

Written by Joan Russow
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HOW THE U.S. IS OBSTRUCTING THE U.N. SECURITY COUNCIL'S RESOLUTION OF THE PALESTINIAN ISSUE

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Over the past 75 years, there have been many United Nations Security Council resolutions acknowledging Israel's violations of international law, including a Security Council Resolution under Chapter VI of the U.N. Charter, that could have addressed, if implemented, the plight of the Palestinians

In addition, in 2004, the International Court of Justice issued a legal opinion unanimously declaring Israel's settlements to be a violation of international law.

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Despite these interventions, today the Palestinian people seem further than ever from realizing their right to self-determination.

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After the United States veto of a proposed May 16 2021 Security Council resolution relating to the current round of violence, which Israel provoked by unlawful actions in Jerusalem, the 1950 Uniting for Peace Resolution 377 should have been invoked.

Instead, member states sought to appease the U.S. with a new, insufficient resolution from the Security Council.

Of course, a ceasefire is welcome news, but nothing will be solved without sanctions on the State of Israel. By pursuing a decades-long policy of settlement expansion and forcible dispossession of Palestinians, successive Israeli governments have revealed the peace process to be a sham, a tool to buy time for further land theft by the State of Israel. Without sanctions, any demand that the Israelis and Palestinians return to the negotiating table will prove utterly ineffectual.

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As Independent Jewish Voices Canada has stated: "A temporary absence of Israeli bombs is not justice." Rabbi David Mivasair added "Jews in our communities in Canada are overcome with grief and anger... We say loud and clear, 'not in our name.' Israel can no longer continue to commit these atrocities in the name of the Jewish people."

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1. The structure of the UNSC violates, through the veto, the fundamental principle of the United Nations: The sovereign equality of states; the UN General Assembly, however, does embody this principle.

The 1950 Uniting for Peace resolution 377 was a precedent set by the United States for finding a way of preventing the Russian veto of the U.S. military actions in Korea.

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The Uniting for Peace resolution is applicable to the plight of Palestinians because it stipulates that, in any cases where the [Security Council](#), because of a lack of unanimity among its [five permanent members](#), fails to act as required to maintain international peace and security, the [General Assembly](#) shall consider the matter immediately and may issue appropriate recommendations to UN members for collective measures, in order to maintain or restore international peace and security.

The purpose of the Uniting for Peace resolution was to facilitate prompt action by the United Nations General Assembly in the case of a deadlocked Security Council. The resolution created the mechanism of the "emergency special session". Undoubtedly, the General Assembly could call for an emergency special session to consider drafting a resolution which could include solutions which have been proposed for years in Palestine, but continually vetoed by the U.S.

The May 16, 2016 Security Council resolution 2443 is reminiscent of the situation in 2003, when at least two permanent members opposed the U.S. invasion of Iraq. As a result of failure of unanimity of the P5, many were calling for the invoking of 377 resolution to prevent the invasion of Iraq. By invoking the Uniting for Peace resolution, the U.N. could have initiated an emergency meeting of the UNGA. This was in fact underway until the U.S. circulated an intimidating letter to all member states of the UNGA.

Why was Resolution 377 used against the Russian and not against the US veto

2. The lack of action by the UNSC to implement the ICJ opinion on the proposed Israeli wall

In 2004 the ICJ used the 1950 resolution 377 to legitimize the issuance of a legal opinion ^[1] when the request came from the General Assembly rather than the Security Council:

When the Security Council is exercising its functions in respect of any dispute or situation the Assembly must not make any recommendation with regard thereto unless the Security Council so requests. The Court further observed that the General Assembly had adopted resolution ES-10/14 during its Tenth Emergency Special Session, convened pursuant to resolution 377 A (V), whereby, in the event that the Security Council has failed to

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exercise its primary responsibility for the maintenance of international peace and security, the General Assembly may consider the matter immediately with a view to making.â

The International Court of Justice issued an advisory opinion to the General Assembly that Israel's building of a barrier in occupied Palestinian territory is illegal and that its construction must stop immediately and Israel should make reparations for any damage caused.

The Court's legal opinion concluded with the following statement:

Finally, in regard to the United Nations, and especially the General Assembly and the Security Council, the Court indicated that they should consider what further action was required to bring to an end the illegal situation in question, taking due account of the present Advisory Opinion.â

Why did the security council not consider what further action was required to bring to an end the illegal situation in question, taking due account of the present advisory opinion?

3. Security council resolution 2334 on Israeli settlements used chapter VI and never addressed enforcement to international law

United Nations Security Council Resolution 2334 was adopted on 23 December 2016. It concerns the Israeli settlements in "Palestinian territories occupied since 1967, including East Jerusalem". The resolution states that Israel's settlement activity constitutes a "flagrant violation" of international law and has "no legal validity". It demands that Israel stop such activity and fulfill its obligations as an occupying power under the Fourth Geneva Convention.

Critically, the resolution did not include any sanction or coercive measure and was adopted under the non-binding [Chapter VI](#) of the United Nations Charter - the peaceful resolutions of disputes.

The resolution passed in a 14â0 vote by members of the [U.N. Security Council](#). Four members with [United Nations Security Council veto power](#), China, France, Russia, and the United Kingdom, voted for the resolution, and the United States abstained.

[1]

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Â In response, the government of Israel retaliated with a series of "diplomatic actions" against some members of the Security Council. [1](#)

Why did the security council not move this resolution beyond chapter VI so that there could be provisions for sanctions and coercive measures? Was the security council reticent because of the potential U.S. veto or U.S./Israeli retaliation?

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4. The uniting for peace resolution must be invoked and the power moved to the general assembly

If only the 1950 RES 377 had been invoked after May 16 2001, then peace and security could have been achieved, and there could have been a potential emergency General Assembly resolution addressing the years of Security Council Resolutions that failed because of U.S. intransigence.

The time has come for the Uniting for Peace Resolution to be brought to bear on Israel's persistent and "flagrant" violations of international law. Below we set forth the proposed text of such a resolution:

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RECALLING THE 1950 RES 377 which bestows responsibility for peace and security on the General Assembly;

DEPLORING the years of Security Council Resolutions supporting Palestinian rights that failed because of the U.S. veto:

The General Assembly Calls for the implementation of UN General Assembly Resolution 194, which stressed the "inalienable rights of the people of Palestine" which would include the following:

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Abiding by the right to return;

Ending Israeli settlements and evictions;

Setting up United Nations sanctions against the State of Israel;

Condemning Israel's settlement activities in Occupied Palestinian Territory as violations of international humanitarian law;

Making reparations for physical and mental harm caused by the construction of the wall on occupied territory;

Urging the UN Secretary General to release the report of Professors Richard Falk and Virginia Tilley on Israeli Apartheid; and

Invoking Article 22 of the Charter of the United Nations to set up an International Tribunal to investigate Israeli crimes against Palestinians.

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For further information, please see this presentation on the oppression of the Palestinian people: <https://www.youtube.com/watch?v=6bNyus69iYo>

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[1] <https://www.icj-cij.org/en/case/131>