

## The Role of the United Nations in Realizing the Right of the Palestinian People to Self- Determination

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### Abstract

The Palestinian people are the only people in the world who are still suffering from occupation in our contemporary time. Thus they are still struggling for realizing self-determination. Therefore, this study aims to analyze the historical situation of the Palestinian right to self-determination to find out the reasons for its emergence and the obstacles that prevent its realization, as well as the scope of the role of the United Nations in this regard. The methodology refers to an analytical study and a statutory and a conceptual approach. The study found that the United Nations had solved the Question of the Jews by achieving self-determination by granting them the land of the Palestinians and accepting their state's membership in the United Nations a year after its establishment. On the contrary, the United Nations created the Question of the Palestinians and caused their right to self-determination to emerge by giving their land to outsiders, as well as its refusal to accept full membership of the modern Palestinian state in the United Nations. It also left the Palestinian Question without providing any effective solution to it, due to the inability of the Security Council to take any action against Israel due to the full American support for it. The study suggests that the Palestinians have the right to bypass the Security Council and turn to the General Assembly according to Resolution 377 A, called the "Uniting for Peace," in addition to resorting to all means of struggle to realize their right to self-determination.

**Keywords:** United Nations; Palestine; Right to Self-determination; Human Rights.

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## 1. Introduction

Palestine is the only country in the world that is still under occupation and its people are still seeking self-determination by establishing their own independent and fully sovereign state, where the Palestinian people do not enjoy sovereignty over their land and natural resources because of the Israeli occupation.

Thus, the Palestinian people are still suffering from the brunt of the Israeli occupation, so they are still struggling to obtain their right to self-determination, which the Israeli occupation, by military force, deprives them of this right.<sup>1</sup> Undoubtedly, the right to self-determination enables the Palestinian people to determine their political status and gives them the freedom to pursue their economic, social and cultural development, as well as that its realization is the basis for the effective guarantee and respect for human rights.<sup>2</sup> In addition, the right to self-determination is of great importance because it is important in the self-formation of individuals and the ability to exercise their freedom; It is also a guarantee in providing protection to society, as it provides resistance to external threats that target the components of society and its natural resources.<sup>3</sup>

On the other hand, the right of peoples to permanent sovereignty over their wealth and natural resources is an essential element in the right to self-determination, as the exercise of this right achieves national development and the well-being of the people.<sup>4</sup> And since the right to self-determination is considered a fundamental right of peoples, it has been enshrined in international human rights instruments.<sup>5</sup> Thus, there is a close relationship between the right to self-determination and other human rights. The right to self-determination enables people to exercise their political and civil rights and promote their development, which enables them to enjoy other rights.<sup>6</sup> Subsequently, an essential requirement for the effective guarantee and observance of human rights, as well as for their preservation and advancement,

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1. Dandan Jamaluddin, "Principle of the Right of Peoples to Self-determination between Theory and Practice (Case Study of Palestine)," *Journal of Legal Studies and Research* 7, no. 1 (2022): 298.

2. United Nations, HRI/GEN/1/Rev.9 (Vol. I) (2008), General Comment No. 12, Article 1.

3. Francisco Martinez Cruz, "The Right to Self-Determination of Peoples: Notes on its Compatibility with three Models of Global Order," *Mexican Law Review* 11, no. 1 (2018), 100.

4. United Nations General Assembly, Resolution 1803 (XVII) (1962)

5. Munafrizal Manan, "The Right of Self-Determination: Its Emergence, Development, and Controversy," *Jurnal Konstitusi* 12, no. 1 (2016): 17.

6. Prithivi Raj, "Right to Self Determination as Human Right," *Acclaims* 9 (2020): 11.

is the universal realization of all peoples' right to self-determination, including those under colonial, foreign, and alien control.<sup>7</sup>

Accordingly, due to the great importance of the right of peoples to self-determination and its direct impact on the situation of human rights as well as international peace and security, it was enshrined in the Charter of the United Nations in Articles 1 and 55, as well as in Article 1 of the two international covenants: (ICCPR) and (ICESCR). The United Nations also issued several resolutions affirming the right to self-determination for peoples still under occupation and supporting these peoples in their struggle to achieve the right to self-determination and end colonialism, such as Resolutions No. A/RES/1514(XV) (1960), A/RES/2621(XXV) (1970), and A/RES/62/144 (2008), as all resolutions confirmed the right of peoples to realize their right to self-determination, including those that were under colonial and foreign domination, as well as these resolutions confirmed that self-determination is a prerequisite for ensuring and effectively promoting human rights.

Accordingly, the right to self-determination places upon states not only the duty to respect and promote this right, but also the duty to refrain from any act of aggression that would deprive peoples of the enjoyment of this right. In particular, the use of force to prevent people from exercising their right to self-determination is a violation of international law.<sup>8</sup>

Indeed, the right to self-determination is a controversial issue. But it has been made clear that the only issue that is more or less free of controversy is the right to self-determination in the colonial context.<sup>9</sup> Therefore, in 2004, the advisory opinion of the International Court of Justice on the wall in occupied Palestine indicated that the Palestinian right to self-determination is indisputable.<sup>10</sup> In this context, the United Nations issued several resolutions endorsing and supporting the right of the Palestinian people to self-determination, such as 3236 D-29 (1974), A/RES/77/22 (2022), A/RES/73/19 (2018). Despite this, The Israeli occupation does not recognize the right of the Palestinian people to self-determination and opposes the establishment of an independent Palestinian state.<sup>11</sup>

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7. United Nations, A/75/477 (2020), para. 19.

8. Raj, "Right to Self Determination," 10.

9. Nasir Qadri, *The Basis of Right to self Determination* (Islamabad: International Islamic University, 2018), 20.

10. International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory: Advisory Opinion of 9 July 2004*, I.C.J. Reports, 2004, 136.

11. Shadi Sakran, "Revisiting the 'Recognition' of the Palestinians' Right to Self-Determination: Peoples as Territories," *Groningen Journal of International Law* 7, no. 2 (2020): 236.

Accordingly, this study is considered the first of its kind, as its subject focused on studying the role of the United Nations in the realization of the Palestinian right to self-determination, thus, revealing the extent of its effectiveness in the realization of the Palestinian right to self-determination, as well as revealing the reasons for the emergence of the Palestinian right to self-determination and the most important obstacles that prevent the realization of this right. Thus, this study enables anyone who wants to know the impact of the role of the United Nations in this regard.

## 2. Methods

This study relies on descriptive and analytical methods, and conceptual, statutory approaches.<sup>12</sup> The analytical study aims to analyze the situation of the Palestinian right to self-determination, identify the most important obstacles it faces, as well as conduct a legal analysis of the role of the United Nations in achieving the Palestinian right to self-determination. The conceptual approach provides an analytical-legal view of a remedy for the study problem, and the statutory approach examines the provisions and agreements related to the cases presented in this study, through this approach, it is possible to identify weaknesses and gaps in the role of the United Nations in achieving the Palestinian right to self-determination.

## 3. Results and Discussion

To find out the reason for the emergence of the Palestinian right to self-determination, we must first study its historical context, as well as analyze the most important obstacles that still prevent its realization, with analyzing explain the role of the United Nations in this regard.

It is known that Palestine was part of the "Bilad Al-Sham", which was one of the states of the Ottoman Empire until the outbreak of World War I, and during the war, Bilad Al-Sham was occupied by France and Britain and divided into four countries. These countries are historical Palestine, Jordan, Syria and Lebanon. Where Palestine and Jordan were placed under British occupation, and Syria and Lebanon were placed under French occupation.<sup>13</sup> Thus after the

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12. Sholahuddin Al-Fatih and Ahmad Siboy, *Menulis Artikel Karya Ilmiah Hukum di Jurnal Nasional dan Internasional Bereputasi* (Malang: Inteligencia Media, 2021).

13. "Sykes-Picot Agreement," World War I Document Archive, accessed June 23, 2023. [https://wwi.lib.byu.edu/index.php/Sykes-Picot\\_Agreement](https://wwi.lib.byu.edu/index.php/Sykes-Picot_Agreement); United Kingdom Government, Minutes of the 1920 Conference of San Remo, Maurice Hankey, San Remo, April 24-25, 1920. [https://commons.wikimedia.org/wiki/File:Minutes\\_of\\_the\\_1920\\_Conference\\_of\\_San\\_Remo.pdf](https://commons.wikimedia.org/wiki/File:Minutes_of_the_1920_Conference_of_San_Remo.pdf).

defeat of the Ottoman Empire (the last Islamic empire) during World War I, the British army occupied Palestine at the end of 1917. Shortly before the British forces entered Palestine,<sup>14</sup> British Foreign Secretary Lord Arthur James Balfour sent a letter to Zionist leader Lord Walter Rothschild, which included Britain's commitment to the establishment of a national home for the Jews in Palestine. The contents of this letter became known as the Balfour Declaration, which was as follows:<sup>15</sup>

His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country.

However, the Balfour Declaration was intended to support the Zionist project in Palestine, thus helping to dismantle the Ottoman Empire and expand the British Empire in the Middle East.<sup>16</sup> Consequently, Israel, a Western colonial project, is existentially rooted in Western liberalism.<sup>17</sup> The truth is that from here began the emergence of the right to self-determination for the Palestinian people, as it appeared with the advent of the British occupation and its promise to the Jews to establish a national home for them on Palestinian land.

On the other hand, the Balfour Declaration constituted a gross violation of the principles of international law. It paved the way for the attack on the Palestinian people and the occupation of their land by military force, as well as granting it to strangers, which constituted direct aggression and a war crime in accordance with the provisions of the Hague Convention.

Nevertheless, on July 24, 1922, the Council of the League of Nations approved the British mandate over Palestine,<sup>18</sup> so that the British invasion of

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14. Zakaria Al-Senwar, "The Role of Jerusalem in the Revolutions against the British Occupation and the Zionists (1920-1929 AD)," *International Journal of Humanities Social Sciences and Education (IJHSSE)* 5, no. 12 (2018): 62.

15. Martin Kramer, "The Forgotten Truth about the Balfour Declaration," *MOSAIC Magazine*, June 5, 2017, 1.

16. Danny Gutwein, "The Politics of the Balfour Declaration: Nationalism, Imperialism and the Limits of Zionist-British Cooperation," *Journal of Israeli History* 35, no. 2 (2016): 146.

17. Muna S. Tareh, "On the Violence of Self-determination: The Palestinian Refugee as the Ontological Other," *Arab Studies Quarterly* 42, no. 3 (2020): 215. <https://doi.org/10.13169/arabstudquar.42.3.0181>.

18. United Nations, A-292 (Text of Mandate for Palestine) (1947).

Palestine acquired a legal character and imposed effective control over the entire territory of Palestine.

Accordingly, Britain was obliged, according to its promise, to facilitate and consolidate the situation for the Jewish immigrants coming to Palestine, in preparation for their assumption of the rule after its withdrawal, while marginalizing the Arab population. Thus the mandate was drawn up with the idea of preparing Jewish immigrants for future independence.<sup>19</sup> Thus, once the British Mandate over Palestine was approved, the British government began to devote its colonial policy and embody it on the ground by implementing the promise that made to the Jews, which was the establishment of a national home for the Jews in Palestine, by facilitating and encouraging Jewish immigration to Palestine, building settlements for them, granting them lands and support for building an infrastructure for new settlements in preparation for the establishment of their national home.

However, this led to clashes and shocks with the indigenous Palestinian Arabs, which resulted in several disturbances and revolutions, the most important of which were the revolution of the Prophet Musa in 1920, the Al-Buraq revolution in 1929,<sup>20</sup> and the Arab revolution in 1936-1939. During these events, the Palestinians demanded an end to Jewish immigration, an end to the British occupation, and the right to self-determination with full independence

In this context, the British government continued to send commissions each time, such as the Peel Commission, to investigate these disturbances and acts of resistance by the Palestinians to stop them, also in the period from 1922 to 1939, it issued six white books, namely, official statements, with the aim of pressuring the Arabs and calm them down by explaining that these books came in order to protect Palestinians and manage its political, economic and social affairs, as well as to limit Jewish immigration and grant them lands, but on the ground, the opposite was happening.<sup>21</sup> However, with the increase in the number of Jewish immigrants and the increase in the size of the lands that they seized and established settlements on, the position of the Jews intensified and a sharp and continuous clash occurred between them and the Arabs. On this basis, Britain realized that the presence of the Jews in Palestine had become a

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19. Charles Smith, *Palestine and the Arab-Israeli Conflict: 1948– 1970* (Boston: Cengage Learning, 2005), 1.

20. Zakaria Al-Senwar, "The Role of Jerusalem," 62.

21. Sabe'a Shafia, *The Development of the British Mandate over Palestine 1920-1948* (Algeria: Muhammad Kheidar University - Qutb Shatma, 2015), 35.

*fait accompli* that could not be ignored, thus completing its role in establishing a national home for them in Palestine. Accordingly, in early 1947, in order to take steps to obtain international legitimacy, the British government made a recommendation to the United Nations General Assembly to establish a committee working on a proposal for the partition of Palestine. Indeed, on November 29, 1947, the UN General Assembly adopted the Commission's proposal for the partition of Palestine under Resolution 181. Pursuant to Part I (a) of the resolution, Palestine was partitioned as follows:

3. Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in part III of this plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948.<sup>22</sup>

According to the Partition Plan, The Jews were given 56.47% of the land of Palestine to establish a Jewish state, leaving 42.88% of the land for the Palestinians, and an area of 0.65% (Jerusalem) under international administration (Look figure 1). The Arab and Islamic countries, including the Palestinians, rejected this resolution and the countries that were members of the United Nations at that time voted against it, despite its adoption by the United Nations by a majority vote.

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22. United Nations, A/RES/181(II) (1947).

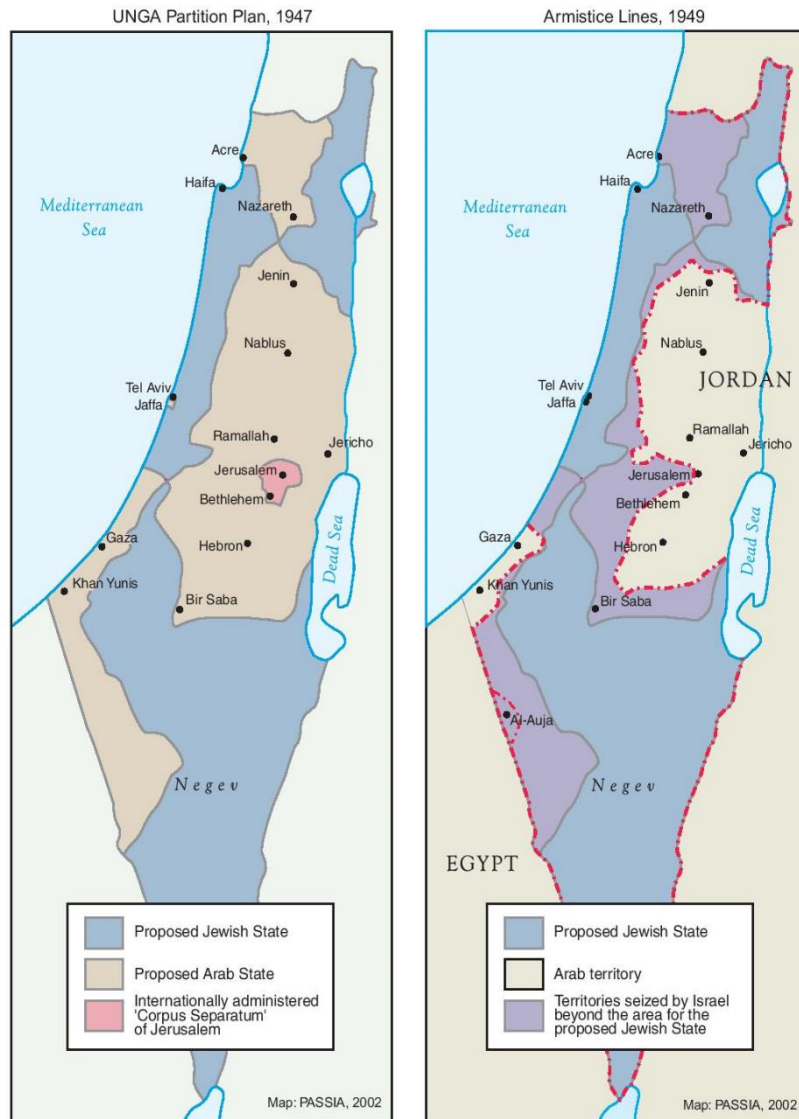


Figure 1. It clarifies the borders of the UN partition plan in 1947, and clarifies the borders of the lands that were occupied by the Zionist gangs in 1948 and on which the State of Israel was established.

Source: Palestinian Academic Society for the Study of International Affairs.

In this regard, on September 23, 1948, before the British withdrawal, the formation of an All-Palestine government was announced, headed by Ahmed Hilmi Abdel-Baqi. In addition, on October 1, 1948, a Palestinian national

conference was held in Gaza to implement the right to self-determination. The conference declared the independence of Palestine with its full historical borders, and reaffirmed the legitimacy of the All-Palestine Government as the government of the State of Palestine.<sup>23</sup> However, the Declaration of Independence and the All-Palestine Government did not succeed due to the lack of support from the Arab countries and the lack of recognition by the United Nations and great powers.<sup>24</sup>

Nevertheless, on May 14, 1948, the same day that Britain withdrew from Palestine, the Zionist gangs took control of most of Palestine and declared the establishment of Israel on 78% of the lands of Palestine,<sup>25</sup> (Look at figure 1), which led to a catastrophe for the Palestinians and the expulsion of more than 700 thousand Palestinians,<sup>26</sup> the destruction of their villages, and their exposure to genocide by Zionist gangs.<sup>27</sup>

In the same year, Israel applied for UN membership based on the boundaries in Resolution 181(II), but the UN Committee on the Admission of New Members could not reach an agreement on Israel's application, so it referred the matter to the Security Council. However, there was opposition from the Soviet Union; it justified its opposition that Israel controlled territory outside its borders as defined in Resolution 181(II). In March 1949, Israel made a new request, and the Security Council finally voted by a majority in favor of admitting Israel as a member of the United Nations on 11 May 1949.<sup>28</sup> In this regard, Israel was accepted on the basis that it pledged to respect the Charter of the United Nations and its resolutions, as well as its commitment to implement Resolutions 181 and 194. The text of the admission resolution was as follows:

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

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23. Muhammad Al-Azar, “All-Palestine Government on its Fiftieth Anniversary,” *Journal of Palestinian Studies* 11, no. 41 (2000): 189.

24. Issam Adwan, “All-Palestine Government Founding and Falling Preliminary and Factors,” *International Journal of History and Cultural Studies (IJHCS)* 8, no. 1 (2022): 21.

25. Fawzi Al-Jedba, *The 1948 War and the Establishment of the State of Israel* (Gaza: Islamic University, 2008), 3.

26. UNRWA and UNHCR, *The United Nations and Palestinian Refugees* (Amman: UNRWA, 2007), 2.

27. United Nations, A/77/356 (2022).

28. Victor Kattan, “The UN Partition Plan for Palestine and International Law,” Oxford Bibliographies, accessed February 16, 2023. <https://doi.org/10.1093/OBO/9780199796953-0221>.

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.<sup>29</sup>

In spite of that, Israel did not implement its commitments in the resolution to accept it as a member of the United Nations, not even any resolution issued by the United Nations regarding the right of the Palestinian people to their self-determination. Rather, in June 1967, Israel occupied the rest of the Palestinian territories represented in the West Bank including East Jerusalem and the Gaza Strip, as well as some Arab lands,<sup>30</sup> such as the Golan Heights in Syria, the Sinai in Egypt, with the support of the United States, Britain and France. In addition, Israeli army forcibly expelled nearly 300,000 Palestinians from their land.<sup>31</sup> On the other hand, in the UN charter, there are conditions and rules that regulate obtaining membership in the United Nations, but the reality of international relations confirms that the United Nations was not committed to accepting membership applications from some countries based on the fulfillment of these conditions. Rather, the political nature prevailed over the decisions to accept many members.<sup>32</sup> This proves once again that Israel is not a peace-loving State, does not respect the UN Charter, and does not implement UN resolutions. Which means that its admission as a member of the United Nations came based on the desire of the major Western countries that still have colonial ambitions in the Arab region.

However, the UN Security Council issued Resolution No. 242 on November 22, 1967, after the war of 1967, as a compromise between the

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29. United Nations, A/RES/273 (III) (1949).

30. Regina F. Bendix, Aziz Haidar, and Hagar Salamon, *1967 and After: An Introduction* (Göttingen: Göttingen University Press, 2022), 6-8.

31. “A Brief History of the Refugee Issue,” Palestine Ministry of Foreign Affairs and Expatriates, accessed Jun 23, 2023, <http://www.mofa.pna.ps/en-us/fundamentalissues/refugees>.

32. Muhammad al-Nahal and Muhammad al-Shobak, “Acceptance of Palestine as a Non-member State of the United Nations and its Impact on the Right to Self-determination,” *The Islamic University Journal of Islamic Studies* 23, no. 1 (January 2012): 421.

parties to the conflict, given the existence of a war of attrition. Articles 1 and 2 of the Resolution stipulated:

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.

Hence, it should be noted that Article 1, Paragraph I, states: “The withdrawal of Israeli forces from territories occupied in the recent conflict,” “the” omitted the definition from the term “territories” in order to preserve the ambiguity in the interpretation of this resolution. Thus Israel was given the green light to stay on the rest of the Palestinian land that it occupied in 1967. In addition, the resolution stipulated an end to the state of war and implicit recognition of Israel on the borders on which it was established in 1948 without referring to the resolution to partition Palestine No. 181.

Further, Resolution No. 242, which laid the foundation for every peace agreement between Israel and its neighbors, makes no mention or reference to the Palestinian people.<sup>33</sup> And without addressing the solution to the issue of the Palestinians' right to self-determination, which the resolution considered a refugee problem, therefore, a humanitarian problem, not a problem of a people whose land was occupied and forcibly expelled from it.

In fact, the text of Resolution 242 was drafted by the United States, so it objected to other draft resolutions submitted before Resolution 242, which

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33. Leila Farsakh, “The ‘Right to Have Rights’: Partition and Palestinian Self-Determination,” *Journal of Palestine Studies* 47, no. 1 (2017): 56.

included condemnation of Israel and its demand for immediate withdrawal from Arab lands, such as the Indian and Pakistani projects.<sup>34</sup>

In any case, this resolution limited the right of the Palestinian people to self-determination to the lands occupied by Israel in 1967, but rather restricted the Palestinian-Israeli conflict to it, the Palestinian-Israeli conflict!? Yes, exactly this is what is happening now. The international community, led by the West, has begun to use the term Palestinian-Israeli conflict over the lands of 1967 to give the Jews a right over them and to justify the actions of the Jews that caused the ongoing tragedy of the Palestinian people since 1948. Thus eliminating the right of the Palestinian people to self-determination

Consequently, Resolution No. 242, since its issuance, formed the basis of all international and Arab negotiations, subsequent decisions and endeavors to resolve the Palestinian Question or “the Palestinian-Israeli conflict” as the West calls it.

On the other hand, the United Nations actually issued a lot of resolutions in favor of the Palestinian people after 1967, including Resolution 3236 (D-29) of November 22, 1974, which reaffirmed the inalienable rights of the Palestinian people to self-determination, independence and sovereignty, as well as the right of Palestinians to return to their homes and property. In addition, Resolution 3237 (D-29) of November 22, 1974, recognized the Palestine Liberation Organization as the legitimate representative of the Palestinian people and accepted it as an observing member of the United Nations (a political entity).

Consequently, the independence of the State of Palestine was declared again on November 15, 1988, by the Palestine Liberation Organization, the legitimate representative of the Palestinian people, at the Pine Palace Hall in Algiers.<sup>35</sup> The declaration of the independence of the State of Palestine was welcomed internationally this time, as the State of Palestine was recognized immediately after the declaration of independence by more than 88 countries,<sup>36</sup> which made the Palestinian Question gain international momentum, as well as the UN General Assembly acknowledged the proclamation of the State of Palestine by Resolution No. 43/177 of December 15, 1988, and used the term

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34. Khalil Sweidan, *The Right to Veto in the UN Security Council and the Palestinian Cause* (Libya: Academy of Mass Thought, 2010), 190.

35. United Nations, *A/43/827 | S/20278* (1988).

36. “Countries Recognized the State of Palestine,” Palestine Ministry of Foreign Affairs and Expatriates, accessed June 23, 2023. <http://www.mofa.pna.ps/en-us/mediaoffice/countries-recognized-the-state-of-palestine>

"Palestine" instead of the term "Palestine Liberation Organization" in the United Nations system.

However, the Palestinian government in exile could not actually exercise its legal authority on the soil of its homeland because of the occupation. It was an honorary authority, meaning without actual powers. Due to the inability of the Palestinians to establish their rule on the Palestinian land, given that the Palestinian land was still under Israeli military occupation, not to mention the weakness of the Palestinian leadership as a result of Egypt's entry into a peace agreement with Israel in 1979 and the expulsion of the Palestinian forces from the countries of the ring, especially Jordan and Lebanon, as well as their dispersion in several Arab countries with the imposition restrictions on their movement by the governments of these countries, and as a result of international pressure, the Palestinian leadership was forced to enter into a peace process with the Israeli Occupation, starting with the 1991 Madrid Peace Conference under United Nations auspices, entering into bilateral negotiations that formed the Oslo Accords and subsequent agreements.

In 1994, the Oslo Accords and subsequent agreements established an interim Palestinian self-government on occupied Palestinian territory. This Palestinian Authority was founded on a portion of Palestinian territory with restricted powers for a five-year transition phase. During this time, Israel was supposed to withdraw gradually from the occupied Palestinian territories, and governance powers were supposed to be gradually transferred to the Palestinian Authority after each stage of withdrawal of Israeli forces in accordance with the Oslo Accords and subsequent agreements. Furthermore, during this time, the final status issues of Jerusalem, refugees, borders, water, and some settlements were supposed to be resolved in accordance with Security Council Resolution No. 242, so that after the five-year transition period, full Palestinian sovereignty would be imposed on all Palestinian territories occupied in 1967, including the West Bank, including East Jerusalem, and the Gaza Strip, resulting in the establishment of a Palestinian state. The Oslo Accords and subsequent agreements established the structure and powers of Palestinian interim self-government and laid the groundwork for the rules of powers and territories to the Palestinian Authority on the basis of three regions labeled A, B, and C, and according to the gradual Israeli withdrawal from them, first from Area A, then from Area B, and finally from

Area C. According to the agreements, the distribution of areas A, B, and C is as follows.<sup>37</sup>

Area (A): It contains all main population centers (Jenin, Nablus, Tulkarm, Qalqilya, Ramallah, Bethlehem, and Jericho) and is completely under Palestinian security and administrative control, with armaments agreed upon in advance. It covers approximately 18% of the West Bank's land area.

Area (B): It encompasses villages and towns near cities and is under Palestinian civil and Israeli security control; it accounts for 22% of the West Bank.

Area (C): It is the only contiguous and uninterrupted area in the West Bank, as well as the only area under complete Israeli security and administrative authority, and accounts for approximately 60% of the West Bank's total area. Look at Figure 2.

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37. Declaration of Principles on Interim Self-Government Arrangements (Oslo I Accord), Arabic-Islamic States, September 13, 1993, Washington. <https://www.refworld.org/legal/resolution/par/1993/en/13889>; Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II Accord), Arabic-Islamic States, September 28, 1995, Washington. <https://www.refworld.org/legal/agreements/par/1995/en/20547>; Wye River Memorandum, Israel-Palestine, October 1998, Washington. <https://www.un.org/unispal/document/auto-insert-204357>; The Sharm el-Sheikh Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations [Wye II], Israel-Palestine, September 1999, Sharm el-Sheikh. <https://www.un.org/unispal/document/auto-insert-195919>.

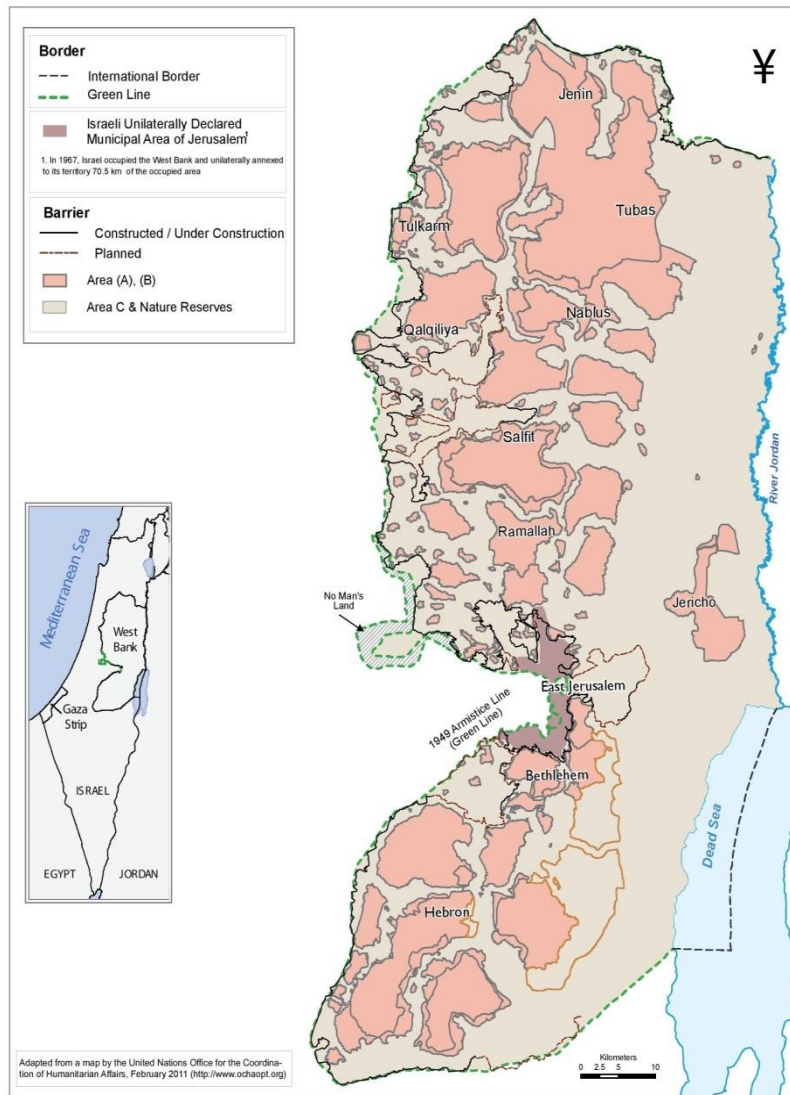


Figure 2. It shows the distribution of areas A, B, and C and other things in the occupied Palestine. *Source:* Palestinian Academic Society for the Study of International Affairs.

However, Israel has not followed through on the Oslo Accords and subsequent agreements, has not completed their stages, has blocked establishing a final settlement, and continues to occupy Palestinian territory. The Oslo Accords aimed for an interim agreement that would allow the start of Israeli withdrawal steps and the establishment of Palestinian self-rule,

followed by a final settlement of final status leading to the establishment of an independent Palestinian state on the 1967 borders within a period of no more than five years from the start of Palestinian self-rule. That is, between May 4, 1994 and before June 4, 1999, but this did not occur.

As a result, beginning at the end of 1999, a general feeling of frustration prevailed among the Palestinians due to the end of the specified transitional period, and the failure to reach a final settlement in accordance with the signed agreement, due to the procrastination of the Israeli leadership and its failure to implement the obligations imposed on it. This contributed to the outbreak of acts of resistance (the second Intifada) by the Palestinians against Israeli forces and settlers.<sup>38</sup> The first spark of the second Intifada was launched on September 28, 2000, when Israeli leader Ariel Sharon and members of the Likud Party, along with thousands of armed soldiers, stormed Al-Aqsa Mosque and toured its courtyards, saying that "the Temple Mount (Al-Aqsa Mosque) would remain Israeli territory,"<sup>39</sup> indicating that the Israelis would not withdraw from Jerusalem and the Palestinian territories, nor would implement the Oslo Accords.

Moreover, to show the ill intentions of the Israelis and that they are not an honest party to any peace process with the Palestinians aimed at realizing the Palestinian right to self-determination, during the period of signing the Oslo Accords, Israeli Prime Minister Rabin made it clear to the Israelis that the measures taken in these interim agreements aimed at preserving Israel's security, Rabin also pointed out in his speeches to calculated risks that Israel could take during the peace process with the Palestinians and to the reversible nature of interim agreements. Furthermore, Rabin reassured his followers' sense of control over the course of events with the Palestinians, by presenting the interim agreements as temporary and reversible, leaving open the options for final status negotiations, as well as the possibility of reversing the status quo if the peace process would not achieve the Israeli desires, as Rabin stressed in the course of his speeches, the possibility of Israel making changes in the process from its position of strength and its ability to manage these changes.<sup>40</sup> In addition, on April 12, 2001, Israeli Prime Minister Sharon said in an

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38. Jamil Hilal, "Al-Aqsa Intifada: Direct Objectives and Elements of Continuity," *Journal of Palestinian Studies* 11, no. 44 (Fall 2000): 3.

39. Suzanne Goldenberg, "Rioting as Sharon Visits Islam Holy Site," *The Guardian*, September 28, 2000. <https://web.archive.org/web/20141111222135/http://www.theguardian.com/world/2000/sep/29/israel>.

40. Nimrod Rosler, "Leadership and Peacemaking: Yitzhak Rabin and the Oslo Accords," *International Journal of Intercultural Relations* 54 (2016): 60-61.

interview published by Ari Shavit in Haaretz that the Israeli government had no plans for a peace agreement with the Palestinians. He added that any Israeli ideology is based on the fact that Jerusalem, the Jordan Valley and the Golan Heights would remain Israeli and that no settlements would be evacuated from these areas.<sup>41</sup>

Thus the "peace process" between the Palestinians and the Israelis that began since the beginning of the nineties of the last century is a great deception by the Israelis and sponsored by the Western world to oblige the Palestinians to what is called "renunciation of terrorism", that is, to eliminate the Palestinian resistance and legitimize the Israeli occupation of the Palestinian territories by turning it from the occupation of land and aggression against its people to a conflict or disagreement over a "common right" between two peoples, thus eliminating the Palestinians' right to self-determination.

And unfortunately, when reading the texts of the Oslo Accords and subsequent agreements, it becomes clear that in their entirety they were in favor of the Israeli side and gave it the power to intervene and control all the Palestinian political, economic and social affairs. This indicates the weakness and lack of experience of the Palestinian negotiator and he was deceived by the Israeli and American leaders. Although the time period of the Oslo Accords and subsequent agreements ended in May 1999, and because it lacks the components of power on the ground in the face of the Israeli occupation army, the Palestinian side is unable to deviate from most of their obligations. Thus, Palestinian governance in the Gaza Strip and parts of the West Bank remains restricted, disarmed, and devoid of actual authority, as the areas under Palestinian rule were divided into isolated categories of closed and open cantons based on the Israeli security situation, depriving the Palestinian Authority of sovereignty over borders, air, and sea, as well as most of the West Bank's natural resource-rich that were classified as Area C. The Palestinians were also prevented from establishing a seaport and an airport, as well as the Palestinian civil registry remained under the control of the Israeli occupation, which prevented a lot of Palestinians from obtaining a Palestinian identity.

After the Palestinian leadership realized that the negotiations had reached a dead end and that the Israeli leadership was not sincere in implementing its obligations in accordance with the bilateral agreements, it went to the United Nations to obtain international recognition of the State of Palestine on the

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41. Joel Beinin and Lisa Hajar, *Palestine, Israel and the Arab-Israeli Conflict* (Pune: Lokayat, 2014), 28.

borders of June 4, 1967, i.e. the lands occupied by the Israeli occupation in the 1967 war.

Consequently, Palestine submitted an application to the United Nations on September 23, 2011, with the aim of obtaining full membership for the State of Palestine in the United Nations based on Resolution 181 and the 1988 Declaration of Independence, but its application was not supported by the Security Council due to opposition from the United States.<sup>42</sup> However, on November 29, 2012, the UN General Assembly voted in Resolution 67/19 in favor of granting Palestine the status of a non-member state in the United Nations. Accordingly, the resolution upgraded Palestine from a non-member entity to a non-member state.<sup>43</sup> This gave the Palestinians increasing international support and recognition of their state, the right to self-determination and the right to participate in some voting processes in the General Assembly, as well as to join international organizations and the International Criminal Court. Hence, it should be noted that the State of Palestine exists legally and politically, and has a legal personality, but it lacks full sovereignty as a result of its weakness in front of the Israeli occupation and behind it the Western powers.

In this regard, the UN General Assembly affirmed, through several resolutions, such as resolutions no. A/RES/77/22 (2022) and A/RES/73/19 (2018), to continue making all efforts to promote the realization of the right of the Palestinian people to self-determination and their right to establish their independent state, and to work to achieve an end to the Israeli occupation that began in 1967 without delay.

Moreover, the Security Council issued Resolution No. 242 of 1967, which called on Israel to end its occupation of the Palestinian territories it occupied in 1967, but it did not respond to the resolution. Therefore, in Resolution No. 476 of 1980, the Security Council reiterated its call on Israel to end its prolonged occupation of Arab lands, including the Palestinian territories occupied since 1967. However, two months later, in Resolution 478, the Council confirmed that Israel had not complied with Resolutions 242 and 476. That is why it decided to study practical ways and means, in accordance with the UN Charter, to force Israel to implement Resolution No. 476 in the event of non-compliance. However, after more than four decades, no action has been

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42. Hakim Alamri, "The Question of the Full Membership of Palestine in the United Nations and Possible Alternatives," *Journal of Arts and Social Sciences* 17, no. 3 (2020): 47, 51.

43. United Nations, A/RES/67/19 (2012).

taken by the Security Council to force Israel to withdraw from the occupied Palestinian territories. Therefore, these resolutions remained ink on paper.<sup>44</sup>

In fact, since 1967, the United Nations has issued dozens of resolutions supporting the right of the Palestinian people to self-determination, and calling on Israel to withdraw from the Palestinian territories occupied since 1967, but these resolutions have remained ineffective,<sup>45</sup> because the resolutions of the General Assembly remain among the non-binding recommendations, but member states have a moral obligation to implement them.<sup>46</sup> With the exception of cases that threaten international peace and security, including assaulting another people, occupying their land and committing gross violations of human rights there, as is the case in occupied Palestine, in this case the Security Council has the power to use force and repressive measures, according to charter, to compel the state concerned to implement its decisions in the event of failure compliance.<sup>47</sup> However, the Security Council cannot take any action against Israel due to the full support of the United States of America for Israel and its opposition to any resolution or action that harms Israel.<sup>48</sup>

After examining the historical context of the role of the United Nations in realizing the right of the Palestinian people to self-determination, we conclude three aspects of it:

First: The United Nations was the main reason, among other reasons, for the emergence of the right of self-determination for the Palestinians, by adopting the so-called Palestine Partition Plan of 1947 by granting more than half of Palestine to Jewish immigrants without any regard for the rights of the indigenous Palestinian population, then accepting Israel as a member of the United Nations, without any guarantee obligating it to withdraw from the lands it occupied outside the borders outlined in the Partition Plan of 1947. Instead, it recognized its borders that go beyond the borders set out in the Partition Plan in its Resolution No. 242 of 1967. Thus it limited the right to self-determination for the Palestinians within the borders of the 1967 war, that is, 22% of the land of historical Palestine, which is equivalent to half of what was granted to the Palestinians in the partition plan.

Second: The United Nations has been working since 1974 to realize the right of the Palestinians to self-determination and the establishment of their

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44. United Nations, A/74/507 (2019).

45. United Nations, A/77/356 (2022).

46. Tamás Lattmann, Norbert Tóth, and Balázs Vizi, *International Protection of Human Rights* (Budapest: National University of Public Service - Institute of International Studies, 2014), 26-27.

47. United Nations Charter of 1945, Chapter VII.

48. United Nations, A/74/507 (2019).

independent state. In this regard, we can distinguish the UN role by highlighting the role of the General Assembly and the Security Council separately:

1. The General Assembly: All countries are represented in the General Assembly, and all member states have the right to vote on an equal footing. Therefore, resolutions are taken by simple majority or by two-thirds majority in some cases. Accordingly, the General Assembly adopted many resolutions that supported the Palestinians' right to self-determination and the establishment of their independent state. However, its resolutions remain not legally binding, although they bear the nature of moral obligation.

2. The Security Council: in which most countries are not represented, as it is limited to 15 countries, 10 countries are elected periodically every two years, and five countries have permanent membership, and member states are not equal in the right to vote and veto decisions, so only a permanent member has the right to veto any decision that does not agree with its interests. On the other hand, Security Council resolutions are binding on all UN member states. As for Palestinian Question, the Security Council issued several resolutions calling on Israel to end its occupation of the Palestinian land occupied since 1967, without referring to the Palestinian right to self-determination. However, despite the issuance of several resolutions calling for Israel to withdraw from the occupied Palestinian territories in 1967, no effective action was taken to force Israel to withdraw from the Palestinian territories. In addition, the Security Council did not approve the application for membership of the State of Palestine to the United Nations submitted to it in 2011, due to the opposition of the United States, a permanent member, to any action that harms Israel.

In conclusion, the United Nations resolved the Question of the Jews by granting them the land of the Palestinians and accepting their state's membership in the United Nations a year after its establishment. On the contrary, the United Nations created the Question of the Palestinians by giving their land to outsiders, as well as refusing to accept full membership of the modern Palestinian state in the United Nations. It also left the Palestinian Question without offering any effective solution to it.

Moreover, while under the auspices of the United Nations, the people of South Sudan,<sup>49</sup> and Kosovo succeeded in realize and exercising their rights to self-determination in the contemporary time, other peoples have been denied

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49. Bin Omar Yassin, "The Right to Self-Determination and the Right to Separation in Contemporary International Law," *Journal of Legal and Political Sciences*, no. 12 (2016): 252.

the right to self-determination, such as the Palestinians, they still live a life of struggle for realizing self-determination.<sup>50</sup>

Hence, Sterio found that the realization of the right to self-determination depends mainly on the support of the great powers, which include veto-wielding member states of the Security Council (the United States, the United Kingdom, France, China, and Russia, where the outcome of self-determination has been dictated over the past decades by the support or not of the great powers. People who had the support of most of the great powers were able to exercise their right to self-determination. East Timorese, Kosovar Albanians and South Sudanese have been supported by some of the most powerful superpowers. Peoples who did not enjoy the support of the great powers were denied the rights of self-determination such as the Palestinians and the Kashmiris.<sup>51</sup>

In addition, the existential right of Israel can only be understood to mean that there is an international legal system that grants this right to Israel. This system was represented by the victorious powers in the First World War, which approved the Balfour Declaration by adopting the British Mandate Deed over Palestine.<sup>52</sup>

#### 4. Conclusion

In this study, we examined the historical context of the role of the United Nations in achieving the Palestinian right to self-determination, and we found that the United Nations was one of the reasons for the emergence of self-determination for the Palestinian people and leaving them without presenting any effective solution to achieve their right to self-determination and the establishment of their independent and fully sovereign state.

The author recommends the Palestinian leadership to turn to the UN General Assembly under Resolution 377 A, as this resolution gives the General Assembly, in the event that the Security Council is unable to take its decisions due to conflicting interests of the permanent members, the power to study any case that threatens international peace and security and to issue recommendations that it deems appropriate to the members of the United Nations to take collective action, including the use of military force where

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50. Milena Sterio, *The Right to Self-determination under International Law: 'Selfistans', Secession and the Rule of the Great Powers* (New York: Routledge, 2013), xiv.

51. Sterio, *The Right to Self-determination*, xiv.

52. Anthony Carty, "Israel's Legal Right to Exist and the Principle of the Self-determination of the Palestinian People?" *The Modern Law Review* 76, no. 1 (2013): 170.

appropriate, to restore world peace. These conditions apply to the Palestinian case, as it is a case that endangers international peace and security. The author also recommends the Palestinian leadership to use all means of struggle, because the occupation does not concede to them except when they are strong.

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