

*Prepared for, and under the guidance of,
the Committee on the Exercise of the Inalienable Rights
of the Palestinian People*

**The Origins and Evolution
of the Palestine Problem:
1917-1988**

PART II

1947-1977

INTRODUCTION

At the end of the First World War, Palestine was among the several former Ottoman Arab territories which were made mandated territories by the League of Nations. The relevant provisions of the League's Covenant (Article 22) referred to these territories as "certain communities formerly belonging to the Turkish Empire [which] have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative assistance and advice by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory".

All but one of these Mandated Territories (categorized as class "A" Mandates) whose independence was provisionally recognized became fully independent States, as anticipated. The exception was Palestine where, instead of being limited to "the rendering of administrative assistance and advice" the Mandate had as a primary aim the implementation of the "Balfour Declaration" issued by the British Government in 1917, conveying that Government's support for "the establishment in Palestine of a national home for the Jewish people". This commitment was included in the mandate for Palestine, formally allotted in 1922 to Great Britain by the League of Nations, without having ascertained the wishes of the Palestinian people, as required by the Covenant.

During the 25 years of the Palestine Mandate, from 1922 to 1947, large-scale Jewish immigration from abroad, mainly from Eastern Europe took place, the numbers swelling in the 1930s with the notorious Nazi persecution of Jewry. Over this period the Jewish population of Palestine, composed principally of immigrants, increased from less than 10 per cent in 1917 to over 30 per cent in 1947. Palestinian demands for independence and resistance to Jewish immigration led to a rebellion in 1937, followed by continuing terrorism and violence from both sides during and immediately after the Second World War. Great Britain, as the Mandatory Power, tried to implement various formulas to bring independence to a land ravaged by violence. A partition scheme, a formula for provincial autonomy, a unified independent Palestine were all considered and abandoned, and in 1947, Great Britain in frustration turned the problem over to the United Nations.

I. THE UNITED NATIONS GENERAL ASSEMBLY SPECIAL SESSION ON PALESTINE

The United Nations took up the question of Palestine in February 1947, on the request of Great Britain, the Mandatory Power which had governed Palestine since 1917, first as an occupying Power and then under a mandate from the League of Nations in 1922. By this time all countries in the Middle East formerly under mandates were independent. The only exception was Palestine, a *sui generis* where the transition to independence had been impeded by violence arising out of the self-contradictory terms of the Mandate. Where in principle it should have provided a transition to independence, the Mandate's commitment to establishing a Jewish national home in Palestine had created a situation where conflict between Arabs and Jews in the area about the character of the future Palestinian State complicated the process. British attempts to resolve the issue by the partition of Palestine into two independent States or by relinquishing the mandate with the consequent emergence of an independent unified Palestine had failed in the face of the opposition of the Palestinian Arabs to the former plan and of the Zionist movement to the latter. Faced with a situation over which it was losing control, the British Government turned the problem over to the United Nations on the ground that the conflicting obligations assumed under the Mandate were irreconcilable.

The Palestine question in the United Nations

The British Government's decision in February 1947 to place the Palestine question before the United Nations was followed by several

weeks of examining the various alternatives and the difficulties they entailed. For the Security Council to take up the issue could involve the veto. Another appropriate forum was the Trusteeship Council, but this would require a trusteeship agreement with Great Britain in a role similar to that which it was trying to shed. The eventual decision was to move the question in the General Assembly.

Meanwhile, violence continued to spread in Palestine as Zionist terrorist groups, now on the offensive, stepped up their attacks and sabotage. Illegal immigration into Palestine increased sharply. With a regular session several months away, the British Government, under the pressure of violence in Palestine, requested a special session of the General Assembly to consider the appointment of a special committee "to make recommendations ... concerning the future government of Palestine". 1/

The question of independence for Palestine

The first special session of the United Nations General Assembly convened on 28 April 1947 to consider the question of Palestine, electing Oswaldo Aranha of Brazil as its President. Egypt, Iraq, Lebanon, Saudi Arabia and Syria had launched a concerted effort to obtain a substantive debate on the issue of independence for Palestine by addressing identical requests that the Assembly place on its agenda an additional item reading: "The termination of the mandate over Palestine and the declaration of its independence". 2/ The Secretariat had also received requests from the Jewish Agency in Palestine, as well as other Zionist and Jewish organizations, requesting to be heard by the Assembly. Both matters were taken up by the General Committee.

The Arab countries argued forcefully, in support of their request, that the League of Nations having recognized the provisional independence of class "A" Mandates, the United Nations could not avoid the issue of independence for Palestine. The entire history of Mandated Palestine was recounted, the Balfour Declaration and the Covenant analysed, the various Commission reports cited. The Lebanese delegate declared:

"Moreover, if you do not envisage independence now as a possibility, do you not really prejudice it yourself? Are you not really saying in effect that the United Nations itself - not a certain Power, but the United Nations - is really so afraid of envisaging the ultimate possibility of independence for Palestine that it is not even willing to discuss it in plenary session in this Assembly? I think that is a far more grievous prejudgement of the ultimate issue of this case than if we simply said at the present moment that we shall discuss this question with that ultimate end in view and bring forth all arguments concerning it.

"Surely the United Nations is above any one particular Government or State. Therefore, it cannot only meet the wishes of one Government, or two, or even a combination of Governments. Surely it is so detached and so far above particular Governments as to be able, in its own detachment, to envisage and discuss every possibility, including the possibility of independence." 3/

With the majority of the permanent members opposed, it became evident that the item proposed by the Arab countries would not succeed. Egypt stated it would not press for a vote, but the Chairman ruled that a vote was mandatory, and the proposal was rejected in the General Committee 4/ and a few days later again in the plenary. 5/ The British request was inscribed in the agenda for the special session.

Palestinian and Zionist representation

The Jewish Agency's request to be heard was based on the ground that while the Arab States were advocates for the Palestinian case, the Jewish case was unrepresented. This request was pressed in the strongest terms by Poland, claiming a special interest since almost half the Jewish immigrants in Palestine were from Poland, and other East European States. The matter faced complications, since there was no provision for non-governmental organizations to appear before the Assembly, and no precedent. The Secretary-General explained:

"This is not the first time we have had similar requests to be heard in the Assembly in connection with items on the agenda. They have always been turned down by the former President ... without consultation with the General Committee because he considered that the administration of the Assembly was in his hands. The question has never been pressed ... Representatives of non-governmental organizations have never been heard in the Assembly with regard to items on the agenda.

"I should like to explain this because, if the General Committee recommends that this special session of the Assembly allow a hearing of non-governmental organizations in the Assembly, it will be a change from the practice which we have followed until now ..." 6/

Nevertheless the General Assembly directed the First Committee to accept the Jewish Agency's request to present its case. The Jewish Agency was informed of the decision by a telegram from the President of the General Assembly. The First Committee was also directed to consider "other communications of a similar character" that had been or might be received by the United Nations.

This action by the Assembly led directly into the question of the request by the Palestinian Arabs to be heard. In keeping with the General Assembly resolution, the Palestinian request was referred to the First Committee and drew immediate protest by telegram from Palestine:

"We have the honour to refer to our letter dated 5 May requesting to be heard on the Palestine problem and to convey to you the following. Our request, which was submitted on behalf of the Arabs of Palestine, who constitute the great majority of the population of the country, was sent with other requests to the First Committee for decision, while the request of the Jewish Agency, which represents an alien and imposed minority, was accepted directly by the General Assembly. This is not in keeping with the position and rights of the Arabs of Palestine nor with the principles of justice and democracy. Although the Palestine Arab delegation cannot believe that such was the intention of the honourable members of the General Assembly, yet the fact and implications of the resolution are such that the Palestine Arab delegation, whilst reserving its future attitude, finds no alternative but to withdraw its request for a hearing. At the same time, we wish to put on record before the United Nations that the Arabs have never recognized and will never recognize the mandate over Palestine or any act or body deriving from it. We shall be grateful to Your Excellency if you will convey this communication to the General Assembly.

"The Palestine Arab delegation ..." 7/

This Palestinian protest was against the international recognition granted to the Jewish Agency by the Assembly, similar to that accorded to it by the League of Nations, the Palestinian Arabs being relegated to an inferior position in each case. The Arab States also protested, and the matter was settled by the First Committee recommending to the Assembly a resolution reading:

"... the decision of the First Committee to grant a hearing to the Arab Higher Committee gives a correct interpretation of the Assembly's intentions". 8/

The Arab Higher Committee then decided to appear before the First Committee.

The discussion on the Special Committee

The two complex questions facing the First Committee, with Mr. Lester Pearson of Canada in the chair, were the composition of the United Nations Special Committee on Palestine and its terms of reference, with markedly differing approaches reflected in the two major draft resolutions to come under discussion.

The first, from Argentina, proposed a Special Committee of 11 members, consisting of the permanent members of the Security Council, an Arab State and five other States chosen by lot to ensure representation of all regions. The Committee would hear British, Arab and Jewish representatives, and would have "the widest powers both to record facts and to make recommendations". 9/ The second, from the United States, proposed a Special Committee of seven "neutral" States, the permanent members of the Security Council as well as the Arab States being excluded. The task of the Committee, which would be authorized "to sit wherever it may consider necessary or desirable for the fulfilment of its tasks", would be:

"To assemble, analyse, and collate all pertinent data on the question; to receive testimony from interested Governments and from such non-governmental organizations and individuals as the Committee in its discretion may deem appropriate; to study the various issues which are involved and to submit to the next regular session of the General Assembly such proposals for the solution of the problem of Palestine as it may determine to be useful for the effective consideration of the problem by the General Assembly." 10/

A central question in the discussion on the Special Committee was whether the problem of Jewish refugees in Europe should be linked with the Palestine problem. A European delegate stressed the importance of separating the two:

"... the difficulty of finding a just and satisfactory solution to the Palestine question are increased by the linking together of two problems which are not necessarily interdependent.

"The first problem is the question of the future status of Palestine; the second problem is the question of the homeless Jews in Europe. These two problems are usually linked together in every discussion of the Palestine question. It is taken for granted that the only solution of the humanitarian problem of Jewish homelessness is immigration to Palestine and it is thus dependent upon a solution of the political question of the future status of Palestine.

"It must be manifest to everybody that the only effect of linking together these two problems is to render more difficult the solution of each. It is evident that the appalling tragedy of the homeless Jews in Europe makes it much more urgent to find a solution to the question of Palestine, as long as Palestine is considered to be the only place where Jewish refugees can find a home.

"This problem of Jewish homelessness can only be eased if the Member States will grant Jewish refugees a temporary or a permanent home." 11/

The Syrian delegate stressed the Arab view on this issue on the following day, when the delegation, making the above statement had changed its position:

"The representative ... wishes to connect the question of the displaced persons and refugees in Europe with the question of Palestine. We find that there is no way to connect the two ...

"One of the resolutions concerning the refugees and displaced persons in Europe ... states clearly that the resettlement of displaced persons should not be undertaken in any Non-Self-Governing Territory without the consent of the population of that Territory, and that resettlement should not be contemplated in any place where friendly relations between States would thereby be disturbed.

"The organization set up to care for refugees is already established, and it is going on with its work. The resettlement or repatriation of the refugees and displaced persons in Europe should be considered by that organization, and not by the Special Committee which is to be established here.

"The question of Palestine is altogether independent and separate from the question of persecuted persons of Europe. The Arabs of Palestine are not responsible in any way for the persecution of the Jews in Europe. That persecution is condemned by the whole civilized world, and the Arabs are among those who sympathize with the persecuted Jews. However, the solution of that problem cannot be said to be a responsibility of Palestine, which is a tiny country and which had taken enough of those refugees and other people since 1920 ... Any delegation which wishes to express its sympathy has more room in its country than has Palestine, and has better means of taking in these refugees and helping them". 12/

On the other hand, the representative of the Jewish Agency, by now participating in United Nations proceedings, insisted that the two questions be linked and that the Special Committee visit Europe:

"The members of the Committee will ask themselves, I am sure, why shiploads of helpless Jewish refugees - men, women, and children who

have been through all the hells of Nazi Europe - are being driven away from the shores of the Jewish national home by a Mandatory Government which assumed, as its prime obligation, the task of facilitating Jewish immigration into that country".

"If it is granted that the Jewish people are in Palestine as of right, then all the implications and corollaries of that premise must be accepted. The foremost is that Jews must be allowed to resettle in Palestine in unlimited numbers, provided only they do not displace or worsen the lot of the existing inhabitants who are also there as of right. If that basic premise is not granted, then there is very little to discuss ..." 13/

The United States draft (somewhat amended) was approved after the Argentinian draft was withdrawn, and the mission of the Special Committee was approved in broad terms:

"The Special Committee shall prepare a report to the General Assembly and shall submit such proposals as it may consider appropriate for the solution of the problem of Palestine". 14/

While avoiding specific reference to the refugee situation in Europe, the Special Committee was authorized to conduct investigations anywhere it considered necessary, thus assuring an indirect linkage of the Jewish refugee issue to the future of Palestine.

During the discussion in the Committee, the Soviet and Polish representatives proposed amendments to its terms of reference requiring it to submit proposals on the question of establishing "the independent democratic State of Palestine", both amendments being defeated. 15/ In the plenary, however, the Soviet representative referred to the possibility of the partition of Palestine:

"The fact that no Western European State has been able to ensure the defence of the elementary rights of the Jewish people, and to safeguard it against the violence of the fascist executioners, explains the aspirations of the Jews to establish their own State. It would be unjust not to take this into consideration and to deny the right of the Jewish people to realize this aspiration ...

"Thus, the solution of the Palestine problem by the establishment of a single Arab-Jewish State with equal rights for the Jews and the Arabs may be considered as one of the possibilities and one of the more noteworthy methods for the solution of this complicated problem ...

"If this plan proved impossible to implement, in view of the deterioration in the relations between the Jews and the Arabs ... then it would be necessary to consider the second plan which, like the first, has its supporters in Palestine, and which provides for the partition of Palestine into two independent autonomous States, one Jewish and one Arab. I repeat that such a solution of the Palestine problem would be justifiable only if relations between the Jewish and Arab populations of Palestine indeed proved to be so bad that it would be impossible to reconcile them and to ensure the peaceful co-existence of the Arabs and the Jews ..." 16/

The Arab delegations strongly protested the omission of reference to an independent Palestinian State in the terms of reference of the Special Committee:

"... by the stroke of a pen the reference to the independence of Palestine has been in effect removed, the Committee failing even to conform to the spirit of the request of the British Government as embodied in its letter of appeal to the United Nations for a settlement of this problem, we feel indeed that the First Committee has exceeded its powers and was not within its rights when it decided to delete the sentence referring to 'the future government of Palestine' and replaced it by a vague and broad reference to 'the question of Palestine;...' " 17/

The case for the recognition of the rights of the Palestinian Arabs had fared badly in the special session. UNSCOP's charter contained no reference to the termination of the Mandate and independence for Palestine. The issue of Jewish European refugees had been linked with Palestine.

II. THE UNITED NATIONS SPECIAL COMMITTEE ON PALESTINE

The Special Committee held preliminary meetings in New York, electing Justice Emil Sandström of Sweden as Chairman, and reached Palestine in mid-June 1947. The Arab League's Secretary General had indicated that the League would co-operate, but the Palestinian leadership in the Arab Higher Committee decided against participation, informing the Special Committee by cable:

"... Arab Higher Committee Palestine desire convey to United Nations that after thoroughly studying the deliberations and circumstances under which the Palestine fact-finding Committee was formed and the discussions leading to terms of reference they resolved that Palestine Arabs should abstain from collaboration and desist from appearing before said committee for following main reasons - firstly United Nations refusal adopt natural course of inserting termination Mandate and declaration independence in agenda special United Nations session and in terms of reference secondly failure detach Jewish world refugees from Palestine problem thirdly replacing interests Palestine inhabitants by insertion world religious interests although these are not subject of contention - furthermore Palestine Arabs natural rights are self evident and cannot continue to be subject to investigation but deserve to be recognized on the basis of principles of United Nations Charter." 18/

The Special Committee Chairman appealed by radio broadcast and later by letter for co-operation from the Arab High Committee which kept to its decision of non-co-operation.

The Jewish case before the Special Committee

Jewish organizations, on the other hand, extended full co-operation, submitting over a hundred documents, some lengthy and detailed, to the Special Committee compared to two brief papers presented by the Arab States. The Jewish Agency appointed two liaison officers with the Special Committee on the latter's request. The Zionist terrorist groups assured the Special Committee of safety.

The Jewish case was presented by numerous representations over several hearings. Mr. David Ben-Gurion, one of the chief Zionist advocates, charged Great Britain, which, under the "Churchill policy" had built up the "national home", of undermining Jewish aspirations:

"We are a small, weak, defenceless people, and we know that there can be no security for us, neither as individuals nor as a people, neither in the Diaspora nor in our homeland, even after we become an independent nation in our own State, as long as the whole human family is not united in peace and good will;...

"A great people and the entire civilized world recognized our right to reconstitute our national home here. And now the same Government that was charged with that sacred trust of promoting the Jewish national home has put us into a territorial ghetto;...

"But all this does not change the fundamental fact that the Mandate for Palestine has not been implemented, its primary purpose has not been carried out and was very often obstructed even before the White Paper. The Mandatory in Palestine failed not because Jews and Arabs did not co-operate, but because the Mandatory refused to co-operate with the Mandate ..." 19/

Upon being questioned on the Jewish Agency's position on a partition of Palestine, Ben-Gurion was non-committal:

"... we stand by the attitude we took last year, that we will be ready to consider the question of a Jewish State in an adequate area of Palestine, and that we are entitled to Palestine as a whole." 20/

He also said that if a United Nations decision in favour of Zionist aims provoked violent protest from the Palestinian Arabs, "... we will take care of ourselves." 21/

Dr. Weizmann, appearing in his personal capacity, was more amenable to accepting partition:

"... if I, personally, came to the conclusion that partition is the best, I did so by a process of elimination. I know that one speaks of a bi-national State; a sort of federal solution; ... I do not think that they have advantages of partition which is final, definite, and crystallized. Anything that will leave an uncertainty will leave room for pulling by the two forces. The Jews will want to get something better. The Arabs will want to push us out of what we have. Therefore, I believe although partition means a sort of Solomon's judgement, it is under the circumstances perhaps the better ..." 22/

As was to be expected, the British Government strongly refuted the Zionist allegations against them:

"... The general theme of Mr. Ben-Gurion's statements is an attack on Britain and a charge of failing to fulfil international pledges. He says ... that the Administrations in Palestine and London were biased against the Mandate from the beginning and did everything they could do to obstruct it. The fact that the national home could never have been established without the direct assistance and support that Britain has given to it, with the expenditure of British resources and British lives, apparently requires to be restated, in these simple terms. The denial of this fact, the concealment of the truth and the failure to recognise that there was ever any reason for granting the most extreme Jewish demands in the face of bitter opposition from the inhabitants of the country must appear to all impartial observers as at least a gross self-deception ..." 23/

The Palestinian Arab case

Having heard the Zionist position and also the British Government's views, the Special Committee again urged Palestinian and Arab spokesmen to present their case. The Arab Higher Committee of Palestine repeated its refusal to appear before the Special Committee, commenting that it would present the Palestinian case to the General Assembly. The Arab League states agreed to meet the Special Committee in Lebanon, the only exception being Transjordan, which would meet the Special Committee only in Amman.

The main points of the presentation of the Arab case are summarized in these words:

"... the question of creation of a Jewish State cannot be taken without two other connected problems; that is, the question of immigration and that of foreign subsidies. A Jewish State would, of course, be master of the immigration into Palestine. It might decide that immigration would be without limits and the economic argument, which would be that it is impossible for a very large number of people to live in a very small territory, would become void if the Jewish State can still reckon with foreign financial support. Therefore, with the doors of the country wide open to immigration, and financial support from outside, the Jewish State would become extremely populated. Therefore, it might not be 1 million, but 2, 3, 4 million, since it would not depend on its own economy or its own production. As soon as it goes beyond a certain limit in numbers, it is no longer a State where Jews can come and be safe but it becomes a bridgehead against the Arab world. This is what we absolutely want to avoid.

"... The destiny of Palestine cannot be decided by outsiders. It is against the Charter. The destiny of Palestine shall be decided by its own people. The people of Palestine shall decide the destiny of Palestine ...

"Zionism has no rightful claim on Palestine. In the implementation of their programme, they have exclusively relied on the support of a foreign power régime conducting itself arbitrarily and unjustly. Their forces have been forces of repression." 24/

The Egyptian delegate expressed a particular concern:

"... the Egyptian Government certainly views with grave concern the establishment of Jewish colonies near the Egyptian frontier. That is only an indication of the first step towards the execution of Jewish ambitions towards Sinai which is already mentioned in the different proclamations, and certainly the Egyptian Government has taken measures against this danger which is getting nearer and nearer to the Egyptian territories;..." 25/

A delegation of the Special Committee visited Amman, and ascertained that Transjordan fully supported the Arab position on the Palestine question.

The Special Committee's visit to Europe

From Palestine the Special Committee moved to Geneva, from where a sub-committee was sent to investigate refugee camps in Germany and Austria. The sub-committee reported:

"The alternatives to resettlement, namely, repatriation or absorption into the German or Austrian communities were investigated. The prevailing reaction among the persons questioned, many of whom had returned to their former place of residence in order to trace relatives and property, was a refusal to repatriate. The reasons given were based on a fear of growing anti-Semitism ... The feeling of anti-Semitism is strong among the native population, especially towards the Jews now living in assembly centres.

"The question arises whether the determination to go to Palestine would change substantially if real prospects of resettlement in other countries were offered. The overwhelming majority of the persons questioned affirmed that they would not consider resettlement in any country except Palestine, declaring that they would rather wait indefinitely until the opportunity to go to Palestine came or attempt illegal passage ...

"As a matter of fact, it is probable that the state of mind prevailing in centres is due to a combination of factors which all react upon one another. There is undoubtedly a certain element of propaganda, and there is also an element of self-persuasion ... As regards propaganda, some actual evidence was seen in the form of posters and written material at some of the centres. In particular, at one centre a poster was noted with the inscription 'Palestine - a Jewish State for the Jewish people' and also a large pictorial design showing Jews from eastern Europe on the march towards Palestine shown as a much larger area than the present geographical limits ..." 26/

In a separate note, a member of the Special Committee recorded:

"... It was admitted to us by Mr. Sommerfelt of the Preparatory Commission of the International Refugee Organization that considerable propaganda is being carried on by or on behalf of the Jewish Agency in the camps for displaced persons with the object of inducing Jews to immigrate into Palestine, although he found that those staying in these camps as a general rule agree, if they are afforded opportunities, to go to places other than Palestine ..." 27/

The Special Committee concluded its three-month investigations by August 1947, and its report summarized the Jewish and Arab cases as follows:

" The Jewish case

"The Jewish case, as herein considered, is mainly the case advanced by the Jewish Agency which, by the terms of the Mandate, has a special status with regard to Jewish interests in Palestine.

"The Jewish case seeks the establishment of a Jewish State in Palestine. In the Jewish case, the issues of the Jewish State and unrestricted immigration are inextricably interwoven. On the one hand, the Jewish State is needed in order to assure a refuge for the Jewish immigrants who are clamoring to come to Palestine from the displaced persons camps and from other places ... On the other hand, a Jewish State would have urgent need of Jewish immigrants in order to affect the present great numerical preponderance of Arabs over Jews in Palestine. The Jewish case frankly recognizes the difficulty involved in creating at the present time a Jewish State in all of Palestine in which Jews would, in fact, be only a minority, or in part of Palestine in which, at best, they could immediately have only a slight preponderance. Thus, the Jewish case lays great stress on the right of Jewish immigration, for political as well as humanitarian reasons. Special emphasis is therefore placed on the right of Jews to 'return' to Palestine ..." 28/

The summary of the Arab case was as follows:

" The Arab case

"The Arab case seeks the immediate creation of an independent Palestine west of the Jordan as an Arab State ...

"They postulate the 'natural' right of the Arab majority to remain in undisputed possession of the country, since they are and have been for many centuries in possession of the land. This claim of a 'natural' right is based on the contention that the Arab connection with Palestine has continued uninterrupted from early historical times.

"The Arabs also claim 'acquired' rights, based on the general promises and pledges officially made to the Arab people in the course of the First World War ...

"In the Arab view, these undertakings, taken collectively, provide a firm recognition of Arab political rights in Palestine which, they contend, Great Britain is under a contractual obligation to accept and uphold - an obligation thus far unfulfilled ...

"The Arabs have persistently adhered to the position that the Mandate for Palestine, which incorporated the Balfour Declaration, is illegal. The Arab States have refused to recognize it as having any validity ..." 29/

The Special Committee, however, had been unable to agree on recommendations. A majority of members (Canada, Czechoslovakia,

Guatemala, Netherlands, Peru, Sweden and Uruguay) recommended the partition of Palestine into two States that would be politically separate and independent, but would administer a unified economy. Jerusalem would be an international city. The minority (India, Iran and Yugoslavia) proposed an independent Palestine as a federated State with Jerusalem as its capital. Australia did not support either proposal.

The only unanimous agreement was on the termination of the Mandate, the principle of independence, and a United Nations role:

"The Mandate for Palestine shall be terminated at the earliest practicable date ...

"Independence shall be granted in Palestine at the earliest practicable date ...

"During the transitional period the authority entrusted with the task of administering Palestine and preparing it for independence shall be responsible to the United Nations ...

"The General Assembly (should) undertake the initiation and execution of an international arrangement whereby the problem of the dispersed European Jews, of whom approximately 250,000 are in assembly centres, will be dealt with as a matter of extreme urgency for the alleviation of their plight and of the Palestine problem;..." 30/

The justification for the majority plan of partition with economic union was presented as follows:

"The basic premise underlying the partition proposal is that the claims to Palestine of the Arabs and Jews, both possessing validity, are irreconcilable, and that among all of the solutions advanced, partition will provide the most realistic and practicable settlement, and is the most likely to afford a workable basis for meeting in part the claims and national aspirations of both parties ...

"The basic conflict in Palestine is a clash of two intense nationalisms. Regardless of the historical origins of the conflict, the rights and wrongs of the promises and counter-promises, and the international intervention incident to the Mandate, there are now in Palestine some 650,000 Jews and some 1,200,000 Arabs who are dissimilar in their ways of living and, for the time being, separated by political interests which render difficult full and effective political co-operation among them, whether voluntary or induced by constitutional arrangements.

"The partition solution provides that finality which is a most urgent need in the solution. Every other proposed solution would tend to induce the two parties to seek modification in their favour by means of persistent pressure. The grant of independence to both States, however, would remove the basis for such efforts.

"Partition is based on a realistic appraisal of the actual Arab-Jewish relations in Palestine. Full political co-operation would be indispensable to the effective functioning of any single-State scheme, such as the federal State proposal, except in those cases which frankly envisage either an Arab or a Jewish-dominated State.

"Partition is the only means available by which political and economic responsibility can be placed squarely on both Arabs and Jews, with the prospective result that, confronted with responsibility for bearing fully the consequences of their own actions, a new and important element of political amelioration would be introduced. In the proposed federal State solution, this factor would be lacking.

"Jewish immigration is the central issue in Palestine today and is the one factor, above all others, that rules out the necessary co-operation between the Arab and Jewish communities in a single State. The creation of a Jewish State under a partition scheme is the only hope of removing this issue from the arena of conflict.

"It is recognized that partition has been strongly opposed by Arabs, but it is felt that that opposition would be lessened by a solution which definitively fixes the extent of territory to be allotted to the Jews with its implicit limitation on immigration. The fact that the solution carries the sanction of the United Nations involves a finality which should allay Arab fears of further expansion of the Jewish State ..." 31/

The justifications for the minority recommendation of a federal independent State were:

"It is incontrovertible that any solution for Palestine cannot be considered as a solution of the Jewish problem in general.

"It is recognized that Palestine is the common country of both indigenous Arabs and Jews, that both these peoples have had an historic association with it, and that both play vital roles in the economic and cultural life of the country.

"This being so, the objective is a dynamic solution which will ensure equal rights for both Arabs and Jews in their common State, and which will maintain that economic unity which is indispensable to the life and development of the country.

"The basic assumption underlying the views herein expressed is that the proposal of other members of the Committee for a union under artificial arrangements designed to achieve essential economic and social unity after first creating political and geographical disunity by partition, is impracticable, unworkable, and could not possibly provide for two reasonably viable States ...

"It would be a tragic mistake on the part of the international community not to bend every effort in this direction. Support for the preservation of the unity of Palestine by the United Nations would in itself be an important factor in encouraging co-operation and collaboration between the two peoples, and would contribute significantly to the creation of that atmosphere in which the will to co-operate can be cultivated. In this regard, it is realized that the moral and political prestige of the United Nations is deeply involved ...

"While the problem of Jewish immigration is ... closely related to the solution of the Palestine question, it cannot be contemplated that

Palestine is to be considered in any sense as a means of solving the problem of world Jewry. In direct and effective opposition to any such suggestion are the twin factors of limited area and resources and vigorous and persistent opposition of the Arab people, who constitute the majority population of the country.

"For these reasons, no claim to a right of unlimited immigration of Jews into Palestine, irrespective of time, can be entertained. It follows, therefore, that no basis could exist for any anticipation that the Jews now in Palestine might increase their numbers by means of free mass immigration to such extent that they would become the majority population in Palestine ..." 32/

The two plans were placed before the General Assembly in September 1947.

The Special Committee and events in Palestine

During its five weeks in Palestine, the Special Committee was involved in more than official hearings. Almost immediately after its arrival in Jerusalem, the Special Committee was drawn into a case in which a death sentence to three members of the Irgun for terrorist activities was awaiting confirmation by the High Commissioner. An Irgun leader, Mr. Menachem Begin, had warned that the two British sergeants, kidnapped by the Irgun, would be killed as a reprisal if the death sentences were carried out. The Special Committee received a petition from the families of the condemned men, pleading that it intercede. The issue, presenting a dilemma to the Special Committee concerning its competence, was discussed in closed meetings, which resulted in the Special Committee passing a resolution expressing "concern as to the possible unfavourable repercussions that execution of the three death sentences ... might have upon the fulfilment of the task (of the Special Committee) ...", and forwarding the letter to the United Nations Secretary-General, informing the families that it would also be forwarded to the Mandatory Power.33/ The British Government responded that the case was:

"... still sub judice. If the sentences are confirmed by the General Officer Commanding, it will then be open to the High Commissioner for Palestine to exercise, if he thinks fit, the royal prerogative of pardon delegated to him by His Majesty. It is the invariable practice of His Majesty's Government not to interfere with the High Commissioner's discretion whether or not to exercise this prerogative;..." 34/

Shortly after the Special Committee left Palestine, the three condemned men were executed, and the two British sergeants killed in reprisal in a wider wave of violence.

Other incidents concerned the illegal immigration that then was at its height. The Special Committee came under considerable pressure from the Jewish Agency to visit the internment camps in Cyprus where illegal immigrants who had been apprehended were held, but decided against such a visit. 33/ One incident involved the vessel Exodus 1947 with 4,500 illegal refugees, intercepted by British vessels and towed into Haifa harbour for trans-shipment. Violence broke out and was witnessed by members of the Special Committee, which noted in its report:

"... There can be no doubt that the enforcement of the White Paper of 1939, subject to the permitted entry since December 1945 to 1,500 Jewish immigrants monthly, has created throughout the Jewish community a deep-seated distrust and resentment against the Mandatory Power. This feeling is most sharply expressed in regard to the Administration's attempts to prevent the landing of illegal immigrants. During its stay in Palestine, the Committee heard from certain of its members an eyewitness account of the incidents relative to the bringing into the port of Haifa, under British naval escort, of the illegal immigrant ship, Exodus 1947. In this, as in similar incidents, the Committee has noted the persistence of the attempts to bring Jewish immigrants to Palestine irrespective of determined preventive measures on the part of the Administration, and also the far-reaching support which such attempts receive from the Jewish community in Palestine and abroad. The unremitting struggle to admit further Jews into Palestine, irrespective of the quota permitted by the Administration, is a measure of the rift which has developed between the Jewish Agency and the Jewish community, on the one hand, and the administration on the other. In the present state of tension, little practicable basis exists for the discharge by the Jewish Agency of its function under the Mandate of 'advising and cooperating' with the Administration in matters affecting the interests of the Jewish community ..." 35/

The situation in Palestine in 1947

The Special Committee's report described the situation prevailing in Palestine during its stay as follows:

" The present situation

"The atmosphere in Palestine today is one of profound tension. In many respects the country is living under a semi-military régime. In the streets of Jerusalem and other key areas barbed wire defences, road blocks, machine-gun posts and constant armoured car patrols are routine measures. In areas of doubtful security, Administration officials and the military forces live within strictly policed security zones and work within fortified and closely-guarded buildings. Freedom of personal movement is liable to severe restriction and the curfew and martial law have become a not uncommon experience. The primary purpose of the Palestine Government, in the circumstances of recurring terrorist attacks, is to maintain what it regards as the essential conditions of public security. Increasing resort has been had to special security measures provided for in the defence emergency regulations. Under these regulations, a person may be detained for an unlimited period, or placed under police supervision for one year, by order of an area military commander; and he may be deported or excluded from Palestine by order of the High Commissioner. Where there are reasons to believe that there are grounds which would justify ... detention ... or deportation, any person may be arrested without warrant by any member of His Majesty's Forces or any police officer and detained for not more than seven days, pending further decision by the military commander. The regulations concerning military courts prohibit a form of judicial appeal from or questioning of a sentence or decision of a military court. Under the regulations, widespread arrests have been made; and as of 12 July 1947, 820 persons were being held in detention on security grounds, including 291 in Kenya under Kenya's 1947 ordinance dealing with the control of detained persons. The detainees were all Jews with the exception of four Arabs. In addition to these, 17,873 illegal immigrants were under detention.

"The attitude of the Administration to the maintenance of public security in present circumstances was stated to the Committee in the following terms:

"The right of any community to use force as a means of gaining its political ends is not admitted in the British Commonwealth. Since the beginning of 1945 the Jews have implicitly claimed this right and have (sic) supported by an organized campaign of lawlessness, murder and sabotage their contention that, whatever other interests might be concerned, nothing should be allowed to stand in the way of a Jewish State and free Jewish immigration into Palestine. It is true that large numbers of Jews do not today attempt to defend the crimes that have been committed in the name of these political aspirations. They recognize the damage caused to their good name by these methods in the court of world opinion. Nevertheless, the Jewish community of Palestine still publicly refuses its help to the Administration in suppressing terrorism, on the ground that the Administration's policy is opposed to Jewish interests. The converse of this attitude is clear, and its result, however much the Jewish leaders themselves may not wish it, has been to give active encouragement to the dissidents and freer scope to their activities ..." 35/

The Special Committee's report also contained a description of how far the Zionist movement had advanced towards its goal of a Jewish state in Palestine:

" Development of the national home

"In 1937, the members of the Palestine Royal Commission summed up their impressions thus: 'Twelve years ago the national home was an experiment, today it is a going concern'. Within the decade since their report was issued, the Jewish population of Palestine has increased from 400,000 to some 625,000. In place of the 203 agricultural settlements containing some 97,000 there are now more than 300 such settlements and small towns with a population of some 140,000. The larger towns and cities of the Yishuv (Jewish community in Palestine) have likewise greatly expanded both in size and amenities ...

"Membership in the Jewish community is virtually automatic for all Jews aged 18 or more who have lived in Palestine for at least three months. All adults in the community from the age of 20 participate in voting for the Elected Assembly, from which is formed the Va'ad Leumi (National Council). The Va'ad Leumi maintains, almost exclusively from its own tax revenue and resources, in co-operation with other community organizations, the Jewish school system and a network of public health and social services ...

"In the life of the Jewish community, the Jewish Agency occupies a special place in virtue both of its status under article 4 of the Mandate and as a representative organization of world Jewry. Organized in Palestine into some 20 departments corresponding in general to the departments of State in a self-governing country, the Agency concerns itself with every aspect of Jewish economic and social development in Palestine and exercises a decisive influence in major questions of policy and administration, particularly in regard to immigration and agricultural development.

"The Yishuv (Jewish community in Palestine) is thus a highly organized and closely knit society which, partly on a basis of communal effort, has created a national life distinctive enough to merit the Royal Commission's title of a State within a State ..." 36/

III. THE AD HOC COMMITTEE ON PALESTINE

When the second session of the United Nations General Assembly convened in September 1947 it constituted itself as an Ad Hoc Committee to deal with the Palestine question while considering in its normal session the other items on its agenda.

The essential points of the Special Committee on Palestine's majority and minority plans were as given below:

" The majority proposal: Partition with economic union

" Partition and independence - Palestine within its present borders, following a transitional period of two years from 1 September 1947, shall be constituted into an independent Arab State, an independent Jewish State, and the City of Jerusalem ...

"Independence shall be granted to each State upon its request only after it has adopted a constitution ... has made to the United Nations a declaration containing certain guarantees, and has signed a treaty creating the Economic Union of Palestine and establishing a system of collaboration between the two States and the City of Jerusalem.

" Citizenship - Palestinian citizens, as well as Arabs and Jews who, not holding Palestinian citizenship, reside in Palestine, shall, upon the recognition of independence, become citizens of the State in which they are resident ...

" Economic union - A treaty shall be entered into between the two States ... The treaty shall be binding at once without ratification. It shall contain provisions to establish the Economic Union of Palestine ...

" Population - The figures given for the distribution of the settled population in the two proposed States ... are approximately as follows:

	<u>Jews</u>	<u>Arabs and others</u>	<u>Total</u>
The Jewish State	498 000	407 000	905 000
The Arab State	10 000	725 000	735 000

City of Jerusalem	100 000	105 000	205 000

"In addition there will be in the Jewish State about 90,000 (Arab) Bedouins ...

"(Jerusalem) - The City of Jerusalem shall be placed under an International Trusteeship System by means of a trusteeship Agreement which shall designate the United Nations as the Administering Authority ..." 37/

" The minority proposal: A Federal State of Palestine

" The independent State of Palestine - The peoples of Palestine are entitled to recognition of their right to independence, and an independent federal State of Palestine shall be created following a transitional period not exceeding three years ...

"The independent federal State of Palestine shall comprise an Arab State and a Jewish State ...

"During the transitional period, a constituent assembly shall be elected by the population of Palestine and shall formulate the constitution of the independent federal State of Palestine ...

"The attainment of independence by the independent federal State of Palestine shall be declared by the General Assembly of the United Nations as soon as the authority administering the territory shall have certified to the General Assembly that the constituent assembly referred to in the precedent paragraph has adopted a constitution ...

"There shall be a single Palestinian nationality and citizenship, which shall be granted to Arabs, Jews and others.

" Jerusalem - Jerusalem, which shall be the capital of the independent federal State of Palestine, shall comprise, for purposes of local administration two separate municipalities, one of which shall include the Arab sections of the city, including that part of the city within the walls, and the other the areas which are predominantly Jewish.

" Jewish immigration into Palestine

"The problem of Jewish immigration into Palestine should be dealt with in the following manner:

(a) For a period of three years from the effective date of the beginning of the transitional period provided for in the solution to be applied to Palestine, even if the transitional period should be less, Jewish immigration shall be permitted into the borders of the Jewish State in the proposed independent federal State of Palestine, in such numbers as not to exceed the absorptive capacity of that Jewish State, having due regard for the rights of the population then present within that State and for their anticipated natural rate of increase. The authority responsible for executing the transitional arrangements on behalf of the United Nations shall take all measures necessary to safeguard these principles.

(b) For the purpose of appraising objectively the absorptive capacity of the Jewish state in the independent State of Palestine, an international commission shall be established. Its membership shall consist of three representatives designated by the Arabs of Palestine, three representatives designated by the Jews of Palestine, and three representatives designated by the appropriate organ of the United Nations." 38/

Reactions to the fundamentally differing recommendations made by the Special Committee appeared, along predictable lines, even before the General Assembly met. The Arab League's Political Committee declared it would strongly resist the partition plan. The Palestine Arab Higher Committee condemned the plan as:

"An excess of injustice to Palestine ... a flagrant violation of the natural rights of the Arabs in their own country ... an echo of the influence of zionism ..." 39/

The Arab Higher Committee, which had refused to co-operate with the Special Committee decided to fight the Palestinian case in the Assembly.

The Zionist Organization approved of the partition resolution, although objecting the Jewish state had not been allotted enough territory and termed the minority proposals "unacceptable". 40/ The Zionists also prepared for the Assembly.

Palestine once again faced a historical decision on its future, reminiscent of the League of Nations decision that made it a mandated territory. The question now was even more fundamental - whether Palestine would attain independence as a unified entity or only by partition. The discussions in the United Nations were long and intense, and only the arguments of the major parties need be summarized here. As in all negotiations, informal political agreements reached outside the chambers were decisive in the final outcome.

Although Great Britain had made clear its intention to divest itself of the mandate, its position as the Mandatory Power gave a special significance to its attitude towards the Special Committee's recommendations. The British representative stated that his Government was in general agreement with the unanimous principles approved by the Special Committee, and would accept any United Nations decision, but that it could not assume any responsibility for its implementation, and would in any event soon withdraw its forces:

"With regard to ... Jewish displaced persons, the United Kingdom was of the opinion that the entire problem of displaced persons in Europe, Jewish and non-Jewish alike, was an international responsibility and one demanding urgent attention ...

"The United Kingdom Government was ready to assume the responsibility for giving effect to any plan on which agreement was reached by the Arabs and the Jews. If the Assembly were to recommend a policy which was not acceptable to the Jews and the Arabs, the United Kingdom Government would not feel able to implement it. It would then be necessary to provide for some alternative authority to implement it." 41/

The representative of the Arab Higher Committee commented on the Special Committee proposals in these words:

"The case of the Arabs of Palestine was based on the principles of international justice; it was that of a people which desired to live in undisturbed possession of the country where Providence and history had placed it. The Arabs of Palestine could not understand why their right to live in freedom and peace, and to develop their country in accordance with their traditions, should be questioned and constantly submitted to investigation ...

"The Zionists were conducting an aggressive campaign with the object of securing by force a country which was not theirs by birthright. Thus there was self-defence on one side and, on the other, aggression. The *raison d'être* of the United Nations was to assist self-defence against aggression ...

"The struggle of the Arabs of Palestine against Zionism had nothing in common with anti-Semitism. The Arab world had been one of the rare havens of refuge for the Jews until the atmosphere of neighbourliness had been poisoned by the Balfour Declaration and by the aggressive spirit which the latter had engendered in the Jewish community ...

"The solution lay in the Charter of the United Nations, in accordance with which the Arabs of Palestine, who constituted the majority were entitled to a free and independent State ...

"Regarding the manner and form of independence for Palestine, it was the view of the Arab Higher Committee that that was a matter for the rightful owners of Palestine to decide. Once Palestine was found to be entitled to independence, the United Nations was not legally competent to decide or to impose the constitutional organization of Palestine, since such action would amount to interference with an internal matter of an independent nation." 42/

The Jewish Agency stated its position as follows:

"While hoping that nations would welcome displaced persons who wished to emigrate to countries other than Palestine, the Jewish Agency considered that it would be unjust to deny the right to go to the Jewish national home to those who wanted to do so.

"Recommendation ... to the effect that any solution for Palestine could not be considered as a solution of the Jewish problem in general, was unintelligible ... The Jewish problem in general was none other than the age-old question of Jewish homelessness, for which there was but one solution - that provided for by the Balfour Declaration and the Mandate;- the reconstitution of the Jewish national home in Palestine.

"... the plan proposed by the minority of the Special Committee ... was unacceptable; though it called them States, it actually made provision only for semi-autonomous cantons or provinces. Palestine would be an Arab State with two Jewish enclaves. The Jews, who would be frozen in the position of a permanent minority in the federal State, would not even have control over their own fiscal policies or immigration; the latter, with many other matters of fundamental importance, would be left in the hands of the Arab majority ..." 43/

A lengthy general debate followed in which again the entire history of Palestine was recounted, the Balfour Declaration dissected, the Mandate examined, and the Special Committee's two plans exhaustively analysed. Some representative views are summarized below:

Great Britain

"... in spite of revolts and terrorism, a national home had been established and a Jewish community of over 600,000 persons had been built up, the Arab population had doubled and social and economic standards had advanced to the advantage of all ...

"It had been suggested that the United Kingdom should carry the full responsibility for the administration of Palestine and for enforcing changes proposed by the United Nations during an indefinite transitional period until independence was attained ... The United Kingdom would in no case accept responsibility for enforcement, either alone or in the major role.

"... the illegal immigration into Palestine undertaken with the connivance and assistance of some Governments ... was a question which aroused bitter feelings in Palestine; proposals for a change in the status quo should not lightly be put forward by those who had no responsibility for the consequences ..." 44/

United States

"... the United States delegation supported the basic principles of the unanimous recommendations ... and the majority plan which provided for partition and immigration. Certain amendments and modifications would nevertheless have to be made in the majority plan in order to give effect more accurately to the principles on which that plan was based.

"... by admitting the item on the future government of Palestine to its agenda, the Assembly had not undertaken to assume responsibility for the administration of Palestine during its transition to independence. The responsibility for administration still rested with the Mandatory Power. The General Assembly, however, would not fully discharge its obligation if it did not carefully take into account the problem of implementation ..." 45/

USSR

"... The essence of the question was the right of self-determination of hundreds of thousands of Jews and Arabs living in Palestine; the right of the Arabs as well as the Jews of Palestine to live in freedom and peace in a State of their own. It was necessary to take into consideration all the sufferings and needs of the Jewish people, whom none of the States of Western Europe has been able to help during their struggle against the Hitlerites and the allies of the Hitlerites for the defence of their rights and their existence.

"The Jewish people were therefore striving to create a State of their own and it would be unjust to deny them that right. The problem was urgent and could not be avoided by plunging back into the darkness of the ages.

"Every people - and that included the Jewish people - had full right to demand that their fate would not depend on the mercy or the good will of a particular State. The Members of the United Nations could help the Jewish people by acting in accordance with the principles of the Charter, which called for the guaranteeing to every people of their right to independence and self-determination ..." 46/

Dr. Weizmann appeared, as he had before the Special Committee, in his private capacity. He said:

"... The Mandate had envisaged a far more extensive territory for the Jewish State, eight times larger than that which was not proposed, and, as he had stated before the Special Committee, it was not easy for the Jews to accept such a compromise ...

"The idea of giving the Jews a minority status in an Arab State had been rejected by all the committees and by all impartial tribunals ... It was not in order to become citizens of an Arab State that the Jews, on the strength of international promises, had made their home in Palestine ...

"Thus only one solution remained, namely, the partition of Palestine and the establishment of a Jewish State, as was proposed in the majority plan ..." 47/

A strong exposition of the Palestinian case was as follows:

"The first duty of the United Nations was to prevent aggression. Yet Palestine had suffered from that injustice during the previous 30 years: the United Kingdom had held Palestine by armed force and had compelled the inhabitants to submit to Jewish immigration on a scale which threatened ultimately to convert the Palestinian Arabs into a political minority.

"... The population in Palestine at the end of the First World War had been 93 per cent Arab and 7 per cent Jewish, but the insidious form of aggression ... had raised the Jewish population to 33 per cent.

"It had been said that the persecution of the European Jews gave them a claim to unlimited immigration into Palestine. It had also been stated that the Jews themselves passionately desired to go to Palestine and were unwilling to be absorbed into any other country ... One asked whether the desire of persecuted Jewry was to be the deciding factor in the situation, and whether the immigration laws of various States should give way to the desire of the displaced persons to enter particular countries or areas. It was questionable whether any other country would be prepared to permit unrestricted immigration for such reasons ...

"It had been said that the Jews were determined not to accept the position of a political minority in Palestine, but the unwillingness of a minority in any country to continue to occupy that position was not a valid reason for converting a minority into a majority and a majority into a minority. It would be contended that it was for that very reason that partition had been advanced as a solution; but in examining the majority solution it would be found that in more than half the area of the country the Arabs were to be converted into a minority, in order that the Jewish population might become a politically dominant Jewish State ...

"... (in) a letter published in the New York times on 28 September 1947 by Dr. Magnes, President of the Hebrew University of Jerusalem ... criticizing the majority plan, Dr. Magnes had said that partition would not stop the terrorist activities of Jewish groups, and that having secured partition through terror, they would attempt to secure the rest of the country for the Jews in the same way ..." 48/

At the end of the general discussion the Chairman proposed the appointment of two sub-committees to report on the two proposals before the Ad Hoc Committee and a third sub-committee to try to promote conciliation between the Arab and Zionist positions, the last sub-committee to be informal. The Syrian representative proposed another sub-committee:

"... to be composed of jurists which would deal with the question of the competence of the General Assembly to take and enforce a decision, and with the legal aspect of the Mandate. If that Sub-Committee's report were unsatisfactory, then the question of reference of the whole matter to the International Court of Justice could be discussed ..." 49/

The Chairman discouraged this proposal as it would prolong the Committee's work, and the composition of the two sub-committees was decided as follows:

Sub-Committee No. 1: Canada, Czechoslovakia, Guatemala, Poland, South Africa, USSR, United States, Hungary, Venezuela.

Sub-Committee No. 2: Afghanistan, Colombia, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Yemen.

The two Sub-Committees met for four weeks in late 1947. Sub-Committee 1, after intensive discussions over the date of independence and the form and extent of United Nations control during transition, made the following significant changes in the Special Committee's majority plan in order to conform to certain decisions insisted upon by Great Britain:

(a) The proposed two-year transition period was drastically reduced. Great Britain would withdraw by 1 August 1948 until which date the British Government would continue to govern Palestine, not being responsible for implementation of any United Nations decisions and retaining full discretion over the extent of co-operation with the United Nations. A two-month transition period would follow, with Palestine being governed by a United Nations Commission (of five members) selected by the General Assembly and responsible to the Security Council. The two States would attain independence on 1 October 1948.

(b) The Arab city of Jaffa, allotted by the Special Committee to the Jewish State, would form an Arab enclave in Jewish territory, and be linked to the Arab State.

The question of the southern half of Palestine, the Negev, the entirety of which had been allotted to the Jewish State by the Special Committee majority plan was also re-examined. A proposal was made to divide it between the Arab and Jewish States. Zionist leaders were particularly anxious that the entire Negev, with its access to the Gulf of Akaba, lie within their control. Weizmann describes how the problem was dealt with:

"There were many tense moments preceding the final decision on November 29, and these had to do not only with the probable votes of the delegates. There was, for instance, the actual territorial division. When this was discussed some of the American delegates felt that the Jews were getting too large a slice of Palestine, and that the Arabs might legitimately raise objections. It was proposed to cut out from the proposed Jewish State a considerable part of the Negev, taking Akaba away from us. Ever since the time of the Balfour Declaration, I had attached great value to Akaba ... Akaba is the gate to the Indian Ocean, and constitutes a much shorter route from Palestine to the Far East than via Port Said and the Suez Canal.

"I was somewhat alarmed when I learned, in the second week of November, that the American delegation, in its desire to find a compromise which would be more acceptable to the Arabs, advocated the excision of the southern part of the Negev, including Akaba. After consultation with members of the Jewish Agency Executive, I decided to go to Washington to see President Truman and to put the whole case before him.

"... I pleaded further with the President that if the Egyptians choose to be hostile to the Jewish State, which I hope will not be the case, they can close navigation to us through the Suez Canal when this becomes their property, as it will in a few years. The Iraqis, too, can make it difficult for us to pass through the Persian Gulf. Thus we might be cut off entirely from the Orient ... I was extremely happy to find that the President read the map very quickly and very clearly. He promised me that he would communicate at once with the American delegation at Lake Success." 50/

The reports of the two Sub-Committees were presented to the Ad Hoc Committee on 24 November 1947 in a highly charged atmosphere. The report of Sub-Committee 2 (voted on before the report of Sub-Committee 1) detailed the arguments for a unified Palestine, addressing the legal question of the competence of the United Nations to partition the country:

"A study of Chapter XII of the United Nations Charter leaves no room for doubt that ... neither the General Assembly nor any other organ of the United Nations is competent to entertain, still less to recommend or enforce, any solution with regard to a mandated territory ...

"... the General Assembly is not competent to recommend, still less to enforce any solution other than the recognition of the independence of Palestine, and that the settlement of the future government of Palestine is a matter solely for the people of Palestine ...

"To sum up, the dissolution of the League of Nations, and the consequent removal of the legal basis for the Mandate, and the more recent declarations by the Mandatory of its intention to withdraw from Palestine, open the way for the establishment of an independent government in Palestine by the people of the country, without the intervention either of the United Nations or of any other party ...

"The above conclusion is by no means vitiated by the provisions for the establishment of a Jewish national home in Palestine. It was not, and could not have been the intention of the framers of the Mandate that the Jewish immigration to Palestine should result in breaking up the political, geographic, and administrative economy of the country. Any other interpretation would amount to a violation of the principles of the Covenant and would nullify one of the main objectives of the Mandate ...

"Moreover, partition involves the alienation of territory and the destruction of the integrity of the State of Palestine. The United Nations cannot make a disposition or alienation of territory, nor can it deprive the majority of the people of Palestine of their territory and transfer it to the exclusive use of a minority in the country ..." 51/

The report's first resolution, questioning the legal power of the General Assembly to partition Palestine was rejected. The second, recommending international co-operation to deal with the Jewish refugee problem was rejected too, but the Ad Hoc Committee decided to include the recommendation in its report to the General Assembly. The third, calling for the establishment of an independent unified Palestine was also rejected.

The report of Sub-Committee 1, in substance the amended Special Committee's majority recommendations for the partition of Palestine, was then voted upon on 25 November 1947. The vote was 25 votes to 13 with 17 abstentions.* Since a two-thirds majority was not required in the Assembly sitting as Ad Hoc Committee, the proposal to partition Palestine was approved and recommended to the General Assembly.

* *In favour*: Australia, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Canada, Chile, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Guatemala, Iceland, Nicaragua, Norway, Panama, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Cuba, Egypt, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Siam, Syria, Turkey, Yemen.

Abstaining: Argentina, Belgium, China, Colombia, El Salvador, Ethiopia, France, Greece, Haiti, Honduras, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, United Kingdom, Yugoslavia.

Absent: Paraguay, Philippines.

IV. THE PARTITION OF PALESTINE

The vote of the General Assembly was to be a final act to endorse formally what it had already decided as the Ad Hoc Committee: the partition of Palestine. To validate that decision in the plenary, however, a two-thirds majority was essential. As the crucial decision approached, the contending spokesmen took the last opportunity to press their arguments, every vote being critical, particularly in view of the relatively large number of abstentions in the final vote in the Ad Hoc Committee:

In presenting the Committee's report recommending partition, the Rapporteur noted that the informal conciliation group had produced no results since;

"... both parties were confident as to the success of their case before the General Assembly and, therefore ... conciliation and agreement between the parties could not be reached." 52/

The Mandatory's position

The British Government, its mandate over Palestine now due to expire in a matter of months, restated its position:

"It is with deep regret that my Government recognizes that an acceptable settlement has still not been found. I do not say that in any spirit of criticism. My Government would be the last to minimize the difficulty of the task, as it is the first to appreciate the efforts that have been made.

The fact remains that we are obviously confronted with a failure to arrive at a settlement based upon consent. My delegation would have failed in its duty if it had not emphasized from the beginning of the session the consequent need for the General Assembly to consider the situation which is likely to arise upon the removal of the forces which at present ensure law and order in Palestine. Their departure will leave a gap, and it has been the most difficult part of the General Assembly's task to find means of filling this gap ...

"... I am ... instructed to repeat explicitly that the United Kingdom Government cannot allow its troops and administration to be used in order to enforce decisions which are not accepted by both parties in Palestine ..." 53/

The debate on partition

In the general discussion, the States supporting the partition plan argued that it was the best available formula to deal with political realities in Palestine, and to deal with the problem of Jewish refugees in Europe, stressing that they could see no alternative. The States opposing the partition of Palestine questioned the legal competence of the United Nations to take this drastic measure, asserting that it violated the principle of self-determination by denying it to the Palestinian people, and also infringed Article 6 of the Mandate which stipulated that "the rights and position of other (than Jewish) sections of the population are not prejudiced". These States further charged that interested Powers were using political pressure to gather the votes for the two-thirds majority required. Some excerpts from representative statements are given to convey an impression of the prevailing mood in this critical Assembly.

States supporting the partition plan :

Poland

"... What is the solution we want? The answer is simple. The Arab people of Palestine, as well as the Jewish people of Palestine, want national independence. They want a discontinuation of the Mandate and of the present situation, and the establishment of their national States.

"My delegation and my Government believed for a time, and hoped, that these national aspirations might find their expression in one Palestinian State in which both Arabs and Jews would be equal partners, free to develop their national life. The situation, however, is such that this aim cannot be achieved, at least not at the present stage. We therefore have to establish two States, an Arab State and a Jewish State, to provide for the national aspirations of the two communities which live in Palestine. There is no other way out, and anyone anxious to do justice to the national aspirations of both Jews and Arabs must support this proposal ..." 54/

Brazil

"... the matter involves substantial changes in the political status quo of an important region, changes which would radically affect juridical principles and vested interests.

"It is presented to us today, however, as a fait accompli, since the promise contained in the so-called Balfour Declaration and the subsequent creation of a mandate of the League of Nations with the express purpose of constituting a "Jewish national home", have resulted in the migration into Palestine of considerable numbers of individuals of the Jewish race, who have become permanently established there and have created large interests

and have constituted a homeland which has rapidly developed to the point of presenting at this time the characteristics of a State ..." 55/

United States

"... the proposal of partition with economic union which we are considering is genuinely a United Nations plan. It has been evolved as a result of a special session of the United Nations and the work of a United Nations Special Committee, in addition to the work of the present session of the General Assembly ...

"Much has been said during the course of these debates on the desirability and necessity of presenting to the General Assembly a plan which would command the agreement of both the principal protagonists in this situation. I think there is no delegation here which does not know that no plan has ever been presented, either to this Assembly or to the Mandatory Government during its long years of tenure, or in any other place, which would meet with the acceptance of both the Arabs and the Jews. No such plan has ever been presented, and I do not believe that any such plan will ever be presented. If we are to effect through the United Nations a solution of this problem it cannot be done without the use of the knife. Neither the Jews nor the Arabs will ever be completely satisfied with anything we do, and it is just as well to bear that in mind.

"... It is the sincere belief of the United States delegation that the partition plan recommended by the Ad Hoc Committee on the Palestinian Question, with all its imperfections admitted, provides for the people of Palestine in that land the best practicable means at the present time by which these high objectives may be obtained ..." 56/

USSR

"... We may ask why it is that the overwhelming majority of the delegations represented in the General Assembly adopted this solution and not another. The only explanation ... that can be given is that all the alternative solutions of the Palestinian problem were found to be unworkable and impractical. In stating this, I have in mind the project of creating a single independent Arab-Jewish State with equal rights for Arabs and Jews.

The experience gained from the study of the Palestinian question, including the experience of the Special Committee, has shown that Jews and Arabs in Palestine do not wish or are unable to live together. The logical conclusion followed that, if these two peoples that inhabit Palestine, both of which have deeply rooted historical ties with the land, cannot live together within the boundaries of a single State, there is no alternative but to create, in place of one country, two States - an Arab and a Jewish one. It is, in the view of our delegation, the only workable solution ..." 57/

States opposing the partition plan :

Philippines

"... The Philippine Government has come to the conclusion that it cannot give its support to any proposal for the political disunion and the territorial dismemberment of Palestine.

We have assessed the legal arguments and found that they are not the decisive factors in shaping a just and practical solution. Whatever the weight we might choose to assign to the arguments of the one side or the other, it is clear to the Philippine Government that the rights conferred by mandatory power, even if subsequently confirmed by an international agreement, do not vitiate the primordial right of a people to determine the political future and to preserve the territorial integrity of its native land.

We hold that the issue is primarily moral. The issue is whether the United Nations should accept responsibility for the enforcement of a policy which, not being mandatory under any specific provision of the Charter nor in accordance with its fundamental principles, is clearly repugnant to the valid nationalist aspirations of the people of Palestine. The Philippine Government believes that the United Nations ought not to accept any such responsibility ..." 58/

Lebanon

"... To judge by the press reports which reach us regularly every two or three days, I can well imagine to what pressure, to what manoeuvres your sense of justice, equity and democracy has been exposed during the last 36 hours. I can also imagine how you have resisted all these attempts in order to preserve what we hold dearest and most sacred in the United Nations, to keep intact the principles of the Charter, and to safeguard democracy and the democratic methods of our Organization. My friends, think of these democratic methods, of the freedom in voting which is sacred to each of our delegations. If we were to abandon this for the tyrannical system of tackling each delegation in hotel rooms, in bed, in corridors and ante-rooms, to threaten them with economic sanctions or to bribe them with promises in order to compel them to vote one way or another, think of what our Organization would become in the future. Should we be a democratic organization? Should we be an organization worthy of respect in the eyes of the world? At this supreme juncture, I beg you to think for a moment of the far-reaching consequences which might result from such manoeuvres, especially if we yielded to them ..." 59/

Colombia

"... The plan of partition was adopted by the Ad Hoc Committee by 25 votes to 13 with 17 abstentions. We hear and we read that the same vote in the General Assembly would be one short of the two-thirds majority required by our rules. However, in our view, there is no mistaking the fact that the plan has failed to find the support of 32 delegations. In other words, as it stands, it is really a minority proposal. It will remain a minority proposal in our minds. It will not lose that character even if it succeeds in securing the votes of three or four more delegations; and the scanty strength of the proposal becomes all the more evident if we consider the great international importance of the problem and the distinction that this solution enjoys of having the joint backing of the United States and the USSR. It would seem to all unprejudiced observers that, but for that all-powerful backing, the proposal would never have made its way to the General Assembly. Here it may eventually be adopted, but we submit that reluctant votes, recruited with irrelevant eleventh-hour appeals, will not improve its position in the opinion of the outside world ...

"Under the circumstances, we suggest that the General Assembly would be well advised in postponing a decision ..." 60/

Pakistan

"... How is Palestine to be independent? What sort of independence? What is the solution that we are invited to endorse and to attempt to carry through? In effect, the proposal before the United Nations General Assembly says that we shall decide - not the people of Palestine, with no provision for the self-determination, no provision for the consent of the governed - what type of independence Palestine shall have. We shall call Palestine independent and sovereign, but Palestine shall belong to us and shall be, not the apple of our many and in different-direction-looking eyes, but shall become the apple of discord between East and West, lest, perchance, the unity which our name so wistfully proclaims may have a chance to establish itself.

"We shall first cut the body of Palestine into three parts of a Jewish State and three parts of an Arab State. We shall then have the Jaffa enclave; and Palestine's heart, Jerusalem, shall forever be an international city. That is the beginning of the shape Palestine shall have.

"Having cut Palestine up in that manner, we shall then put its bleeding body upon a cross forever. This is not going to be temporary; this is permanent. Palestine shall never belong to its people; it shall always be stretched upon the cross.

"What authority has the United Nations to do this? What legal authority, what juridical authority has it to do this, to make an independent State forever subject to United Nations administration? ...

"Our vote today, if it does not endorse partition, does not rule out other solutions. Our vote, if it endorses partition, bars all peaceful solution. Let him who will shoulder that responsibility. My appeal to you is: do not shut out that possibility. The United Nations should seek and strive to unite and bring together rather than to divide and put asunder ..." 61/

Eleven delegations had declared support of the partition plan:

Belgium, Brazil, Canada, Guatemala, Netherlands, New Zealand, Poland, Sweden, USSR, United States, Uruguay.

Thirteen delegations had spoken opposing the proposal:

Colombia, Cuba, Egypt, Greece, Haiti, Iran, Iraq, Lebanon, Pakistan, Philippines, Saudi Arabia, Syria, Yemen.

France had taken a non-committal position. Great Britain, as the Mandatory Power, had declared its intention to abstain, as had China and Ethiopia.

After last minute efforts by States opposing the plan to adjourn the Assembly or refer the question to the International Court of Justice, the partition plan was finally voted upon on 29 November 1947. It received 33 votes in favour and 13 against with 10 abstentions:

In favour: Australia, Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Iceland, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen.

Abstained: Argentina, Chile, China, Colombia, El Salvador, Ethiopia, Honduras, Mexico, United Kingdom, Yugoslavia. 62/

The Arab States, as well as several others, declared that they would not consider themselves bound by the General Assembly recommendation since they considered that it was contrary to the United Nations Charter. Others voiced apprehension over the future implications of the vote to partition Palestine. An excerpt from a statement conveying the mood of the hour follows:

"A fateful decision has been taken. The die has been cast. In the words of the greatest American, 'We have striven to do the right as God gives us to see the right'. We did succeed in persuading a sufficient number of our fellow representatives to see the right as we saw it, but they were not permitted to stand by the right as they saw it. Our hearts are sad but our conscience is easy. We would not have it the other way round. ..."

"No man can today predict whether the proposal which these two great countries had sponsored and supported will prove beneficial or the contrary in its actual working.

"We much fear that the beneficence, if any, to which partition may lead will be small in comparison to the mischief which it might inaugurate. It totally lacks legal validity. We entertain no sense of grievance against those of our friends and fellow representatives who have been compelled, under heavy pressure, to change sides and to cast their votes in support of a proposal the justice and fairness of which do not commend themselves to them. Our feeling for them is one of sympathy that they should have been placed in a position of such embarrassment between their judgement and conscience, on the one side, and the pressure to which they and their Governments were being subjected on the other." 63/

The provisions of the Partition resolution

The resolution of the General Assembly to partition Palestine, identified as resolution 181 (II), in effect constituted a recommendation "to the

United Kingdom, as the Mandatory Power, and to all other Members of the United Nations the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union ...", requesting the Security Council to "undertake the necessary measures as provided in the plan for its implementation ..."

Palestine was to be divided into an un-named "Jewish State" and an un-named "Arab State". Great Britain was to withdraw its presence by 1 August 1948, however making available by 1 February 1948 to the Jewish State an area including a seaport to facilitate "substantial immigration".

During the transitional period beginning in November 1947, the United Nations would progressively take over the administration in the entire territory, to be exercised through a Commission, and power handed over to the two States on the day of independence, not later than 1 October 1948.

The two States were to be linked in an economic union.

The territory of Palestine was divided into eight parts. Three were allotted to the Jewish State, three to the Arab State. The seventh, Jaffa, was to form an Arab enclave in Jewish territory (annex I).

The eighth part was to be Jerusalem as a corpus separatum under a special international régime. This was to be administered by the United Nations Trusteeship Council for an initial period of 10 years, at the end of which the scheme would be re-examined by the Council, and "the residents of the city shall then be free to express by means of a referendum their wishes as to possible modification of the régime of the City".

The safeguards for the status of Jerusalem were in the following terms:

"Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.

"In so far as Holy Places are concerned, the liberty of access, visit and transit shall be guaranteed, in conformity with existing rights, to all residents and citizens of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality subject to the maintenance of public order and decorum.

"Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character ..."

The rationale for this patchwork territorial division was to ensure that the Jewish State encompassed the maximum number of Jews and reduced to the minimum (estimated about 10,000), those who would be left in the Arab State. But within the boundaries of the Jewish State there would remain a very large number of Palestinian Arabs: 497,000 (including 90,000 Bedouin) against 498,000 Jews. 64/

"The partition resolution contained detailed safeguards to ensure the rights of minorities, including:

"Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all.

"No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.

"All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.

"The family law and personal status of the various minorities and their religious interests, including endowments, shall be respected ...

"The State shall ensure adequate primary and secondary education for the Arab and Jewish minority, respectively, in its own language and its cultural traditions ...

"The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the State may impose, shall not be denied or impaired ...

"No expropriation of land owned by an Arab in the Jewish State (by a Jew in the Arab State) shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession ..."

Freedom of movement and transit was also to be assured by both States.

The safeguards for the status of Jerusalem and for the right of minorities were to possess the status of constitutional provisions in each State:

"A declaration shall be made to the United Nations by the provisional government of each proposed State before independence ...

"The stipulations contained in the declaration are recognized as fundamental laws of the State and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them".

V. THE END OF THE MANDATE AND THE ESTABLISHMENT OF ISRAEL

The situation in Palestine

The United Nations partition resolution did not provide a solution to the Palestine problem, and violence increased. In protest against the

partition of their country, the Palestinian Arab Higher Committee called for a general strike. Palestinian-Jewish clashes proliferated with Jewish paramilitary forces operating more freely as British forces started their withdrawal. Sabotage, attacks on military installations and the capture of British arms by these groups became a major feature of the Palestinian scene, along with a proliferation of Jewish-Arab clashes. With events moving towards a major armed confrontation, Great Britain announced that it would terminate the Mandate on 15 May 1948, several months before the time envisaged in the United Nations plan.

The Security Council could not take any effective decision after discussing General Assembly resolution 181 (II) (the partition resolution) in December 1947. In March 1948 the United States draft proposal to enable the Council to act on the partition resolution failed, and the Council only called for an end to the violence in Palestine. Under the pressure of rapidly moving developments, the partition resolution did not even reach the stage of routine reference to the Sixth Committee for an examination of its legal effects and implications. The United Nations Commission on Palestine, established by resolution 181 (II), could not move to Jerusalem, and only could hold consultations in New York. The formation of the armed militia, intended to assist the Commission in its functions in Palestine, became impracticable in the face of the accelerated British withdrawal in a deteriorating situation where the casualty toll in the first three months after the approval of the partition resolution was 869 dead and 1,909 injured. 65/

Zionist policies of territorial expansion

As the British Government progressively disengaged from Palestine, and the United Nations was unable to replace it as an effective governing authority, the Zionist movement moved to establish control over the territory of the nascent Jewish State. At the same time the bordering Arab States made clear that they would intervene.

From writings of Zionist leaders, it is evident that Zionist policy was to occupy, during the period of withdrawal, as much territory as possible (including the "West Bank") beyond the boundaries assigned to the Jewish State by the partition resolution. A comprehensive military plan, called Plan "D" (or Dalet) was described by an Israeli official:

"In March 1948, Haganah High Command prepared a comprehensive operational Plan 'D', replacing plans 'A', 'B' and 'C' which had governed Haganah strategy in previous years. Zero hour for Plan D was to arrive when British evacuation had reached a point where the Haganah would be reasonably safe from British intervention and when mobilization had progressed to a point where the implementation of a large-scale plan would be feasible. The mission of Haganah was as simple as it was revolutionary: 'To gain control of the area allotted to the Jewish State and defend its borders, and those of the blocs of Jewish settlements and such Jewish population as were outside those borders, against a regular or pararegular enemy operating from bases outside or inside the area of the Jewish State'". 66/

Begin writes:

"In the months preceding the Arab invasion, and while the five Arab States (Egypt, Iraq, Syria, Lebanon and Transjordan) were conducting preparations for concerted aggression, we continued to make sallies into the Arab area. In the early days of 1948, we were explaining to our officers and men, however, that this was not enough. Attacks of this nature carried out by any Jewish forces were indeed of great psychological importance, and their military effect, to the extent that they widened the Arab front and forced the enemies on to the defensive, was not without value.

But it was clear to us that even most daring sallies carried out by partisan troops would never be able to decide the issue. Our hope lay in gaining control of territory.

"At the end of January, 1948, at a meeting of the Command of the Irgun in which the Planning Section participated, we outlined four strategic objectives: (1) Jerusalem; (2) Jaffa; (3) the Lydda-Ramleh plain; and (4) the Triangle.

"Setting ourselves these objectives we knew that their achievement would be dependent on many factors but primarily on the strength in men and arms that we would have at our disposal. We consequently decided to treat the plans as 'alternatives': we would carry out what we could. As it happened, of the four parts of the strategic plan we executed only the second in full.

"In the first and third parts we were able to record important achievements on the battlefield - but we did not attain decisive victories.

"As for the fourth part, we were never allowed an opportunity even to begin to put the plan into operation. The conquest of Jaffa, however, stands out as an event of first-rate importance in the struggle for Hebrew independence."

(The "Triangle" is explained as "the generally used name for the Arab-populated area in the centre of western Eretz Yisrael lying roughly in a triangle whose points are the towns of Nablus, Jenin and Tulkarim and comprising the bulk of the non-desert area west of Jordan which is now outside the State of Israel".) 67/

Ben-Gurion writes:

"... Field troops and Palmach in particular were thus deployed and quickly showed the mettle that was soon to animate our army and bring it victory.

"... New Jerusalem was occupied, and the guerrillas were expelled from Haifa, Jaffa, Tiberias, Safad while still the Mandatory was present. It needed sagacity and self-control not to fall foul of the British army. The Hagana did its job; until a day or two before the Arab invasion not a settlement was lost, no road cut, although movement was seriously dislocated, despite express assurances of the British to keep the roads safe so long as they remained. Arabs started fleeing from the cities almost as soon as disturbances began in the early days of December 1947. As fighting spread, the exodus was joined by bedouin and fellahin, but not the remotest Jewish homestead was abandoned and nothing a tottering Administration (meaning the British Mandatory) could unkindly do stopped us from reaching our goal on May 14, 1948 in a State made larger and Jewish by the Haganah ..." 68/

The first Palestinian exodus

This territorial expansion by the use of force resulted in a large-scale exodus of refugees from the areas of hostilities. Palestinians allege that this was part of a deliberate policy to displace Palestinian Arabs to make room for immigrants, and quote Zionist sources, including Herzl:

"We shall try to spirit the penniless population across the border by procuring employment for it in the transit countries, while denying it any employment in our own country.

"Both the process of expropriation and the removal of the poor must be carried out discreetly and circumspectly". 69/

Herzl's plans in respect of the size of the Jewish State are cited as another item of evidence of this policy. Describing a 1939 meeting with Churchill, Weizmann writes:

"... (I) thanked him for his unceasing interest in Zionist affairs. I said: 'You have stood at the cradle of the enterprise. I hope you will see it through'. Then I added that after the war we would want to build up a State of three or four million Jews in Palestine. His answer was: 'Yes, I quite agree with that'." 70/

Palestinians also charge that the terrorizing of the civilian population through military or psychological means was an integral part of this policy of expelling Palestinians, and again cite Zionist writings:

"... Between ourselves it must be clear that there is no room for both peoples together in this country ... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is a Palestine, at least western Palestine (west of the Jordan river) without Arabs ... And there is no other way than to transfer the Arabs from here to the neighbouring countries, to transfer all of them; not one village, not one tribe, should be left ... Only after this transfer will the country be able to absorb the millions of our own brethren. There is no other way out;..." 71/

One of the most notorious cases of the terrorizing of civilian population occurred, according to Palestinian and other sources, in April 1948 at Deir Yassin, a village near Jerusalem, situated in territory assigned to the Jewish State by the partition resolution. A former Israeli military governor of Jerusalem writes:

"We suffered a reverse of a different nature on April 9 when combined Etzel and Stern Gang units mounted a deliberate and unprovoked attack on the Arab village of Deir Yassin on the western edge of Jerusalem. There was no reason for the attack. It was a quiet village, which had denied entry to the volunteer Arab units from across the frontier and which had not been involved in any attacks on Jewish areas. The dissident groups chose it for strictly political reasons. It was a deliberate act of terrorism ...

"... Women and children had not been given time enough to evacuate the village, although warned to do so by loudspeaker, and there were many of them among the 254 persons reported by the Arab Higher Committee as killed.

"The event was a disaster in every way. The dissidents held the village for two days and then abandoned it. They earned the contempt of most Jews in Jerusalem, and an unequivocal public repudiation by the Jewish Agency. But they gave the Arabs a strong charge against us, and the words 'Deir Yassin' were used over and over again both to justify their own atrocities and to persuade Arab villagers to join the mass flight which was now taking place all over Palestine." 72/

Other Zionist leaders deny the charges, making this a controversial case. Begin writes:

"The enemy propaganda was designed to besmirch our name. In the result it helped us. Panic overwhelmed the Arabs of Eretz Yisrael ... the Arabs began to flee in terror, even before they clashed with Jewish forces. Not what happened in Deir Yassin, but what was invented about Deir Yassin, helped to carve the way to our decisive victories on the battlefield. The legend of Deir Yassin helped us in particular in the conquest of Haifa ... All the Jewish forces proceeded to advance through Haifa like a knife through butter. The Arabs began fleeing in panic, shouting: 'Deir Yassin!'" 73/

Whatever the versions of this controversial case, the psychological effect of such incidents was a mass exodus of the civilian population.

The psychological tactics used are described by Yigal Allon:

"I gathered all the Jewish mukhtars, who have contact with Arabs in different villages, and asked them to whisper in the ears of some Arabs, that a great Jewish reinforcement has arrived in Galilee and that it is going to burn all of the villages of the Huleh. They should suggest to these Arabs, as their friends, to escape while there is still time. And the rumour spread in all the areas of the Huleh that it is time to flee. The flight numbered myriads. The tactic reached its goal completely. The building of the police station at Halsä fell into our hands without a shot. The wide areas were cleaned, the danger was taken away from the transportation routes and we could organize ourselves for the invaders along the borders, without worrying about the rear". 74/

The terror that spread among the Palestinian population was a crucial factor affecting developments in Palestine. It led to a mass exodus of refugees into neighbouring countries. The number of Palestinian refugees resulting from these hostilities were estimated to number 726,000 75/ by the end of 1949 - half the indigenous population of Palestine. Charges that their flight had been incited by Arab leaders is refuted by a United Nations report noting that the refugees either fled from the war or were expelled:

"As a result of the conflict in Palestine, almost the whole of the Arab population fled or was expelled from the area under Jewish

occupation".

"... an alarming number of persons have been displaced from their homes. Arabs form the vast majority of the refugees in Palestine and the neighbouring countries. The future of these Arab refugees is one of the questions under dispute, the solution of which presents very great difficulties ...

"The majority of these refugees have come from territory which, under the Assembly resolution of 29 November, was to be included in the Jewish State. The exodus of Palestinian Arabs resulted from panic created by fighting in their communities, by rumours concerning real or alleged acts of terrorism, or expulsion ..." 76/

The end of the mandate and the birth of Israel

As the hostilities in Palestine escalated, efforts intensified in the United Nations to find ways to stop the violence. A United States proposal to place Palestine under temporary United Nations trusteeship met strong opposition from Zionist leaders, who saw in it a possibility of a reversal of the partition decision. A move to negotiate a truce was similarly opposed. Weizmann describes this stage as follows:

"... In Washington it was already being taken for granted that, in deference to the 'facts', a fundamental revision would have to take place, and the November decision, if not actually reversed, deferred - perhaps sine die ...

"Under these circumstances I obtained an interview with the President of the United States ... The President was sympathetic personally, and still indicated a firm resolve to press forward with partition. I doubt, however, whether he was himself aware of the extent to which his own policy and purpose had been balked by subordinates in the State Department ... the United States representative in the Security Council announced the reversal of American policy. He proposed that the implementation of partition be suspended, that a truce be arranged in Palestine, and that a special session of the General Assembly be called in order to approve a trusteeship for Palestine, to take effect when the Mandate ended, i.e., on May 15th. In spite of all the forewarnings, the blow was sudden, bitter and, on the surface, fatal to our long nurtured hopes ...

"It had been anticipated that the trusteeship plan would be adopted without difficulty; but within the two months since its proposal, the situation had again altered radically;...

"... When it became clear in the Assembly that the trusteeship plan could not be adopted, another delaying formula was devised - a 'temporary truce': both parties were to cease fire, no political decision was to be taken, a limited Jewish immigration was to be permitted for a few months, and in exchange for this transient and dubious security the Jews were to refrain from proclaiming their State in accordance with the November decision ...

"On the issue of this truce, as on that of the trusteeship, I was never in a moment's doubt. It was plain to me that retreat would be fatal. Our only chance now, as in the past, was to create facts, to confront the world with these facts, and to build on their foundation ..." 77/

Israel declared its independence on 14 May 1948. The departure of the British High Commissioner the next day ceremonially signalled the end of the Mandate.

The declaration establishing the State of Israel traces the route of recent history that had brought it into existence:

"... In the year 5657 (1897), at the summons of the spiritual father of the Jewish State, Theodore Herzl, the first Zionist Congress convened and proclaimed the right of the Jewish people to national rebirth in its own country.

"This right was recognized in the Balfour Declaration of 2nd November 1917, and reaffirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connexion between the Jewish people and Eretz Yisrael and to the right of the Jewish people to rebuild its national home.

"The catastrophe which recently befell the Jewish people - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz Yisrael the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the comity of nations ...

"On the 29th November 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz Yisrael; the General Assembly required the inhabitants of Eretz Yisrael to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable.

"This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State ..." 78/

During the months preceding the end of the Mandate, Jewish forces had moved to occupy key cities and areas in the territory designated for the Arab State. Ben-Gurion writes that before the Mandate ended:

"... no Jewish settlement, however remote, was entered or seized by the Arabs, while the Haganah ... captured many Arab positions and liberated Tiberias and Haifa, Jaffa and Safad ... So, on the day of destiny, that part of Palestine where the Haganah could operate was almost clear of Arabs". 79/

The major part of Jerusalem meant to be internationalized under the partition plan, had also been occupied by Jewish forces.

On the termination of the Mandate, Jewish forces moved to occupy further territory beyond the boundaries specified by the Partition resolution. Irregular units from neighbouring Arab States had already entered Palestine in the final weeks of the Mandate, and now regular forces from these countries crossed into Palestine. The Arab League informed the United Nations Secretary-General by cable of the reasons for the Arab action. After tracing the history of the Palestine question and the efforts of the Arab States to help the Palestinian Arabs to secure their rightful independence, the cable stated:

"Now that the Mandate over Palestine has come to an end, leaving no legally constituted authority behind in order to administer law and order in the country and afford the necessary and adequate protection to life and property, the Arab States declare as follows:

"(a) The right to set up a Government in Palestine pertains to its inhabitants under the principles of self-determination recognized by the Covenant of the League of Nations as well as the United Nations Charter;

"(b) Peace and order have been completely upset in Palestine, and, in consequence of Jewish aggression, approximately over a quarter of a million of the Arab population have been compelled to leave their homes and emigrate to neighbouring Arab countries. The prevailing events in Palestine exposed the concealed aggressive intentions of the Zionists and their imperialistic motives ...

"(c) The Mandatory has already announced that on the termination of the Mandate it will no longer be responsible for the maintenance of law and order in Palestine ... This leaves Palestine absolutely without any administrative authority ...

"...

"(e) ... The recent disturbances in Palestine further constitute a serious and direct threat to peace and security within the territories of the Arab States themselves. For these reasons, and considering that the security of Palestine is a sacred trust for them, and out of anxiousness to check the further deterioration of the prevailing conditions and to prevent the spread of disorder and lawlessness into the neighbouring Arab lands, and in order to fill the vacuum created by the termination of the Mandate and the failure to replace it by any legally constituted authority, the Arab Governments find themselves compelled to intervene for the sole purpose of restoring peace and security and establishing law and order in Palestine.

"The Arab States recognize that the independence and sovereignty of Palestine which was so far subject to the British Mandate has now, with the termination of the Mandate, become established in fact, and maintain that the lawful inhabitants of Palestine are alone competent and entitled to set up an administration in Palestine for the discharge of all governmental functions without any external interference. As soon as that stage is reached for the intervention of the Arab States, which is confined to the restoration of peace and establishment of law and order, shall be put an end to, and the sovereign State of Palestine will be competent in co-operation with the other States members of the Arab League, to take every step for the promotion of the welfare and security of its peoples and territory ..." 80/

The fighting between the Arab forces on one hand and what were now Israeli forces on the other escalated into the first Middle East War. The Israeli forces were well manned and well trained, drawing on the Jewish Brigade formed during the Second World War, and on the various armed groups such as the Haganah, the Palmach, and the Irgun. They were well equipped with arms acquired within and without Palestine during the Mandate period. The intervention by the Arab States in support of the "Arab State" in Palestine proved largely ineffective in the face of decisive Israeli military superiority. Within weeks, Israel had occupied most of the territory of Palestine, with the exception of the "West Bank" of the Jordan, held by the Arab Legion from Jordan and the Gaza Strip, held by Egyptian forces (map at annex II.) But for these exceptions, Israel now controlled virtually the entire territory claimed by the Zionist Movement at the Paris Peace Conference in 1919 as the "Jewish national home".

VI. PALESTINE AND THE UNITED NATIONS - 1948-1967

The United Nations by 1948 was inextricably involved in the Palestine question. It now bore the responsibility for the international commitments to the inalienable rights of the Palestinian people which had not been assured during the Mandate, and which now were constrained by the partition resolution. Facing a threat to peace, unprecedented in the two years of the United Nations existence, and which the first two special sessions of the General Assembly had not been able to resolve, the Security Council ordered a cease-fire on 29 May 1948, by which time Israel had consolidated its occupation of Palestinian territory beyond that allotted to it by the partition plan.

Count Bernadotte, appointed United Nations Mediator by the General Assembly on the day the Mandate ended, was dispatched to Palestine to supervise the cease-fire and to "promote a peaceful adjustment of the future situation in Palestine". He successfully effected a temporary truce and submitted his first suggestions on Palestine, proposing a "Union comprising two members, one Arab and one Jewish". The plan proposed some territorial adjustment in the borders, return of all refugees, and some limitations on Jewish immigration. 81/ Both sides rejected the plan, Israel particularly objecting to the proposals regarding immigration.

The Bernadotte proposals

As the first truce expired, the Mediator urged another indefinite truce, which was ordered by the Security Council on 15 July. The findings of the Mediator's mission are summarized from his report:

"The Arab leaders had become greatly concerned and incensed about the mounting distress among the huge number of Arab refugees. They considered the solution of this problem fundamental to a settlement of the Palestine question. I recognized that, in the Arab States, public opinion on the Palestine question was considerably agitated ...

"... (the talks) ... had made it quite apparent that the Jewish attitude had stiffened in the interval between the two truces, that Jewish demands in the settlement would probably be more ambitious, and that Jewish opinion was less receptive to mediation. A feeling of greater confidence and independence had grown out of Jewish military efforts during the interval between the two truces. Less reliance was placed in the United Nations

and there was a growing tendency to criticize its shortcomings with regard to Palestine ..." 82/

The Arab States refused an Israeli offer of direct negotiations, transmitted through the Mediator. Bernadotte concluded that his earlier recommendation of a Union was unworkable. He made new recommendations, based on the premise that the Palestinians and Arabs must accept the existence of Israel.

The new plan envisaged an Arab State encompassing Transjordan joined with most of the territory allotted by the partition resolution to the "Arab State" but with far-reaching territorial adjustments that would consolidate Arab territory by including the Negev, while Galilee would be taken over by Israel. Jerusalem would be placed under United Nations administration. 83/

This plan, too, was rejected both by the Arab States (except Jordan) and by Israel. Bernadotte had proposed other measures but, before the United Nations could act on any of his recommendations, he was assassinated by, in the Israeli official view, the Stern Gang, one of several terrorist organizations whose activities had become more open since the end of the Mandate.

The report to the United Nations of the assassination indicated that the attitude of the Israeli Provisional Government had done little to hinder a press campaign against the Mediator and the United Nations "to the effect that the Mediator was arbitrarily opposed to Jewish claims; and that supervision of (the) truce deliberately discriminated against the interest of Israel". The Stern group's threat that "the task of the moment is to oust Bernadotte ... Blessed be the hand that does it" had not been given any "particular significance" by the Israeli authorities, despite the fact that it emanated from a notoriously violent group. The Israeli Foreign Minister had explained that "the Stern Group ... existed within Israel only as a political organization, having disbanded itself as a military organization, and its members were being absorbed into the army as individuals". Count Bernadotte's killers had been wearing Israeli army uniforms. The report noted that "the Provisional Government of Israel must assume the full responsibility ... for these assassinations ..." 84/

The Security Council requested the Israeli Government to investigate the assassination and to submit a report to the Council, but no report was received.

The Armistice agreements and resolution 194 (III)

The Arab hostility, stemming from the partition resolution, to United Nations involvement in the Palestine question, diminished as Israel increased its military strength and consolidated its occupation of Palestinian territory. The Acting Mediator, Dr. Ralph Bunche, was able to arrange armistice agreements between Israel on the one hand and Egypt, Jordan, Lebanon and Syria on the other, which were signed between February and July 1949 (map at annex II).

These agreements specified inter alia that the "armistice between the armed forces [was] an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine", recognizing "the principle that no military or political advantage should be gained". The agreements "being dictated exclusively by military, and not political, considerations" did not prejudice the political positions of any of the parties on the ultimate settlement of the Palestine question. Thus they gave Israel no legal right to the territories occupied during the 1948 hostilities, beyond the lines specified in the partition resolution.

While in occupation of territories beyond those allotted by the resolution, Israel applied for admission to the United Nations on 29 November 1948. It was criticized in the Security Council for its non-compliance with United Nations resolutions and on 17 December 1948 its application failed, receiving 5 votes in favour, 1 against, with 5 abstentions. 85/

A week earlier, the General Assembly passed another resolution that has become an important document in the Palestine question. Based on the Bernadotte recommendations, resolution 194 (III) (text in annex III) had the following main provisions:

- (a) To establish a Conciliation Commission with headquarters at Jerusalem, to continue the functions of the Mediator and the Truce Commission;
- (b) To call for Security Council action for the demilitarization of Jerusalem, and for proposals from the Conciliation Commission for a permanent international régime for Jerusalem in view of the distinctive significance for three world religions;
- (c) To call for the refugee problem to be dealt with in the following terms:

"... the refugees wishing to return to their homes and live at peace with 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 ..."

The importance of this resolution derives principally from its specific establishment of the right of peaceful return of the Palestinians to their homes (a right that has been reiterated annually by the General Assembly up to the present time).

The Conciliation Commission and the [Lausanne protocols](#)

The Conciliation Commission for Palestine was established in January 1949, with France, Turkey and the United States as members. Although the Arab States had voted against the resolution, and still refused direct negotiations with Israel, they co-operated with the Commission since it offered the only hope of dealing with the return of refugees and of obtaining Israeli withdrawal to the partition lines, including from Jerusalem. Israel, however, in defiance of the United Nations resolutions, moved its capital from Tel Aviv to the western part of Jerusalem in 1950.

The Commission was able to arrange a conference in Lausanne in April 1949, consisting of separate talks with the two sides, since the Arab States consistently rejected direct negotiations with Israel. The Arab States urged that the refugee question, as the most urgent issue, be settled first, but Israel insisted that this be linked to a territorial settlement in a peace treaty. The Commission's efforts to link the two questions were unsuccessful. On 12 May 1949, two separate protocols were signed by the Arab States and Israel, agreeing to use the partition resolution's boundaries as a "basis for discussions with the Commission". This act reiterated the international commitment to establish a Palestinian Arab State on the basis of the partition resolution, but this position was, as reported by the Commission, subjected by Israel to certain reservations, as cited below:

" The refugee question :

"... The Arab delegations continue to hold the view that the first step must be acceptance by the Government of Israel of the principle set forth in resolution 194 (III) of 11 December 1948 concerning the repatriation of refugees who wish to return to their homes and live at peace with their neighbours. The Commission has not succeeded in achieving the acceptance of this principle by the Government of Israel ... Israel's refusal to accept the principle of repatriation is cited by the Arab delegations as the reason for their own reserved and reticent attitude on territorial questions ...

" Territorial questions :

"The Israel delegation proposed ... that the political frontier between Israel and Egypt and Lebanon respectively should be the same as that which separated the latter countries from Palestine under the British Mandate ...

"Concerning the political frontier between Israel and the Hashemite Jordan Kingdom, the Israel delegation proposed that it should remain the same as that between Transjordan and Palestine under the British Mandate ...

"As regards the central area of Palestine at present under Jordan military authority, the Israel delegation proposed that, without entering into the question of the future status of that area, the boundary between it and Israel should follow the present line between Israel and Jordan military forces ...

"The Israel delegation declared that Israel had no ambitions as regards the above-mentioned central area of Palestine, and did not wish at present to put forward suggestions as to its disposition. The Israel delegation considered that disposition of that area was a matter which should form the subject of a proposal agreed upon and put forward by the delegations of the Arab States, the Arab inhabitants of the territory and the refugees. Until the future status of that area was settled, Israel would continue to recognize the Hashemite Jordan Kingdom as the de facto military Power.

"Regarding the Jerusalem area, the Israel delegation states that its disposition was a separate question which did not enter into the present proposal.

"... for their part, the Arab delegations made a proposal that the refugees coming from certain areas (including the "West Bank") should be enabled to return to their homes forthwith ... the Arab delegations have indicated that this proposal bears a territorial aspect, since it envisages the return of refugees to areas designated as Arab territory, and which are in principle to be recognized as Arab territory.

"In regard to the Israel delegation's proposal concerning Israel's frontiers with Egypt and Lebanon respectively, including the proposal concerning the Gaza area, the Arab delegations informed the Commission that, in their view, the proposal constituted a flagrant violation of the terms of the Protocol of 12 May 1949 concerning territorial questions, since it was considered that such a proposal involved annexations rather than territorial adjustments envisaged by the Protocol.

"In so far as the above-mentioned proposal of the Arab delegations has a territorial character, the attitude of the Israel delegation is that it could not accept a certain proportionate distribution of territory agreed upon in 1947 as a criterion for a territorial settlement in present circumstances ... " 86/

From the Commission's report* it would seem that Israel now envisaged a Palestinian Arab State limited to the territories occupied by Egypt and Jordan, but this was unacceptable at the time to both the Palestinian Arabs and to the Arab States.

* *The Commission's subsequent efforts to secure the right of peaceful return of the Palestinian Arabs, and to negotiate an international régime for Jerusalem, were inconclusive. It convened another Conference in Paris in 1951, again without result. Although it continued its formal efforts for some years, including attempts to establish an international régime for Jerusalem, it eventually was restricted to routine functions of maintaining lists of refugee properties, owners, blocked bank accounts, etc. ... and has not exercised any effective functions in the Palestine issue.*

Israel joins the United Nations

On 11 May 1949, one day before the signing of the Lausanne protocols, Israel was admitted to United Nations membership. In a statement to the Political Committee, the Israeli representative declared that his country would observe the principles of the United Nations Charter, and would implement its resolutions. Israel was the only State to have achieved statehood and received territory also through an act of the United Nations. The preamble of the resolution admitting Israel to United Nations membership specifically referred to Israel's undertakings to implement General Assembly resolutions 181 (II) and 194 (III), the two resolutions that formed the centre of the Palestine issue in the United Nations:

" Having received the report of the Security Council on the application of Israel for membership in the United Nations,

" Noting that in the judgement of the Security Council, Israel is a peace-loving State and is able and willing to carry out the obligations contained in the Charter,

" Noting that the Security Council has recommended to the General Assembly that it admit Israel to membership in the United Nations,

" Noting furthermore the declaration by the State of Israel that it 'unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations',

" Recalling its resolutions of 29 November 1947 and 11 December 1948 and taking note of the declarations and explanations made by the representative of the Government of Israel before the ad hoc Political Committee in respect of the implementation of the said resolutions,

" The General Assembly,

" Acting in discharge of its functions under Article 4 of the Charter and rule 125 of its rules of procedure,

"1. Decides that Israel is a peace-loving State which accepts the obligations contained in the Charter and is able and willing to carry out those obligations;

"2. Decides to admit Israel to membership in the United Nations." 87/

The references in the preambular paragraphs to General Assembly resolutions 181 (II) and 194 (III), the former having created Israel and the yet non-existent Palestinian Arab State, the latter having preserved the right of return of Palestinian refugees wishing to return to their homes and live at peace with their neighbours, carried implications of the Israeli acknowledgement of the continuing existence of a Palestinian Arab entity. However, the Palestinian Arab entity itself had not come into existence. That part of its territory occupied by Israel in 1948 was absorbed de facto by Israel by the extension of its laws to apply to those areas as an integral part of Israel. The "Area of Jurisdiction and Powers Ordinance" of 22 September 1948 reads:

"The Provisional Council of State hereby enacts as follows -

"1. Any law applying to the whole of the State of Israel shall be deemed to apply to the whole of the area including the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel.

"2. Any person or body of persons competent by virtue of a law as aforesaid to hold office or act in the whole of the State of Israel shall be deemed to be competent to hold office or act in the whole of the area including both the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel.

"3. This Ordinance shall have effect retroactively as from the 6th Iyar 5708 (15 May 1948) and all acts done which, but for the provisions of this Ordinance, would be without effect are hereby validated retroactively." 88/

On 24 April 1950, the West Bank was brought formally under Jordanian control. The Jordanian legislation stated:

"... its reaffirmation of its intent to preserve the full Arab rights in Palestine, to defend those rights by all lawful means in the exercise of its natural rights but without prejudicing the final settlement of Palestine's just case within the sphere of national aspirations, inter-Arab co-operation and international justice". 89/

The Palestine issue widened into a broader Arab-Israel conflict, as feared by many who had anticipated the consequences of the establishment of Israel in Palestine against the opposition of the Palestinian Arab majority.

The 1956 Suez war was one outcome of this dispute, although not directly involving the Palestine issue or territory. The Arab-Israeli war of June 1967, however, brought immediate and direct repercussions on the Palestine question. Israel occupied the West Bank, the Gaza Strip and East Jerusalem as well as territories beyond to control far more than the area claimed by the World Zionist Organization in 1919, except for the East Bank of the Jordan (map at annex IV).

The great majority of Palestinians in the West Bank and Gaza were made refugees - many for the second time, having sought refuge in these areas during the first exodus of 1948. Those that stayed in Israeli occupied territory after 1967 came to form a new category distinct from those within Israel's pre-1967 borders, who were entitled to Israeli citizenship. This new class was one of a people under foreign military occupation, subject to military rule, its repercussions and its consequences for the suppression of civil liberties and rights.

But both the Palestinians inside Israel's pre-1967 borders and those in the occupied territories accounted for a minority of the Palestinian people. The majority were now in total exile. In June 1967, of about 2.7 million persons of Palestinian origin, about 1.7 lived in Israel or the occupied territories - about 1 million in the West Bank, 400,000 in the Gaza Strip and 300,000 in the areas controlled by Israel. 90/ As a result of the 1967 war, almost half a million fled their homes, leaving about 900,000 Palestinians in the areas newly occupied by Israel, a total of 1.2 million under Israeli control. 91/ One million five hundred thousand were refugees in exile - in countries other than their own, their homeland under the control of the Jewish State.

At the international level, the Palestine question at this point was still being treated as principally a "refugee problem", with little attention to the Palestinian Arab identity. The wider Arab-Israeli tension remained an unresolved festering problem, the Arab States regarding Israel as an illegitimate State. An uneasy peace had been maintained since 1956 with the help of the United Nations Emergency Force (UNEF) and after 1967 peace-keeping responsibilities were assumed by the United Nations Truce Supervision Organization (UNTSO).

Security Council resolutions 237 (1967) and 242 (1967)

Immediately after the cease-fire of June 1967, the Security Council unanimously passed resolution 237 (1967) which read:

"The Security Council,

"...

"Considering that essential and inalienable human rights should be respected even during the vicissitudes of war,

"Considering that all the obligations of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 should be complied with by the parties involved in the conflict,

"1. Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities;

"2. Recommends to the Governments concerned the scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Conventions of 12 August 1949;

"..."

Efforts continued to move towards the resolution of the Middle East conflict. After intensive negotiations and discussion of various formulas, the Security Council adopted resolution 242 (1967) on 22 November 1967. The principal provisions of resolution 242 (1967), which has become a basic instrument in all subsequent discussions of a Middle East peace settlement, read:

"The Security Council,

"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 a commitment to act in accordance with Article 2 of the Charter.

"1. Affirms that the fulfilment 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;

"..."

From the United Nations standpoint, Security Council resolution 242 (1967) was intended to establish a framework for peace in the Middle East. However, it did not explicitly mention Palestine; the only cognizance of the underlying issue of Palestine was in the reference to "the refugee problem".

Further, on the territorial plane, resolution 242 (1967), by calling on Israel to withdraw to the pre-1967 war borders, implicitly endorsed Israel's jurisdiction over the territory occupied by Israel in the 1948 war beyond the lines laid down by the partition resolution.

Syria and Iraq rejected the resolution, while Egypt and Jordan demanded Israeli withdrawal from all territories occupied in the 1967 war as a

pre-condition to any negotiations. Israel refused, taking the position that withdrawals, refugees and other issues could only be settled through direct negotiations with the Arab States and the conclusion of a comprehensive peace treaty.

The Jarring Mission

Under Security Council resolution 242 (1967), the Secretary-General appointed Ambassador Gunnar Jarring of Sweden as Special Representative in another United Nations effort to try and negotiate a Middle East settlement. Ambassador Jarring's attempts from 1967 to 1970 to promote agreements on the basis of resolution 242 (1967) did not succeed. In 1971, in identical aide-mémoire (annex V) to Egypt and Israel, he proposed that they give simultaneous and reciprocal commitments subject to the eventual satisfactory determination of all other aspects of a peace settlement. Israel would give a commitment to withdraw its forces from occupied Egyptian territory to the former border between Egypt and mandated Palestine, and Egypt would give a commitment to enter into a peace treaty with Israel on certain explicit understandings in relation to resolution 242 (1967). Egypt agreed to give the commitment required if Israel would likewise give the commitments covering its own obligations.

The Israeli response, without specific reference to the commitment requested from it, stated that it viewed favourably Egypt's expression of readiness to enter into a peace agreement with Israel, and reiterated that it was prepared for meaningful negotiations on all subjects relevant to a peace agreement between the two countries. Israel stated it would give an undertaking to withdraw its forces to secure recognized and agreed boundaries to be established in the peace agreement; Israel would not withdraw to the pre-5 June 1967 lines. The Jarring mission did not produce an agreed basis for discussions, and was suspended in 1972.

The Palestine Liberation Organization

The Jarring negotiations were conducted on the basis of resolution 242 (1967) and thus did not address the fundamental issue of the Palestinian national identity which underlay the conflict in the Middle East. However, one immediate effect of the 1967 war and the expansion of Israel to occupy Palestine in its entirety had been to intensify the militancy in the Palestinians' struggle to regain their fundamental national rights. The Palestine Liberation Organization (PLO), formed in 1964, adopted a new Covenant in 1968 committing all Palestinians to continue the fight for their rights, claiming that the international community had so far proved unable to discharge the responsibility it had borne for almost half a century. The Covenant termed Israel an illegal State, leading to Israel's refusal to deal with the PLO. The intensification of the armed struggle by the PLO to reassert the Palestinian national identity and its claim to the inherent right of self-determination increasingly focused world attention on the resolve of the Palestinian people to regain their national rights. The provisions of General Assembly resolution 194 (III) of 1948, establishing the special status of Jerusalem, and the right of Palestinian refugees to return to their homes if they wished and were prepared to live at peace with their neighbours, or to receive compensation, has been reasserted virtually every year since 1948, with Israel consistently refusing compliance except in the context of an overall settlement. Reference in the United Nations to the national rights of the Palestinians, however, appeared only after over two decades had passed since the partition of Palestine.

United Nations recognition of the Palestinian national identity

In 1969, the General Assembly specifically and formally recognized the inalienable rights of the Palestinian people, declaring that the Assembly:

" Recognizing that the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights,

" Gravely concerned that the denial of their rights has been aggravated by the reported acts of collective punishment, arbitrary detention, curfews, destruction of homes and property, deportation and other repressive acts against the refugees and other inhabitants of the occupied territories,

"...

"1. Reaffirms the inalienable rights of the people of Palestine;

"2. Draws the attention of the Security Council to the grave situation resulting from Israeli policies and practices in the occupied territories and Israel's refusal to implement the above [United Nations] resolutions;

"3. Requests the Security Council to take effective measures in accordance with the relevant provisions of the Charter of the United Nations to ensure the implementation of these resolutions." 92/

The Security Council, however, was dealing with the wider Middle East problem in the framework of its resolution 242 (1967), and the specific issue of Palestinian rights was not addressed by it.

In 1970, the General Assembly, reasserting its previous demands for Israeli withdrawal from territories occupied in 1967, for the observance of the right of return of the refugees, and for the cessation of violations of human rights, advanced to acknowledge the central position of the Palestine issue in the Middle East situation, in the following words:

"1. Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;

"2. Declares that full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East." 93/

Resolutions in similar terms were passed in 1971 and 1972 by the General Assembly. In 1973, in a resolution dealing with the situation in Africa, but which could be regarded as implicitly applying to the Middle East also, the General Assembly recognized that armed struggle was a legitimate part of a liberation movement, declaring that the Assembly:

"1. Reaffirms the inalienable right of all people under colonial and foreign domination and alien subjugation to self-determination, freedom and independence ...;

"2. Also reaffirms the legitimacy of the peoples' struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle;

"...

"6. Condemns all Governments which do not recognize the right to self-determination and independence of peoples, notably the people of Africa still under colonial domination and the Palestinian people." 94/*

* *A number of delegations expressed reservations about the language referring to armed struggle. The vote in the Third Committee on this paragraph (para. 2) was 82 in favour, 12 against, with 23 abstentions. In the General Assembly, the resolution received 97 votes in favour and 5 against, with 28 abstentions.*

The Middle East war of October 1973 was followed by an advance in the status of the PLO when, in October 1974, the Conference of Arab Heads of State and Government held at Rabat passed a resolution endorsing the right of the Palestinian people to self-determination and its own homeland, and recognizing the PLO as the legitimate representative of the Palestinian people. The acceptance of this resolution by Jordan was of particular significance since from 1948 to 1967 Jordan had administered the West Bank. The resolution stated that the Conference:

"Affirms the right of the Arab Palestinian people to the return of its homeland and its right to self-determination.

"Affirms the right of the Palestinian people to set up an independent national authority under the leadership of the Palestinian Liberation Organization, in its capacity as the sole legitimate representative of the Palestinian people, on any liberated Palestinian land. The Arab countries are resolved to support such an authority once it is established.

"Declares its support for the Palestine Liberation Organization in exercising its national and international responsibilities within the framework of Arab commitments."

The Palestine question in the United Nations

In September 1974, a large number of States joined to propose that the item "The question of Palestine" be included as a separate item in the General Assembly agenda. On the recommendation of the Assembly's General Committee the Palestine question reappeared on the Assembly's agenda for the first time since 1952. In October 1974, by 105 votes in favour to 4 against (and 20 abstentions), the PLO was invited to participate in Assembly proceedings.

"The General Assembly,

"Considering that the Palestinian people is the principal party to the question of Palestine,

"Invites the Palestine Liberation Organization, the representative of the Palestinian people, to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings." 95/

A month later, the Palestinian rights received full recognition in the United Nations when the General Assembly passed the following resolution by 87 votes to 8, with 37 abstentions:

"The General Assembly,

"Deeply concerned that no just solution to the problem of Palestine has yet been achieved and recognizing that the problem of Palestine continues to endanger international peace and security,

"Recognizing that the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations,

"Expressing its grave concern that the Palestinian people has been prevented from enjoying its inalienable rights, in particular its right to self-determination,

"Guided by the purposes and principles of the Charter,

"Recalling its relevant resolutions which affirm the right of the Palestinian people to self-determination,

"1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:

(a) The right to self-determination without external interference;

(b) The right to national independence and sovereignty;

"2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return;

"3. Emphasizes that full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine;

"4. Recognizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East;

"5. Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

"6. Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter;

"7. Requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine." 96/

The Assembly simultaneously conferred on the PLO the status of observer in the Assembly and in other international conferences held under United Nations auspices. 97/ On 13 November 1974, Mr. Yasser Arafat, Chairman of the Executive Committee of the PLO, addressed the General Assembly. In his speech, excerpts from which follow, he directly addressed the question of the terrorist image of the PLO.

"Those who call us terrorists wish to prevent world public opinion from discovering the truth about us and from seeing the justice on our faces. They seek to hide the terrorism and tyranny of their acts, and our own posture of self-defence.

"The difference between the revolutionary and the terrorist lies in the reason for which each fights. For whoever stands by a just cause and fights for the freedom and liberation of his land from the invaders, the settlers and the colonialists, cannot possibly be called terrorist, otherwise the Americans in their struggle for liberation from the British colonialists would have been terrorists; the European resistance against the Nazis would be terrorism, the struggle of the Asian, African and Latin American peoples would also be terrorism, and many of you who are in this Assembly hall were considered terrorists ...

"Need one remind this Assembly of the numerous resolutions adopted by it condemning Israeli aggressions committed against Arab countries, Israeli violations of human rights and articles of the Geneva Conventions, as well as the resolutions pertaining to the annexation of the city of Jerusalem and its restoration to its former status?

"I am a rebel and freedom is my cause. I know well that many of you present here today once stood in exactly the same resistance position as I now occupy and from which I must fight. You once had to convert dreams into reality by your struggle. Therefore you must now share my dream. I think this is exactly why I can ask you now to help, as together we bring out our dreams into a bright reality, our common dream for a peaceful future in Palestine's sacred land ...

"In my formal capacity as Chairman of the PLO and leader of the Palestinian revolution I proclaim before you that when we speak of our common hopes for the Palestine of tomorrow we include in our perspective all Jews now living in Palestine who choose to live with us there in peace and without discrimination.

"All along the Palestinian dreamt of return. Neither the Palestinian's allegiance to Palestine nor his determination to return waned: nothing could persuade him to relinquish his Palestinian identity or to forsake his homeland. The passage of time did not make him forget, as some hoped he would. When our people lost faith in the international community which persisted in ignoring its rights and when it became obvious that the Palestinians would not recuperate one inch of Palestine through exclusively political means, our people had no choice but to resort to armed struggle. Into that struggle it poured its material and human resources. We bravely faced the most vicious acts of Israeli terrorism which were aimed at diverting our struggle and arresting it ...

"We offer them the most generous solution, that we might live together in a framework of just peace in our democratic Palestine ...

"I appeal to you to enable our people to establish national independent sovereignty over its own land.

"Today I have come bearing an olive branch and a freedom-fighter's gun. Do not let the olive branch fall from my hand. I repeat: do not let the olive branch fall from my hand.

"War flares up in Palestine, and yet it is in Palestine that peace will be born." 98/

The Israeli representative said the following in the course of his reply:

"... it is obvious that the initiators of the discussion of the so-called question of Palestine are concerned primarily not with the realization of the rights of the Palestinians, but with the annulment of the rights of the Jewish people. Israel's destruction and the denial to the people of Israel of its rights to self-determination and independence are the officially enunciated objectives of the PLO at whose behest the Arab Governments have asked for this

debate. By doing so, by initiating the invitation extended to the PLO and by the decisions adopted at the recent Rabat Conference, the Arab Governments have reaffirmed their association with the umbrella organization of the Arab murder squads. This is not surprising. The PLO did not emerge from within the Palestinian community. It is not representative of the Palestinian community. It is a creation of the Arab Governments themselves. It was established at the first summit meeting of the Heads of Arab States in Cairo in 1964 as an instrument for waging terror warfare against Israel. Its Covenant stipulates:

"The establishment of Israel is fundamentally null and void. The claim of historical or spiritual ties between Jews and Palestine does not tally with historical realities. The Jews are not one people with an independent personality ..."

"Support for the PLO's murderous ideology and sinister objectives is expressed in the United Nations in various terms. References are frequently made to 'the root problem' of the Palestinian question, a euphemism for Israel's statehood. On occasion speakers lash out unabashedly against Israel's independence, slander it as colonialism, call for its replacement by a second Palestinian Arab State, in addition to Jordan. At times, the terms employed are more general, such as restoration of the inalienable rights of the Palestinian people, self-determination, and so on. Since the 8 June 1974 Cairo meeting of the PLO and the Rabat Summit Conference the talk is of establishing PLO authority in territories wrested from Israel making it clear that this would be only a first step towards Israel's elimination ..." 99/

Violation of human rights

The United Nations took up the issue of human rights violations after the 1967 war and Israel's occupation of the remaining territory in Palestine and parts of bordering Arab countries. In August 1967 the General Assembly endorsed Security Council resolution 237 (1967), calling on Israel to allow the return of refugees and to observe international conventions governing the treatment of civilians in time of war. 100/ The General Assembly in 1968 reasserted the right of the refugees to return to their homes, and established a "Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories". 101/ Israel has refused to allow the Committee entry into the occupied areas but the Committee, on the basis of reliable evidence from various sources, has monitored developments in those areas and regularly submitted reports to the General Assembly on alleged Israeli violations of human rights. The General Assembly has repeatedly passed resolutions criticizing Israel's actions in the occupied territories. The resolution passed in 1977, in terms reflecting those passed in preceding years, states that the Assembly:

"Condemns the following Israeli policies and practices:

"(a) The annexation of parts of the occupied territories;

"(b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

"(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right of return;

"(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving the Israeli authorities, institutions or nationals on the one hand, and the inhabitants or institutions of the occupied territories on the other;

"(e) The destruction and demolition of Arab houses;

"(f) Mass arrests, administrative detention and ill-treatment of the Arab population;

"(g) The ill-treatment and torture of persons under detention;

"(h) The pillaging of archaeological and cultural property;

"(i) The interference with religious freedoms and practices as well as family rights and customs;

"(j) The illegal exploitation of the natural wealth, resources and population of the occupied territories." 102/

The United Nations Commission on Human Rights has also denounced Israeli violations of human rights in the occupied territories. Excerpts from its resolution of 1977 103/ follow:

"The Commission on Human Rights,

"Taking into account that the General Assembly has, in resolution 31/20, recalled its resolution 3376 (XXX), in which it expressed grave concern that no progress has been achieved towards:

"(a) 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,

"(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted ...

"Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, particularly the measures aiming at annexation, as well as the continuing establishment of settlers' colonies, mass destruction of homes, torture and ill-

treatment of detainees, expropriation of properties and imposition of discriminatory economic legislation,

"1. Expresses its grave anxiety and concern over the deteriorating serious situation in the occupied Arab territories as a result of the continued Israeli occupation and aggression;

"2. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes;

"3. Deplores once again Israel's continued violations, in the occupied Arab territories, of the basic norms of international law and of the relevant international conventions, in particular, Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which are considered as war crimes and an affront to humanity, as well as Israel's persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

"...

"6. Reaffirms that all such measures taken by Israel to change the physical character, demographic composition or status of the occupied Arab territories or any part thereof, including Jerusalem, are all null and void, and calls upon Israel to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of the occupied Arab territories, including Jerusalem ...

"...

"8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions concerning the treatment of prisoners of war and, in this context, requests the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its next session;

"9. Further calls upon Israel once more to comply with its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights, and to acknowledge and abide by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

"10. Reiterates its call upon all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions which might be used by Israel in its pursuit of the policies and practices referred to in the present resolution".

The decade 1967-1977, during which there were two major conflicts in the Middle East, thus saw a fundamental transformation in the treatment of the Palestine question. From being viewed as a refugee problem, it had been recognized as an important issue involving the fundamental rights of the Palestinian people to return to their homeland and to national self-determination.

VIII. THE UNITED NATIONS COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

At its thirtieth session in 1975, the General Assembly requested the Security Council to act to enable the Palestinian people to exercise their rights. The Assembly also called for the participation of the PLO, on an equal footing with other parties, in all negotiations on the Middle East held under United Nations auspices, requesting the Secretary-General to make efforts to secure the invitation of the PLO to the Peace Conference on the Middle East (first convened at Geneva in December 1973). 104/

In another resolution, the General Assembly expressed its concern that:

"... no just solution to the problem of Palestine has yet been achieved,

"... the problem of Palestine continues to endanger international peace and security,

"... no progress has been achieved towards:

"(a) 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;

"(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted." 105/

By the same resolution, the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The original members of the Committee* were:

Afghanistan, Cuba, Cyprus, German Democratic Republic, Guinea, Hungary, India, Indonesia, Lao People's Democratic Republic, Madagascar, Malaysia, Malta, Pakistan, Romania, Senegal, Sierra Leone, Tunisia, Turkey, Ukrainian Soviet Socialist Republic and Yugoslavia.

* *In 1976 Guyana, Mali and Nigeria joined the Committee.*

The following States have been participating as observers in the work of the Committee: Egypt, Iraq, Jordan, the Libyan Arab Republic, Mauritania and the Syrian Arab Republic. The PLO, the League of Arab States and the Organization of the Islamic Conference also joined the Committee as observers.

Ambassador Médoune Fall of Senegal was the first Chairman of the Committee. The mandate of the Committee was to formulate recommendations for a programme of implementation designed to enable the Palestinian people to exercise their inalienable rights including:

- (a) The right to self-determination without external interference;
- (b) The right to national independence and sovereignty;
- (c) The inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted.

The Committee, after several meetings during 1976, issued its first report 106/ with the following principal recommendations (text at annex VI):

" The right of return

" Phase one :

"The first phase involves the return to their homes of the Palestinians displaced as a result of the war of June 1967. The Committee recommends that:

"(i) The Security Council should request the immediate implementation of its resolution 237 (1967) and that such implementation should not be related to any other conditions;

" Phase two :

"The second phase deals with the return to their homes of the Palestinians displaced between 1948 and 1967. The Committee recommends that:

"(i) While the first phase is being implemented, the United Nations in co-operation with the States directly involved, and the Palestine Liberation Organization as the interim representative of the Palestinian entity, should proceed to make the necessary arrangements to enable Palestinians displaced between 1948 and 1967 to exercise their right to return to their homes and property, in accordance with the relevant United Nations resolutions, particularly General Assembly resolution 194 (III);

"(ii) Palestinians not choosing to return to their homes should be paid just and equitable compensation as provided for in resolution 194 (III).

" The right to self-determination, national independence and sovereignty

"... The evacuation of the territories occupied by force and in violation of the principles of the Charter and relevant resolutions of the United Nations is a conditio sine qua non for the exercise by the Palestinian people of its inalienable rights in Palestine ...

"(a) A timetable should be established by the Security Council for the complete withdrawal by Israeli occupation forces from those areas occupied in 1967 ...

"(b) The Security Council may need to provide temporary peace-keeping forces in order to facilitate the process of withdrawal;

"(c) Israel should be requested by the Security Council to desist from the establishment of new settlements and to withdraw during this period from settlements established since 1967 in the occupied territories ...

"(d) Israel should also be requested to abide scrupulously by the provisions of the Geneva Convention ...

"(e) The evacuated territories, ... should be taken over by the United Nations, which ... will subsequently hand over these evacuated areas to the Palestine Liberation Organization as the representative of the Palestinian people;

...

"(g) As soon as the independent Palestinian entity has been established, the United Nations, in co-operation with the States directly involved and the Palestinian entity, should ... make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting peace in the region, in accordance with all relevant United Nations

resolutions ..."

Presenting the recommendations to the General Assembly in 1976, the Committee Chairman said, inter alia :

"Never in the history of nations have the actions of an international organization had such a decisive effect on the destiny of a people than those of the United Nations on that of the Palestinian people ...

"The question of Palestine, which was introduced on 2 April 1947 to the United Nations by the United Kingdom, has borne and still bears the character of a problem of self-determination, which the United Nations to date has not been able to resolve in a just and, therefore, durable manner.

"As a result, the question has remained before the United Nations in a state of uncertainty ever since the very first days of the Organization, which has devoted more time, discussion and effort to its solution than to any other item without succeeding in bringing about a just and durable solution ... This situation does not mean that the United Nations is incapable of promoting a peaceful solution of this question ...

"This task must be recognized to be both important and difficult. Important because, for the first time, the United Nations is dealing in a specific manner with the question which lies at the heart of the Middle East conflict. Difficult, because the implementation of the rights of the Palestinian people is the subject of diverging, if not diametrically opposed, interpretations ...

"Our Committee, as you will have noted, has based itself, in its work, solely on the relevant decisions and resolutions of the General Assembly and the Security Council, whether the matter concerned the refugees, the withdrawal from the occupied Arab territories, or the implementation of the right to self-determination of the Palestinian people ...

"... the mandate of the Committee, [is] neither to resolve the question of the Middle East nor to reaffirm the rights of Israel, but to define ways and means to ensure recognition of the inalienable rights of the Palestinian people ..." 107/

Earlier, the Committee's recommendations had been considered by the Security Council, where the Committee Chairman had stated:

"The present world situation requires that the Security Council carefully study the recommendations submitted to it so that a settlement of the question may be found, since as everyone knows, such a settlement is essential for the establishment of peace in the Middle East. We believe that such action is all the more appropriate in that the United Nations must bear a great part of the responsibility for the tragedy which the Arab people of Palestine are now experiencing.

"It is in the interests of the State of Israel as well that a real and lasting peace be established in the Middle East.

"Ruthless, blind and unjust force can build nothing which cannot be destroyed by an even greater force based on justice and law.

"The Israeli leaders have too much imagination and too great a sense of political responsibility not to understand that time is working against them. Unfortunately, we must recognize the fact that they are now beginning to count far too many lost opportunities [The Chairman then quoted M. Mendes-France]

"When a people wishes to free itself of an occupier although the occupier may be militarily more powerful, it will always be successful. This was the case in Viet Nam, in Algeria, in Madagascar, in Angola. The same will hold for Palestine". 108/

The Security Council had debated the Palestine question in the context of the Committee's reports, and had considered a draft resolution declaring that the Council:

"Affirms the inalienable rights of the Palestinian people to self-determination, including the right of return and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations". 109/

The resolution had received 10 votes in favour, 1 against (United States) and 4 abstentions.* The resolution failed due to the veto. 110/

* In favour: Benin, China, Guyana, Japan, Libyan Arab Republic, Pakistan, Panama, Romania, Union of Soviet Socialist Republics, United Republic of Tanzania

Abstaining: France, Italy, Sweden, United Kingdom of Great Britain and Northern Ireland

The Council again took up the Committee's report in October 1977. The Committee Chairman again emphasized that:

"... [the Committee's] mandate was not to deal with the Middle East question in its entirety, but, rather, to seek ways and means of implementing the inalienable rights of the Palestinian people. In other words, the task of our Committee consists, above all, in righting the basic imbalance which has always characterized the various United Nations approaches to the Palestine question. Far from being an advocate of partiality, the Committee has tried to redress that regrettable imbalance and to give the Palestine question its rightful place and its true dimension ..." 111/

The Chairman stressed that the inalienable rights of the Palestinian people had been recognized by most countries, adding that:

"Israel's right to exist is no longer challenged by anyone. But Israel in turn must recognize the legitimate rights of its neighbours. The world is now thirsting for peace and security. Israel has no right to continue to pose constant threats to the very survival of our planet ..." 112/

However, the Security Council adjourned the discussion without taking any action, the item remaining on its agenda.

IX. THE STATUS OF THE PALESTINIAN ENTITY

The Palestine question is now in a state where the inherent and inalienable rights of the Palestinian people to self-determination and to the establishment of a Palestinian entity is receiving steadily widening attention, as are the original factors that led to the creation of the Palestine problem and the underlying issues. They have been outlined in this study and may be recapitulated to place this complex problem in perspective.

In 1917 there existed a Palestinian entity possessing two of the major attributes of a nation - a people rooted for centuries in a defined territory. This entity, along with others, had been part of an empire that disintegrated in the First World War. Palestine was among the entities that the League of Nations recognized as one of those communities "whose existence as independent nations can be provisionally recognized". The Mandate, according to the Covenant of the League of Nations, should have provided administrative guidance designed to facilitate the transition to full independence, but it also required the Mandatory to secure the establishment of a Jewish national home. The indigenous people of Palestine had not been consulted in the framing of this policy.

The implementation of this policy transformed the demographic and land owning patterns in Palestine. Where the Jewish community had constituted about 9 per cent of the population in Palestine in 1917, by 1947 massive immigration had swelled this proportion to about 32 per cent. In 1917, Jewish-owned land had accounted for 2.5 per cent of the total land area of Palestine. By 1947, this had increased to 6.2 per cent.

These changes, as well as other factors and policies, led to a situation in which, instead of achieving independence as a single State, as other mandated territories had, Palestine was partitioned by a United Nations resolution, the Mandatory Power having declared its inability to deal with the conflict that the irreconcilable obligations of the Mandate had created. The partition resolution which was rejected by the Palestinian Arabs as well as by the Arab States, awarded 56 per cent of the territory of Palestine to 32 per cent of its population.

In the 1948 war the new State of Israel expanded to occupy 77 per cent of the territory of Palestine. Israel also occupied the larger part of Jerusalem, meant to be internationalized under the partition resolution. Jordan and Egypt occupied the other parts of the territory assigned by the partition resolution to the Palestinian Arab State which did not come into being. Over half the indigenous Palestinians fled or were expelled, the refugees numbering 726,000 by the end of 1949.

In the 1967 war, Israel occupied the remaining territory of Palestine, until then under Jordanian and Egyptian control. This included the remaining part of Jerusalem, the city being made the Israeli capital. The war brought a second exodus of Palestinians, estimated at half a million. By 1970, of an estimated Palestinian population of 3 million, over half, 1.6 million, were in exile, 1 million are in the territories occupied by Israel in 1967, and 400,000 within the pre-1967 borders of Israel. Israel has refused to comply with the call by the United Nations, repeated virtually annually since 1948, to permit the return of Palestinian refugees who wish to return to their homes and live at peace with their neighbours and to award compensation to those choosing not to return.

Israel has also failed to comply with that part of Security Council resolution 242 (1967) of 22 November 1967, which called on Israel to withdraw from territories it had occupied in the 1967 conflict, on the grounds that withdrawals can be contemplated only in the context of a comprehensive settlement, which includes the other operative paragraph of the resolution namely:

"... 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".

Efforts within and without the United Nations for such a settlement of the Middle East dispute have been under way for over a decade and are yet to achieve success. The Middle East dispute which has led to four major wars and to a constant threat to world peace, grew out of the seed of the Palestine issue. The General Assembly since 1969 has repeatedly reiterated this fact, and has emphasized that the Palestine issue can only be resolved when the Palestinian people are assured the exercise of their inherent and inalienable rights of return and national self-determination.

The recognition of the great majority of Member States of the United Nations that the issue of the Palestinian people must be solved if peace is to return to the Middle East is evidenced by the following statements:

In August 1976 the Conference of Heads of State or Government of Non-Aligned Countries, meeting at Colombo, made the following declaration:

"The Conference believed that a just and lasting peace in the Middle East can only be established through the solution of the Palestine question, the root cause of the conflict in the region, in accordance with the United Nations resolutions which recognized the inalienable national rights of the Palestinian people". 113/

The Conference detailed these rights as the right of self-determination, the right of return and the right to national independence and the establishment of an independent, sovereign State in Palestine, in accordance with the Charter of the United Nations.

The Assembly of Heads of State and Government of the Organization of African Unity, meeting at Libreville in July 1977, declared:

"... that a just and lasting peace can be attained only on the basis of total Israeli withdrawal from all occupied Arab territories and recognition of the national legitimate right of the Palestinian people to their territory, sovereignty and national independence and their right to self-determination and the creation of an independent State on their national territory." 114/

The spokesman of the European Economic Community, addressing the General Assembly in September 1977 stated:

"With regard to the situation in the Near East over which the Nine continue to be gravely concerned, we remain convinced, as a matter of principle, that any solution must be based on Security Council resolutions 242 (1967) and 338 (1973), as we reaffirmed on 29 June 1977, as well as on the following fundamental principles: first, acquisition of territory by force is unacceptable; secondly, Israel must end its occupation of territories it has held since the 1967 war; thirdly, the sovereignty, territorial integrity and the independence of each State in the region must be respected, as well as the right of each State in the region to live in peace with secure and recognized borders; fourthly, the establishment of a just and lasting peace must give due consideration to the rights of the Palestinians.

"The Nine also continue to believe that a solution to the conflict will be possible only if the legitimate right of the Palestinian people to give effective expression to its national identity is translated into fact. This would take into account, of course, the need for a homeland for the Palestinian people.

"It remains the firm view of the Nine that all aspects of the problem must be taken as a whole.

"They consider that the representatives of the parties to the conflict, including the Palestinian people, must participate in the negotiations in an appropriate manner to be worked out in consultation among all the parties concerned. In the context of an over-all settlement, Israel must be ready to recognize the legitimate rights of the Palestinian people; also the Arab side must be ready to recognize the right of Israel to live in peace within secure and recognized boundaries." 115/

On 1 October 1977, a United States-Soviet joint communiqué stated:

"The United States and the Soviet Union believe that, within the framework of a comprehensive settlement of the Middle East problem, all specific questions of the settlement should be resolved, including such key issues as withdrawal of Israeli armed forces from territories occupied in the 1967 conflict; the resolution of the Palestinian question, including insuring the legitimate rights of the Palestinian people; termination of the state of war and establishment of normal peaceful relations on the basis of mutual recognition of the principles of sovereignty, territorial integrity, and political independence".

The Secretary-General of the United Nations has been engaged in efforts to promote progress towards a Middle East peace, and also has stressed the place the Palestine issue holds in the dispute.

In a 1976 report on the Palestine question, the Secretary-General noted that the Security Council discussions that year:

"... had emphasized the Palestinian dimension of the Middle East problem and has reaffirmed the right of every State in the area to live in peace within secure and recognized boundaries ..."

The Secretary-General had pointed out these aspects in a letter dated 27 January 1976 to the Co-Chairman of the Geneva Conference. 116/

In his report in August 1976 on the work of the United Nations, the Secretary-General stated:

"The Palestinian dimension of the Middle East problem has gained increasing attention in efforts to achieve a just and lasting peace in that region ... I would like to underline once again the fundamental importance of tackling the Palestinian question as an essential element in resolving the Middle East dispute". 117/

Notes

1/ Official Records of the General Assembly, First Special Session, Plenary, General Series, document A/286.

2/ Ibid., documents A/287 to A/291.

3/ Ibid., General Committee, vol. II, 29th meeting, p. 32.

4/ Ibid., 31st meeting, pp. 81-82.

5/ Ibid., Plenary Meetings, vol. I, 71st meeting, p. 60.

6/ Ibid., General Committee, vol. II, 32nd meeting, pp. 92-93.

7/ Ibid., First Committee, vol. III, 46th meeting, p. 8, document A/C.1/145.

8/ Ibid., 50th meeting, p. 104, document A/C.1/155.

9/ Ibid., Annexes, p. 365, document A/C.1/149.

10/ Ibid., Annexes, p. 366, document A/C.1/150.

11/ Ibid., First Committee, vol. III, 48th meeting, pp. 88-91.

12/ Ibid., 52nd meeting, pp. 184-185.

13/ Ibid., 54th meeting, p. 252; 50th meeting, p. 114.

14/ Ibid., 56th meeting, p. 314.

15/ Ibid., 56th meeting, pp. 312-313.

16/ Ibid., Plenary Meetings, vol. I, 77th meeting, pp. 132-134.

17/ Ibid., 78th meeting, p. 145.

18/ Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364 (Report of the United Nations Special Committee on Palestine), vol. II, p. 5.

19/ Ibid., vol. III, pp. 9, 14 and 19.

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21/ Ibid., p. 56.

22/ Ibid., p. 83.

23/ Ibid., vol. IV, p. 20.

24/ Ibid., vol. IV, pp. 39, 41 and 56.

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26/ Ibid., vol. II, pp. 15 and 16.

27/ Ibid., p. 43.

28/ Ibid., vol. I, pp. 29 and 30.

29/ Ibid., p. 33.

30/ Ibid., pp. 42-44.

31/ Ibid., p. 47.

32/ Ibid., pp. 59 and 64.

33/ Ibid., vol. I, p. 6.

34/ Ibid., vol. II, p. 14.

35/ Ibid., p. 28.

36/ Ibid., pp. 21-22.

37/ Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364 (Report of the United Nations Special Committee on Palestine), vol. I, pp. 48-57.

38/ Ibid., pp. 60-64.

39/ The New York Times, 2 September 1947, p. 1.

- 40/ Palestine Post, 3 September 1947, p. 1.
- 41/ Official Records of the General Assembly, Second Session, Ad Hoc Committee on the Palestine Question, 2nd meeting, p. 3.
- 42/ Ibid., 3rd meeting, pp. 6-11.
- 43/ Ibid., 4th meeting, pp. 15-19.
- 44/ Ibid., 15th meeting, pp. 96-98.
- 45/ Ibid., 11th meeting, pp. 63-64.
- 46/ Ibid., 12th meeting, pp. 69-70.
- 47/ Ibid., 18th meeting, pp. 123-124.
- 48/ Ibid., 7th meeting, pp. 37-39.
- 49/ Ibid., 19th meeting, p. 129.
- 50/ Weizmann, Chaim, Trial and Error (New York, Harper and Bros. 1949), pp. 457-459.
- 51/ Official Records of the General Assembly, Second Session, Ad Hoc Committee on the Palestine Question, pp. 276-279.
- 52/ Official Records of the General Assembly, Second Session, Plenary Meetings, vol. II, 124th meeting, p. 1310.
- 53/ Ibid., 124th meeting, pp. 1323-1324.
- 54/ Ibid., 125th meeting, p. 1334.
- 55/ Ibid., 124th meeting, pp. 1321-1322.
- 56/ Ibid., 124th meeting, pp. 1325-1328.
- 57/ Ibid., 125th meeting, p. 1359.
- 58/ Ibid., 124th meeting, pp. 1313-1314.
- 59/ Ibid., 125th meeting, p. 1341.
- 60/ Ibid., 127th meeting, pp. 1396-1399.
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- 62/ Ibid., 128th meeting, pp. 1424-1425.
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- 73/ Begin, op. cit., pp. 164-165.
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- 81/ Official Records of the General Assembly, Third Session, Supplement No. 11, document A/648 (Progress report of the U.N. Mediator on Palestine), part I, sect. III, paras. 5 and 6.
- 82/ Ibid., paras. 14 and 15.
- 83/ Ibid., sect. VIII, para. 4.
- 84/ Official Records of the Security Council, Third Year, Supplement for October 1948, pp. 4-9, document S/1018.
- 85/ Official Records of the General Assembly, Fourth Session, Supplement No. 2, pp. 87-89, document A/945, part III.
- 86/ Ibid., Ad Hoc Political Committee, Annexes, vol. II, pp. 5-8, document A/927.
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- 88/ Badi, Joseph, Fundamental Laws of the State of Israel (New York, Twayne, 1961), p. 28.
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- 92/ General Assembly resolution 2535 B (XXIV) of 10 December 1969. Votes: 47 in favour, 22 against, 47 abstentions.
- 93/ General Assembly resolution 2672 C (XXV) of 8 December 1970. Votes: 47 in favour, 22 against, 50 abstentions.
- 94/ General Assembly resolution 3070 (XXVIII) of 30 November 1973. Votes: 97 in favour, 5 against, 28 abstentions.
- 95/ General Assembly resolution 3210 (XXIX) of 14 October 1974.
- 96/ General Assembly resolution 3236 (XXIX) of 22 November 1974.
- 97/ General Assembly resolution 3237 (XXIX) of 22 November 1974. Votes: 95 in favour, 17 against, 19 abstentions.
- 98/ Document A/PV.2282, pp. 31ff.
- 99/ Document A/PV.2283, pp. 26-27.
- 100/ General Assembly resolution 2252 (ES-V) of 4 July 1967. Votes: 116 in favour, 0 against, 2 abstentions.
- 101/ General Assembly resolution 2443 (XXIII) of 19 December 1968. Votes: 60 in favour, 22 against, 30 abstentions.
- 102/ General Assembly resolutions 32/91 C of 13 December 1977; votes: 98 in favour, 2 against, 32 abstentions; 3240 A (XXIX) of

29 November 1974; votes: 95 in favour, 4 against, 31 abstentions; 3525 A (XXX) of 15 December 1975; votes: 87 in favour, 7 against, 26 abstentions; 31/106 C of 16 December 1976; votes: 100 in favour, 5 against, 30 abstentions.

103/ Commission on Human Rights resolution 1 (XXXIII) of 15 February 1977. Votes: 23 in favour, 3 against, 6 abstentions. The composition of the Commission in 1977 was: Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, Federal Republic of Germany, India, Iran, Italy, Jordan, Lesotho, Libyan Arab Jamahiriya, Nigeria, Pakistan, Panama, Peru, Rwanda, Senegal, Sweden, Syrian Arab Republic, Turkey, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Yugoslavia.

104/ General Assembly resolution 3375 (XXX) of 10 November 1975.

105/ General Assembly resolution 3376 (XXX) of 10 November 1975.

106/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 35, document A/31/35.

107/ Ibid., Plenary Meetings, vol. II, 66th meeting, paras. 2, 4, 6, 13, 27 and 33.

108/ S/PV.1924, p. 26.

109/ Official Records of the Security Council, Thirty-first Year, Supplement for April, May and June 1976, document S/12119, p. 73.

110/ S/PV.1938, p. 62.

111/ S/PV.2041, p. 8.

112/ Ibid., p. 11.

113/ Official Records of the General Assembly, Thirty-first Session, document No. A/31/197, annex I, para. 79.

114/ Ibid., Thirty-second Session, document A/32/160, annex, p. 1.

115/ Ibid., 7th meeting, document A/32/PV.7, p. 22.

116/ Official Records of the General Assembly, Thirty-first Session, document A/31/271, p. 3.

117/ Ibid., Supplement No. 1A, document A/31/1/Add.1, pp. 3 and 4.

ANNEXES

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ANNEX I

[The Partition Plan, 1947](#)

(map)

ANNEX II

The Armistice Lines of 1949

(map)

ANNEX III

United Nations General Assembly resolution 194 (III)
of 11 December 1948

The General Assembly,

Having considered further the situation in Palestine,

1. Expresses its deep appreciation of the progress achieved through the good offices of the late United Nations Mediator in promoting a peaceful adjustment of the future situation of Palestine, for which cause he sacrificed his life; and

Extends its thanks to the Acting Mediator and his staff for their continued efforts and devotion to duty in Palestine;

2. Establishes a Conciliation Commission consisting of three States Members of the United Nations which shall have the following functions:

(a) To assume, in so far as it considers necessary in existing circumstances, the functions given to the United Nations Mediator on Palestine by resolution 182(S-2) of the General Assembly of 14 May 1948;

(b) To carry out the specific functions and directives given to it by the present resolution and such additional functions and directives as may be given to it by the General Assembly or by the Security Council;

(c) To undertake, upon the request of the Security Council, any of the functions now assigned to the United Nations Mediator on Palestine or to the United Nations Truce Commission by resolutions of the Security Council; upon such request to the Conciliation Commission by the Security Council with respect to all the remaining functions of the United Nations Mediator on Palestine under Security Council resolutions, the office of the Mediator shall be terminated;

3. Decides that a Committee of the Assembly, consisting of China, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, shall present, before the end of the first part of the present session of the General Assembly, for the approval of the Assembly, a proposal concerning the names of the three States which will constitute the Conciliation Commission;

4. Requests the Commission to begin its functions at once, with a view to the establishment of contact between the parties themselves and the Commission at the earliest possible date;

5. Calls upon the Governments and authorities concerned to extend the scope of the negotiations provided for in the Security Council's resolution of 16 November 1948 and to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;

6. Instructs the Conciliation Commission to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them;

7. Resolves that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice; that arrangements to this end should be under effective United Nations supervision; that the United Nations Conciliation Commission, in presenting to the fourth regular session of the General Assembly its detailed proposals for a permanent international régime for the territory of Jerusalem, should include recommendations concerning the Holy Places in that territory, that with regard to the Holy Places in the rest of Palestine the Commission should call upon the political authorities of the areas concerned to give appropriate formal guarantees as to the protection of the Holy Places and access to them, and that these undertakings should be presented to the General Assembly for approval;

8. Resolves that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem, the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control;

Requests the Security Council to take further steps to ensure the demilitarization of Jerusalem at the earliest possible date;

Instructs the Commission to present to the fourth regular session of the General Assembly detailed proposals for a permanent international régime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area;

The Conciliation Commission is authorized to appoint a United Nations representative, who shall co-operate with the local authorities with respect to the interim administration of the Jerusalem area;

9. Resolves that, pending agreement on more detailed arrangements among the Governments and authorities concerned, the freest possible access to Jerusalem by road, rail or air should be accorded to all inhabitants of Palestine;

Instructs the Conciliation Commission to report immediately to the Security Council, for appropriate action by that organ, any attempt by any party to impede such access;

10. Instructs the Conciliation Commission to seek arrangements among the Governments and authorities concerned which will facilitate the economic development of the area, including arrangements for access to ports and airfields and the use of transportation and communication facilities;

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

12. Authorizes the Conciliation Commission to appoint such subsidiary bodies and to employ such technical experts, acting under its authority, as it may find necessary for the effective discharge of its functions and responsibilities under the present resolution;

The Conciliation Commission will have its official headquarters at Jerusalem. The authorities responsible for maintaining order in Jerusalem will be responsible for taking all measures necessary to ensure the security of the Commission. The Secretary-General will provide a limited number of guards for the protection of the staff and premises of the Commission;

13. Instructs the Conciliation Commission to render progress reports periodically to the Secretary-General for transmission to the Security Council and to the Members of the United Nations;

14. Calls upon all Governments and authorities concerned to co-operate with the Conciliation Commission and to take all possible steps to assist in the implementation of the present resolution;

15. Requests the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the necessary funds required in carrying out the terms of the present resolution.

ANNEX IV

[Territories occupied by Israel, June 1967](#)

(map)

ANNEX V

[Aide-mémoire presented to Israel and the United Arab Republic by Ambassador Jarring on 8 February 1971](#)

I have been following with a mixture of restrained optimism and growing concern the resumed discussions under my auspices for the purpose of arriving at a peaceful settlement of the Middle East question. My restrained optimism arises from the fact that in my view the parties are seriously defining their positions and wish to move forward to a permanent peace. My growing concern is that each side unyieldingly insists that the other make certain commitments before being ready to proceed to the stage of formulating the provisions to be included in a final peace agreement. There is, as I see it, a serious risk that we shall find ourselves in the same deadlock that existed during the first three years of my mission.

I therefore feel that I should at this stage make clear my views on what I believe to be the necessary steps to be taken in order to achieve a peaceful and accepted settlement in accordance with the provisions and principles of Security Council resolution 242 (1967), which the parties have agreed to carry out in all its parts.

I have come to the conclusion that the only possibility to break the imminent deadlock arising from the differing views of Israel and the United Arab Republic as to the priority to be given to commitments and undertakings - which seems to me to be the real cause for the present immobility - is for me to seek from each side the parallel and simultaneous commitments which seem to be inevitable prerequisites of an eventual peace settlement between them. It should thereafter be possible to proceed at once to formulate the provisions and terms of a peace agreement not only for those topics covered by the commitments, but with equal priority for other topics, and in particular the refugee question.

Specifically, I wish to request the Governments of Israel and the United Arab Republic to make to me at this stage the following prior commitments simultaneously and on condition that the other party makes its commitments and subject to the eventual satisfactory determination of all other aspects of a peace settlement, including in particular a just settlement of the refugee problem.

1. Israel

Israel would give a commitment to withdraw its forces from occupied United Arab Republic territory to the former international boundary between Egypt and the British Mandate of Palestine on the understanding that satisfactory arrangements are made for:

- (a) Establishing demilitarized zones;
- (b) Practical security arrangements in the Sharm el Sheikh area for guaranteeing freedom of navigation through the Straits of Tiran;
- (c) Freedom of navigation through the Suez Canal.

2. United Arab Republic

The United Arab Republic would give a commitment to enter into a peace agreement with Israel and to make explicitly therein to Israel, on a reciprocal basis, undertakings and acknowledgements covering the following subjects:

- (a) Termination of all claims or states of belligerency;
- (b) Respect for and acknowledgement of each other's sovereignty, territorial integrity and political independence;
- (c) Respect for and acknowledgement of each other's right to live in peace within secure and recognized boundaries;
- (d) Responsibility to do all in their power to ensure that acts of belligerency or hostility do not originate from or are not committed from within their respective territories against the population, citizens or property of the other party;
- (e) Non-interference in each other's domestic affairs.

In making the above-mentioned suggestion I am conscious that I am requesting both sides to make serious commitments but I am convinced that the present situation requires me to take this step.

ANNEX VI

RECOMMENDATIONS OF THE COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

I. BASIC CONSIDERATIONS AND GUIDELINES

The question of Palestine is at the heart of the Middle East problem, and, consequently, the Committee stresses its belief that no solution in the Middle East can be envisaged which does not fully take into account the legitimate aspirations of the Palestinian people.

The legitimate and inalienable rights of the Palestinian people to return to their homes and property and to achieve self-determination, national independence and sovereignty are endorsed by the Committee in the conviction that the full implementation of these rights will contribute decisively to a comprehensive and final settlement of the Middle East crisis.

The participation of the Palestine Liberation Organization, the representative of the Palestinian people, on an equal footing with other parties, on the basis of General Assembly resolutions 3236 (XXIX) and 3375 (XXX) is indispensable in all efforts, deliberations and conferences on the Middle East which are held under the auspices of the United Nations.

The Committee recalls the fundamental principle of the inadmissibility of the acquisition of territory by force and stresses the consequent obligation for complete and speedy evacuation of any territory so occupied.

The Committee considers that it is the duty and the responsibility of all concerned to enable the Palestinians to exercise their inalienable rights.

The Committee recommends an expanded and more influential role by the United Nations and its organs in promoting a just solution to the question of Palestine and in the implementation of such a solution. The Security Council, in particular, should take appropriate action to facilitate the exercise by the Palestinians of their right to return to their homes, lands and property. The Committee, furthermore, urges the Security Council to promote action towards a just solution, taking into account all the powers conferred on it by the Charter of the United Nations.

It is with this perspective in view and on the basis of the numerous resolutions of the United Nations, after due consideration of all the facts, proposals and suggestions advanced in the course of its deliberations, that the Committee submits its recommendations on the modalities for the implementation of the exercise of the inalienable rights of the Palestinian people.

II. THE RIGHT OF RETURN

The natural and inalienable right of Palestinians to return to their homes is recognized by resolution 194 (III), which the General Assembly

has reaffirmed almost every year since its adoption. This right was also unanimously recognized by the Security Council in its resolution 237 (1967); the time for the urgent implementation of these resolutions is long overdue.

Without prejudice to the right of all Palestinians to return to their homes, lands and property, the Committee considers that the programme of implementation, of the exercise of this right may be carried out in two phases:

Phase one

The first phase involves the return to their homes of the Palestinians displaced as a result of the war of June 1967. The Committee recommends that:

- (i) The Security Council should request the immediate implementation of its resolution 237 (1967) and that such implementation should not be related to any other condition;
- (ii) The resources of the International Committee of the Red Cross (ICRC) and/or of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, suitably financed and mandated, may be employed to assist in the solution of any logistical problems involved in the resettlement of those returning to their homes. These agencies could also assist, in co-operation with the host countries and the Palestine Liberation Organization, in the identification of the displaced Palestinians.

Phase two

The second phase deals with the return to their homes of the Palestinians displaced between 1948 and 1967. The Committee recommends that:

- (i) While the first phase is being implemented, the United Nations in co-operation with the States directly involved, and the Palestine Liberation Organization as the interim representative of the Palestinian entity, should proceed to make the necessary arrangements to enable Palestinians displaced between 1948 and 1967 to exercise their right to return to their homes and property, in accordance with the relevant United Nations resolutions, particularly General Assembly resolution 194 (III);
- (ii) Palestinians not choosing to return to their homes should be paid just and equitable compensation as provided for in resolution 194 (III).

III. THE RIGHT TO SELF-DETERMINATION, NATIONAL INDEPENDENCE AND SOVEREIGNTY

The Palestinian people has the inherent right to self-determination, national independence and sovereignty in Palestine. The Committee considers that the evacuation of the territories occupied by force and in violation of the principles of the Charter and relevant resolutions of the United Nations is a conditio sine qua non for the exercise by the Palestinian people of its inalienable rights in Palestine. The Committee considers, furthermore, that upon the return of the Palestinians to their homes and property and with the establishment of an independent Palestinian entity, the Palestinian people will be able to exercise its rights to self-determination and to decide its form of government without external interference.

The Committee also feels that the United Nations has an historical duty and responsibility to render all assistance necessary to promote the economic development and prosperity of the Palestinian entity.

To these ends, the Committee recommends that:

- (a) A timetable should be established by the Security Council for the complete withdrawal by Israeli occupation forces from those areas occupied in 1967; such withdrawal should be completed no later than 1 June 1977;
- (b) The Security Council may need to provide temporary peace-keeping forces in order to facilitate the process of withdrawal;
- (c) Israel should be requested by the Security Council to desist from the establishment of new settlements and to withdraw during this period from settlements established since 1967 in the occupied territories. Arab property and all essential services in these areas should be maintained intact;
- (d) Israel should also be requested to abide scrupulously by the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to declare, pending its speedy withdrawal from these territories, its recognition of the applicability of that Convention;
- (e) The evacuated territories, with all property and services intact, should be taken over by the United Nations, which with the co-operation of the League of Arab States, will subsequently hand over these evacuated areas to the Palestine Liberation Organization as the representative of the Palestinian people;
- (f) The United Nations should, if necessary, assist in establishing communications between Gaza and the West Bank;
- (g) As soon as the independent Palestinian entity has been established, the United Nations, in co-operation with the States directly involved and the Palestinian entity, should, taking into account General Assembly resolution 3375 (XXX), make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting

peace in the region, in accordance with all relevant United Nations resolutions;

- (h) The United Nations should provide the economic and technical assistance necessary for the consolidation of the Palestinian entity.

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