

UN Resolution 181 – The Partition Plan

November 29, 1947

Eli E. Hertz

In 1947 the British put the future of western Palestine into the hands of the United Nations, the successor organization to the League of Nations which had established the “Mandate for Palestine.” A UN Commission *recommended* partitioning what was left of the original Mandate – western Palestine – into two new states, one Jewish and one Arab. Jerusalem and its surrounding villages were to be temporarily classified as an international zone belonging to neither polity.

What resulted was Resolution 181 [known also as the 1947 Partition Plan], a nonbinding recommendation to partition Palestine, whose implementation hinged on acceptance by both parties – Arabs and Jews. The resolution was adopted on November 29, 1947 in the General Assembly by a vote of 33-12, with 10 abstentions. Among the supporters were the United States and the Soviet Union, as well as other nations including France and Australia. The Arab nations, including Egypt, Syria, Iraq, and Saudi Arabia denounced the plan on the General Assembly floor and voted as a bloc against Resolution 181 *promising* to defy its implementation by force.

The resolution recognized the need for immediate Jewish statehood [and a parallel Arab state], but the blueprint for peace became a moot issue when the Arabs refused to accept it. Subsequently, realities on the ground in the wake of Arab aggression [and Israel’s survival] became the basis for UN efforts to bring peace.

Aware of Arab’s past aggression, Resolution 181, in paragraph C, calls on the Security Council to:

“Determine as a threat to the peace, breach of the peace or act of aggression, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement envisaged by this resolution.” [Italics by author]

The ones who sought to alter the settlement envisioned in Resolution 181 by force, were the Arabs who threatened bloodshed if the United Nations was to adopt the Resolution:

“The [British] Government of Palestine fear that strife in Palestine will be greatly intensified when the Mandate is terminated, and that the international status of the United Nations Commission will mean little or nothing to the Arabs in Palestine, to whom the killing of Jews now transcends all other considerations. Thus, the Commission will be faced with the problem of how to avert certain bloodshed on a very much wider scale than prevails at present. ... The Arabs have made it quite clear and have told the Palestine government that they do not propose to co-operate or to assist the Commission, and that, far from it, they propose to attack

and impede its work in every possible way. We have no reason to suppose that they do not mean what they say.” [Italics by author]

Arab’s intentions and deeds did not fare better after Resolution 181 was adopted:

“Taking into consideration that the Provisional Government of Israel has indicated its acceptance in principle of a prolongation of the truce in Palestine; that the States members of the Arab League have rejected successive appeals of the United Nations Mediator, and of the Security Council in its resolution 53 (1948) of 7 July 1948, for the prolongation of the truce in Palestine; and that there has consequently developed a renewal of hostilities in Palestine.”

The conclusion:

“Having constituted a Special Committee and instructed it to investigate all questions and issues relevant to the problem of Palestine, and to prepare proposals for the solution of the problem, and having received and examined the report of the Special Committee (document A/364). ... *Recommends* to the United Kingdom, as the mandatory Power for Palestine, 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 set out below;” [Italics by author].

In the late 1990s, more than 50 years after Resolution 181 was rejected by the Arab world, Arab leaders suddenly recommended to the General Assembly that UN Resolution 181 be resurrected as the basis for a peace agreement. There is no foundation for such a notion.

Resolution 181 was the last of a series of recommendations that had been drawn up over the years by the Mandatory and by international commissions, plans designed to reach an historic compromise between Arabs and Jews in western Palestine. The first was in 1922 when Great Britain unilaterally partitioned Palestine, which did not satisfy the Arabs who wanted the entire country to be Arab. Resolution 181 followed such proposals as the Peel Commission (1937); the Woodhead Commission (1938); two 1946 proposals that championed a binational state; one proposed by the Anglo-American Committee of Inquiry in April 1946 based on a single state with equal powers for Jews and Arabs; and the Morrison-Grady Plan raised in July 1946 which recommended a federal state with two provinces – one Jewish, one Arab. Every scheme since 1922 was rejected by the Arab side, including decidedly pro-Arab ones merely because these plans recognized Jews as a nation and gave Jewish citizens of Mandate Palestine political representation. Arabs rejected the “unbalanced” Partition Plan. The UN International Court of Justice (ICJ) uses the term “unbalanced” in describing the reason for Arab rejectionism of Resolution 181, which does not exactly fit reality. Seventy-seven percent of the landmass of the original Mandate for the Jews was excised in 1922 to create a fourth Arab state – Trans-Jordan (today Jordan).

In a statement by Dr. Abba Hillel Silver, the representative of the Jewish Agency for Palestine to the United Nations Special Committee on Palestine (UNSCOP), he had that to say about fairness, balance, and justice: “According to David Lloyd George, then British Prime Minister, the Balfour Declaration implied that the whole of Palestine, including Transjordan, should ultimately become a Jewish state. Transjordan had, nevertheless, been severed from Palestine in 1922 and

had subsequently been set up as an Arab kingdom. Now a second Arab state was to be carved out of the remainder of Palestine, with the result that the Jewish National Home would represent less than one eighth of the territory originally set aside for it. Such a sacrifice should not be asked of the Jewish people.” Referring to the Arab States established as independent countries since the First World War, he said:

“17,000,000 Arabs now occupied an area of 1,290,000 square miles, including all the principal Arab and Moslem centers, while Palestine, after the loss of Transjordan, was only 10,000 square miles; yet the majority plan proposed to reduce it by one half. UNSCOP proposed to eliminate Western Galilee from the Jewish State; that was an injustice and a grievous handicap to the development of the *Jewish State*.” [Italics by author].

Following passage of Resolution 181 by the General Assembly, Arab countries took the dais to reiterate their absolute rejection of the recommendation and intention to render implementation of Resolution 181 a moot question by the use of force. These examples from the transcript of the General Assembly plenary meeting on November 29, 1947 speak for themselves:

“Mr. JAMALI (Iraq): ... We believe that the decision which we have now taken ... undermines peace, justice and democracy. In the name of my Government, I wish to state that it feels that this decision is antidemocratic, illegal, impractical and contrary to the Charter ... Therefore, in the name of my Government, I wish to put on record that Iraq does not recognize the validity of this decision, will reserve freedom of action towards its implementation, and holds those who were influential in passing it against the free conscience of mankind responsible for the consequences.”

“Amir. ARSLAN [Syria]: ... Gentlemen, the Charter is dead. But it did not die a natural death; it was murdered, and you all know who is guilty. My country will never recognize such a decision [Partition]. It will never agree to be responsible for it. Let the consequences be on the heads of others, not on ours.”

“H. R. H. Prince Seif El ISLAM ABDULLAH (Yemen): The Yemen delegation has stated previously that the partition plan is contrary to justice and to the Charter of the United Nations. Therefore, the Government of Yemen does not consider itself bound by such a decision ... and will reserve its freedom of action towards the implementation of this decision.”

The Partition Plan was met not only by verbal rejection on the Arab side but also by concrete, bellicose steps to block its implementation and destroy the Jewish polity by force of arms, a goal the Arabs publicly declared even before Resolution 181 was brought to a vote.

Arabs not only rejected the compromise and took action to prevent establishment of a Jewish state but also blocked establishment of an Arab state under the partition plan not just before the Israel War of Independence, but also after the war when they themselves controlled the West Bank (1948-1967).

The UN itself recognized that Resolution 181 had not been accepted by the Arab side, rendering it a dead issue: On January 29, 1948, the First Monthly Progress Report of the UN-appointed Palestine Commission charged with helping put Resolution 181 into effect was submitted to the Security Council (A/AC.21/7). Implementation of Resolution 181 hinged not only on the five member states appointed to represent the UN [Bolivia, Czechoslovakia, Denmark, Panama, Philippines and Great Britain], but first and foremost on the participation of the two sides who were invited to appoint representatives.

The UN Palestine Commission's February 16, 1948 report (A/AC.21/9) to the Security Council noted that Arab-led hostilities were an effort

“To prevent the implementation of the [General] Assembly plan of partition, and to thwart its objectives by threats and acts of violence, including armed incursions into Palestinian territory.”

On May 17, 1948 – after the invasion began, the Palestine Commission designed to implement 181 adjourned sine die [Latin: without determining a date] after the General Assembly appointed a United Nations Mediator in Palestine, which relieves the United Nations Palestine Commission from the further exercise of its responsibilities.

Some thought the Partition Plan could be revived, but by the end of the war, Resolution 181 had become a moot issue as realities on the ground made the establishment of an armistice-line [the “Green Line”] – a temporary ceasefire line expected to be followed by peace treaties – the most constructive path to solving the conflict.

A July 30, 1949 working paper of the UN Secretariat entitled *The Future of Arab Palestine and the Question of Partition* noted further that:

“The Arabs rejected the United Nations Partition Plan so that any comment of theirs did not specifically concern the status of the Arab section of Palestine under partition but rather rejected the scheme in its entirety.”

By the time armistice agreements were reached in 1949 between Israel and its immediate Arab neighbors (Egypt, Lebanon, Syria and Trans-Jordan) with the assistance of UN Mediator Dr. Ralph Bunche, Resolution 181 had become irrelevant, and the armistice agreements addressed new realities created by the war. Over subsequent years, the UN simply abandoned the recommendations of Resolution 181, as its ideas were drained of all relevance by subsequent events. Moreover, the Arabs continued to reject 181 after the war when they themselves controlled the West Bank (1948-1967) which Jordan invaded in the course of the war and annexed illegally.

Attempts by Palestinians to roll back the clock and resuscitate Resolution 181 more than six decades after they rejected it as if nothing had happened are a baseless ploy designed to use Resolution 181 as leverage to bring about a greater Israeli withdrawal from parts of western Palestine and to gain a broader base from which to continue to attack an Israel with even less defensible borders. Both Palestinians and their Arab brethren in neighboring countries rendered the plan null and void by their own subsequent aggressive actions.

Professor Stone, a distinguished authority on the Law of Nations, wrote about this novelty of resurrection in 1981 when he analyzed a similar attempt by pro-

Palestinian experts at the UN to rewrite the history of the conflict (their writings were termed “studies”). Stone called it “*revival of the dead*.”

“To attempt to show ... that Resolution 181 ‘remains’ in force in 1981 is thus an undertaking even more *miraculous* than would be the *revival of the dead*. It is an attempt to give life to an entity that the Arab states had themselves aborted before it came to maturity and birth. To propose that Resolution 181 can be treated as if it has binding force in 1981, for the benefit of the same Arab states, who by their aggression destroyed it ab initio, [In Latin: From the beginning] also violates “general principles of law,” such as those requiring claimants to equity to come “with clean hands,” and forbidding a party who has unlawfully repudiated a transaction from holding the other party to terms that suit the later expediencies of the repudiating party.” [Italics by author].

Resolution 181 had been tossed into the waste bin of history, along with the Partition Plans that preceded it.

Israel’s independence is not a result of a partial implementation of the Partition Plan. Resolution 181 has no legal ramifications – that is, it recognized the Jewish right to statehood, but its validity as a potentially legal and binding document was never consummated. Like the proposals that preceded it, Resolution 181’s validity hinged on acceptance by both parties of the General Assembly’s *recommendation*.

Cambridge Professor, Sir Elihu Lauterpacht, Judge ad hoc of the International Court of Justice, a renowned expert on international law, clarified that from a legal standpoint, the 1947 UN Partition Resolution had no legislative character to vest territorial rights in either Jews or Arabs. In a monograph relating to one of the most complex aspects of the territorial issue, the status of Jerusalem, Judge, Sir Lauterpacht wrote that any binding force the Partition Plan would have had to arise from the principle *pacta sunt servanda*, [In Latin: treaties must be honored – the first principle of international law] that is, from agreement of the parties at variance to the proposed plan. In the case of Israel, Judge, Sir Lauterpacht explains:

“The coming into existence of Israel does not depend legally upon the Resolution. The right of a State to exist flows from its factual existence—especially when that existence is prolonged shows every sign of continuance and is recognized by the generality of nations.”

Reviewing Lauterpacht arguments, Professor Stone added that Israel’s “legitimacy” or the “legal foundation” for its birth does not reside with the United Nations’ Partition Plan, which as a consequence of Arab actions became a dead issue. Professor Stone concluded:

“The State of Israel is thus not legally derived from the partition plan, but rests (as do most other states in the world) on assertion of independence by its people and government, on the vindication of that independence by arms against assault by other states, and on the establishment of orderly government within territory under its stable control.”