monolithic, ignoring the great diversity that actually exists. The result is a naive American political conception in which all Arab views are automatically regarded as anti-Israel; and pro-Israel statements or views sympathetic to Israel are automatically regarded as anti-Arab. This polarization so distorts rational political discussion of the Middle East and its problems, that reasonable settlement of the Arab-Israel conflict often seems impossible in the American setting.

Although they were fragile, opportunities for peace initiating existed even during the mandatory era. There were several occasions during the 1920's and 1930's when they could have been developed. True, these opportunities may not have borne fruit. But their neglect contributed to the present impasse threatening not only the lives and security of Jews and Arabs but of the whole world as the conflict escalates to the higher level of great power confrontation.

Fairly detailed political arrangements were devised by a small number of Palestinian Arabs and Jews in mandatory Palestine who sought to bridge the gap between their respective communities through some form of compromise. However, insistence by most Arab leaders that Palestine remain an Arab country and the determination of the Zionist establishment to create a Jewish state led to an impasse.

After extended negotiations between a group of Jewish leaders led by Dr. Judah Magnes, American president of the Hebrew University, and Musa Alami, a respected Arab notable, Magnes reported: "The impression which we got was, that there was little desire on the part of the Jewish Agency to continue with the negotiations with the Arabs, but there is a tendency to bring about the failure of the negotiations, not on (the Jewish Agency's) side, but from the side of the Arabs." The history of frustrated attempts at solution are neither new nor are they one-sided. They go back to the beginning of the conflict and have continued to the present.



Given this unpromising background, where do we find ourselves today? Obviously any feasible solution must take into account existing realities. But each protagonist has his own hierarchy of realities. They include military, geo-political, economic, psychological, and power factors that extend far beyond the Middle East. The problem is to find a framework for settlement within which the realities can be fitted. Obviously such a framework must be very broad if it is to include the rights, the claims, the fears and the aspirations of all parties.

The framework for an inclusive solution was laid out in the United Nations Security Council resolution of November 22, 1967. Adopted unanimously by all members of the Council including the United States and the Soviet Union, nations which were friendly to Israel and those which were friendly to the Arab States, as well as by Israel, Jordan and Egypt, the resolution is broad enough to include the requirements for a settlement equitable to all parties. It takes into account the existence of all nations in the Middle East and all participants in the conflict. It also deals with the very controversial question of territory, recognition of the state of Israel, the Palestinian Arab refugees, and the quest for security.

Since the resolution was not too specific, it left room for negotiations; however, it is specific enough to deal directly with the major causes of the 1967 war, that is, the insecurity of the conflicting parties. It takes into account Israel's fear of devastation by surrounding Arab states and Arab fear of Israel's intent to expand its frontiers. The resolution calls for: "Termination of all claims or states of belligerence and respect for the acknowledgment of 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." In further recognition of Israel's fears the resolution affirms, the necessity "for guaranteeing freedom of navigation through international waterways in the area."

Arab concern about Israeli expansionism is recognized in emphasis on "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 [and on] . . . withdrawal of Israeli armed forces from territories occupied in the recent conflict."

While a major shortcoming of the resolution was its failure to specifically mention the problem of Palestine nationalism, it does affirm the necessity "for achieving a just settlement of the refugee problem." Provision is made for "guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones." Efforts to implement the resolution are relegated to a special representative, Gunnar Jarring, designated by the Secretary-General. His function is to "establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve peaceful and accepted settlements in accordance with the provisions and principles in this resolution."

The resolution thus covers within its broad framework nearly all aspects of the conflict including borders and security, international waterways, Arab recognition of the state of Israel and the refugee problem. Although two major aspects of the problem are not directly mentioned, these being Jerusalem and Palestinian Arab nationalism, the provisions are broad enough to encompass them. No doubt it would have been far better to have included specific references, but the resolution was drafted after prolonged negotiations resulting in compromise wording.

There are certainly more ideal possibilities for solution than those covered by the resolutions since it makes no radical departure from the *status quo*. However, a radical departure would require concessions of such magnitude that both sides would have found them unacceptable, beyond their respective conceptions of reality. For example establishment of a binational state, or of a democratic secular state would require elimination of the state of Israel in its present form. It is no more within the realm of present political reality to disestablish Israel than it is to disassemble Communist China or Russia. Political reality demands co-existence of regimes whose ideologies are repugnant to each other.

In the Middle East, reality demands acceptance of Israel despite its internal ideology, just as powerful regimes have acquired legitimacy as well as power and have been accepted into the world by anti-Communist nations. Since 1967, Palestine Arab nationalism has become another reality. Despite many setbacks and assertion by Israel's prime minister that the Palestinians do not exist, they too have galvanized sufficient strength to be accepted as a reality which must be included in any settlement of the Middle East conflict.

Jerusalem also possesses a serious dilemma. While Israel physically controls the city and has unilaterally stated its determination to incorporate it within the boundaries of the Jewish state, another reality is that neither the Arab residents, the Arabs of Palestine, the Arabs of the surrounding countries, nor the overwhelming majority of the international community, willing to accept unilateral Israeli decisions about the future of the city. How can the reality of physical possession be made to correspond with the reality of world sentiment? The publication, *Search for Peace in the Middle East*, prepared for the American Friends Service Committee refers to these special problems. "Jerusalem is unique, and a solution will have to be unique." The story of the last decades is a denial as much of the uniqueness of Jerusalem as of its holiness.

"Three religious traditions meet in Jerusalem. No non-Jew can enter into the feelings and emotions of Jews at the Wall of the Temple. No non-Muslim can realize the Muslim regard for the Dome of the Rock. For Christians certain special sites in Jerusalem arouse deep emotion.

"The world should establish inviolable rights to access for Jews in perpetuity to the Wall, for Muslims to the Dome. Both must assure freedom of access for Christians to their holy sites.

"In time it should be possible to create some sort of federal condominium to govern an undivided and demilitarized Jerusalem. Meanwhile



the most satisfactory arrangement would seem to be separate Jewish and Arab boroughs, with certain shared municipal services, under some coordinating United Nations agency. That the city should be undivided and demilitarized is obvious common sense. That it should be united under exclusive Israeli control seems unlikely to ever be acceptable to most Muslims and Christians of Palestine. Jerusalem must not again become a divided zone of conflict as it was for twenty years. It cannot peacefully become a sole possession of one religion or one national state."

The Palestine Arab refugee problem is another aspect of the conflict that has plagued the world for nearly a quarter of a century. Today the refugee problem has become an integral aspect of the question of Palestinian Arab nationalism. Without a solution for Palestine nationalism it will be difficult if not impossible to solve the refugee problem. In the two decades they have lived in the Arab diaspora surrounding their former homes, most refugees have become more fervent Palestinian nationalists, fueling the irredentism at the heart of the conflict. Even refugees who succeeded in leaving the camps and ascending the socio-economic ladder in the surrounding Arab world, as well as many Palestinians who were never classified as refugees and who fared well in business, commerce, education, and political life of the surrounding states, maintain their Palestinian identities. Indeed it is this younger generation which achieved status in the surrounding countries who have become leaders in the nationalist movement.

According to the secretary general of Israel's largest and most influential political group, the Israel Labor Party, Mr. Arie Eliav: "The Palestine nation is identifiable as a national entity by a national consciousness, by continuous territory where most of the Palestinians live, by a history of several decades replete with battles and wars, and a diaspora which maintains a link with the Palestinian homeland. At the same time it is conscious of a common national catastrophe, sacrifice, suffering, heroes. It has dreams and a start of a national literature and poetry."

The refugee question is not one that can be resolved by economic development alone. Even if the Palestinians attain a national home, making possible return of all refugees who desire to settle in a Palestinian state, there will remain the hard core of an unassimilable and unemployable older generation who can no longer be rehabilitated. By and large the men and women in this category include most of the hundreds of thousands of refugees who are in camps administered by the United Nations in Gaza, Israel, East and West Bank Jordan, Lebanon and Syria. A Palestinian Arab state would have to receive assistance to provide for the remaining years of these people who are not unlike the large welfare constituency which even our own country with its vast resources has been unable to assimilate.

The June War revealed to many Palestinians realities of the last twenty years. After the war many who remained in the West Bank were able to visit their former homes in Israel to see for themselves how their homeland had changed: Where once there was an Arab orange grove near Jaffa there now was a large housing development; the grain fields formerly surrounding

Beisan or Acco are now filled with new urban developments including shopping centers and streets of new cities; even where former homes remained intact the neighborhood character has completely changed. Many who had the opportunity to see the changes of twenty years, had second thoughts about returning to live in a Jewish state and many were willing to consider payment of compensation for their property as part of an equitable solution.

The Palestinian cause is endangered by that most traditional of characteristic ills which has plagued Arab politics, that is, the great divisiveness which fragments the national movement. The commando organizations from which the movement has grown are divided into a dozen factions separated by differences created by personality, ideology, tactics, priorities, and alliances with one or another Arab country. Not only have the Palestinians failed to develop a unified leadership, but their views range from those of groups seeking to completely radicalize Arab politics, destroying "reactionary" regimes throughout the Arab East, to views of groups who give increasing attention to possibilities of coexistence between Jewish and Arab national entities.

The Jordan civil war in September 1970 and in July, 1971 was a severe setback for the Palestinians, although their cause was not totally destroyed. Defeat did lead to second thoughts among many commandos who have more realistically been appraising their political objectives, concluding that even though the state of Israel and its ideology may be repugnant, it cannot be destroyed; that Palestinian Arab nationalism must find some form of coexistence with the Jewish state.

The major failing of peace proposals in the Arab-Israel conflict has not been their lack of imagination, insight, or omission of the key issues. More importantly, they have lacked means of implementation. No proposals for settlement in such a dispute can be self-enforcing, especially when emotions run so deep and the antagonists are so far apart on fundamental principles.

Israel has insisted that peace cannot be imposed by outside powers, but must come through direct negotiations with the Arab states. Implicit in this assumption is lack of great power involvement, and at least a minimum of mutual confidence and trust essential to direct diplomacy. However, these conditions do not exist in the Arab-Israel conflict.

The great powers are and have been involved in the Middle East throughout modern history. They have been involved in every major change in the *status quo* going back to the eighteenth century. All major territorial changes and the status of waterways such as the Turkish Straits and the Suez Canal have involved the major powers.

Without great power participation in a peace settlement, the danger of continuing conflict would threaten any arrangements that might be reached. Thus, integral to any settlement is relaxation of the tensions between the powers that are backing local contestants. As long as the Soviet Union and the United States regard the Middle East as vital to their own international interests, they will continue to back their respective clients; and these clients