

Iraq, Israel And The United Nations: Double Standards?

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Israel ignores the United Nations and has weapons of mass destruction. So why all the fuss about Iraq?

SOON after invading Kuwait in 1990, Saddam Hussein realised that he had made a mistake. Contrary to his expectations, the world would not after all allow his land-grab to stand. The United States was girding for war. He therefore began to cast around for a face-saving exit. One of the first ideas he came up with was “linkage”. Why not trade a withdrawal from Kuwait for Israel’s withdrawal from the territories it had occupied in 1967?

Linkage got nowhere. But as the world debates the merits of another American-led war against Mr Hussein, the idea has returned in a new form. Israel has violated countless UN resolutions and amassed weapons of mass destruction, say those who oppose this war. Why then is Iraq singled out for yet more punishment while the Israelis get off scot-free?

This question is no longer being asked by Arabs alone. “No war against Iraq, Free Palestine” has become the slogan of anti-war demonstrators in Europe and America. The two conflicts have become entwined in the public mind in a way that the West’s politicians cannot ignore. When he sought last week to talk his sceptical Labour Party into supporting action against Iraq, Tony Blair, Britain’s prime minister, got his biggest cheer for the bit of his speech that said UN resolutions should apply in Palestine as much as Iraq.

To many of those disturbed by the contrast between the world’s treatment of Israel and its treatment of Iraq, it is rights and wrongs, not details of law, that matter here. Israel’s occupation of the West Bank and Gaza has endured for 35 years, against the will of the Palestinian inhabitants, who dearly want, and in the eyes of the world have long deserved, a state of their own.

But whereas Israel is supported economically and diplomatically by America, America is the prime mover against Iraq. Simple justice, or so the argument goes, requires even-handed behaviour by the superpower in the two conflicts.

That may be so. But a quite distinct sort of claim is also made in the ‘double standards’ debate. This holds that Israel stands in breach of Security Council resolutions in just the way Iraq does, and therefore deserves to be treated by the UN with equal severity. Not so.

WHAT THE LAW SAYS

The UN distinguishes between two sorts of Security Council resolution. Those passed under Chapter Six deal with the peaceful resolution of disputes and entitle the council to make non-binding recommendations. Those under Chapter Seven give the council broad powers to take action, including warlike action, to deal with “threats to the peace, breaches of the peace, or acts of aggression”. Such resolutions, binding on all UN members, were rare during the cold war. But they were used against Iraq after its invasion of Kuwait. None of the resolutions relating to the Israeli-Arab conflict comes under Chapter Seven. By imposing sanctions -

including military ones - against Iraq but not against Israel, the UN is merely acting in accordance with its own rules.

The distinctiveness of Chapter Seven resolutions, and the fact that none has been passed in relation to Israel, is acknowledged by Palestinian diplomats.

It is, indeed, one of their main complaints. A Palestine Liberation Organisation report, entitled “Double Standards” and published at the end of September, pointed out that, over the years, the UN has upheld the Palestinians’ right to statehood, condemned Israel’s settlements and called for Israel to withdraw. But “no enforcement action or any other action to implement UN resolutions and international law has been ordered by the Security Council.”

But what if, for the sake of argument, the main Security Council resolutions on the Arab-Israeli conflict had been Chapter Seven resolutions? The problem would then arise that Resolution 242 of 1967, passed after the six-day war and frequently cited in the double-standards argument, does not say what a lot of the people who quote it think it says.

It does not instruct Israel to withdraw unilaterally from the territories occupied in 1967. It does not condemn Israel’s conquest, for the good reason that most western powers at that time thought it the result of a justifiable pre-emptive war. It calls for a negotiated settlement, based on the principle of exchanging land for peace. This is a very different matter.

IN CONTRAVENTION OF LOTS OF RESOLUTIONS

In the case of Iraq, the Security Council has instructed Mr Hussein to take various unilateral actions that he is perfectly capable of taking. Resolution 242 cannot be implemented unilaterally, even if Israel wanted to do so.

Why? First is the question of borders. Some of the diplomats who drafted Resolution 242 said afterwards that they intended to allow for some changes in the armistice lines that separated Israel and its Arab neighbours before the war of 1967. There has been a dreary argument for three decades over the meaning of the absence of a definite article (in the English text) before the phrase “territories occupied in the recent conflict”. The Arabs maintain that the resolution requires a complete withdrawal from every inch. But even if this were so, the resolution cannot be implemented without arriving at a negotiated agreement.

For example, the resolution calls for a “just” settlement of the Palestinian refugee issue. Meaning what? The Palestinians say that a UN General Assembly resolution, 194 of 1948, gives all the Palestinian refugees of 1948 the right to return, or to get compensation.

Israel, denying responsibility for their flight, says that the same resolution stipulates that these refugees had to be willing to “live at peace with their neighbours” and that the Palestinians, having rejected the UN-sanctioned partition of Palestine, were not prepared to live in peace with the new Jewish state.

More than half a century later, the refugee population has grown from about 700,000 to at least 3.8m, making the return of all of them an impossibility, says Israel. It may be possible to negotiate a compromise on this

issue, as Yasser Arafat and Ehud Barak attempted without success at Camp David in 2000. But there exists no Security Council blueprint to solve it.

Israel says that it has already implemented much of 242, and that it stands ready to implement the rest of it. It returned land to Egypt and Jordan in return for peace. Two years ago, when he was prime minister, Mr Barak offered the bulk of the Golan Heights in return for peace with Syria.

All the agreements made between Israel and the Palestinians under the Oslo peace process were predicated on Resolution 242. Israel subsequently withdrew from the main Palestinian population centres (although it has returned to them since the intifada) pending negotiation of a final settlement.

And though there are strong grounds to question his sincerity, Israel's new prime minister, Ariel Sharon, claims to accept George Bush's peace "vision", set out in June, of an Israeli withdrawal and a free Palestine based on the borders of 1967.

It is commonly asserted that Israel's occupation is "illegal". This is questionable. In March, for the first time ever, Kofi Annan, the UN's secretary-general, called Israel's occupation illegal, but it is no accident that he has not repeated this claim.

In the view of Sir Adam Roberts, professor of international relations at the University of Oxford, it was a "serious mistake" to describe the occupation itself, as opposed to some of Israel's actions as an occupier, in this way.

In a subsequent letter to the New York Times, Mr Annan's spokesman admitted as much. The secretary-general, he said, had not intended to refer to the legality of Israel's occupation of the territories during the war of 1967, only to breaches of its obligations as an occupying power.

This is where Israel has put itself squarely on the wrong side of the Security Council. Since 1967, the UN has rejected all Israel's attempts to change the legal and demographic status of the captured territories, by annexing Jerusalem, applying Israeli law to the Golan Heights and planting Jewish settlements in the West Bank and Gaza. How can vigorous attempts to colonise the occupied territories be reconciled with Israel's claim to accept 242 and the principle of land for peace that underlies it?

They can't. The plain fact is that Israel, citing history ancient and modern (Jerusalem has had a Jewish majority since the 19th century), decided after conquering its Jordanian half in 1967 to make the city its eternal "unified" capital. The Labour governments of that period also began to dot the Jordan valley and Golan Heights with Jewish settlements, ostensibly in order to guard the new borders against a still hostile Arab world.

After 1977, the Likud governments of Menahem Begin and Yitzhak Shamir set out frankly, for religious-ideological reasons, to make the occupied territories part of a Greater Israel, in defiance of the UN and of the logic of 242. Here Israel cannot plead innocence. All it can enter is a plea of mitigation.

Legal or not, the occupation has lasted a terribly long time. But this is not solely Israel's fault. In 1967, it was the Arabs who rejected Resolution 242. They certainly did not accept Israel's new post-war borders, but nor

did they recognise its pre-war borders. They did not, in fact, acknowledge Israel's right to exist at all. This posture persisted for a dozen years after 1967, until Egypt alone made peace.

The Palestinians, pledging still to "liberate" all Palestine and dissolve the Jewish state, waited longer. Not until the late 1980s, some 40 years after Israel's birth and 20 years after the 1967 war, did Mr Arafat's PLO indicate an interest in a two-state solution. Under the rules of "belligerent occupation", Israel should not have mucked about during those 20 years with the status of the captured lands. But it is not wholly surprising, given the continuing rejection and siege, that it did.

When the Palestinians decided that they were no longer bent on its extirpation, Israel responded. In 1993 it signed an agreement with the PLO under which the two sides undertook to implement Resolution 242 by negotiation, thus putting all the contentious issues - Jerusalem, the settlements and the refugees - on the bargaining table. Two years ago the talks failed, to be followed by a new Palestinian intifada and the election of the unyielding Mr Sharon.

The Israelis claim that their agreement to negotiate the thorny issues with the Palestinians supersedes the relevant UN resolutions on settlements and the rest, a view which the Security Council might accept if the negotiations got back on track. In the meantime, the council's rulings on Jerusalem and the settlements stand.

THE NUCLEAR SHADOW

Over the past two years, the intifada has given rise to a new batch of resolutions. Some rebuke the Israelis for using "excessive" force, others make specific demands. Resolution 1435, for example, calls on Israel to pull out of the Palestinian cities it has recently reoccupied and back to the positions it held before the violence started in September 2000. It has been ignored.

But like most recent resolutions, this one cuts both ways. It makes demands of the Palestinians, too, which have also been ignored. In this case, the Palestinian Authority is instructed to cease all violence and incitement, and to bring "those responsible for terrorist acts" to justice.

In the long and intractable conflict over Palestine, both sides consider themselves victims. The Palestinians say that their national rights were usurped by an intruder; the Israelis that the Palestinians never accepted the Jewish right to self-determination.

The UN's approach has been to recognise the complexity of these respective claims, lay down broad principles, and urge a negotiated peace. The case of Iraq could hardly be more different. That country is in conflict with the UN itself, having refused to comply with the clear instructions, under Chapter Seven, to give up its weapons of mass destruction.

What, though, about Israel's nukes? Does its status as an undeclared nuclear power put it on a par with Iraq, which has tried to become one? No. In 1981, Resolution 487 scolded Israel for sending its aircraft to destroy Iraq's Osiraq reactor, which Israel said was being used to manufacture a nuclear weapon, despite having been given a clean bill of health by inspectors from the International Atomic Energy Agency.

Noting that Israel had not signed the nuclear non-proliferation treaty (NPT), as Iraq had, the UN called on Israel to put its own nuclear facilities under the IAEA safeguards, as the NPT requires.

Two decades on, Israel has still not signed the NPT. This infuriates the treaty's supporters, who have been striving to make it "universal".

But, as with any other treaty, governments are free not to sign. What they are not free to do is sign, receive the foreign (civilian) nuclear help to which signing entitles them, and then try to build a bomb secretly. This, it is now ruefully accepted, is what Iraq tried to do, and may still be trying to do. Israel is thought to possess a large nuclear arsenal, about which it is not being open and honest, and this is provoking to its neighbours. But it is not evidence of "double standards". Being a nuclear-armed power is not, by itself, a breach of international law.