



## **Israel and the United Nations: Understanding the Responses to October 7<sup>th</sup>**

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**ABSTRACT:** Since October 7, 2023, the United Nations has been perhaps more politicized about Israel than almost any time in its nearly 80-year existence. The way that Israel was treated from the day after the Hamas atrocities can only be understood within the historical context of how, throughout the UN's history, the organization has been biased against Israel. The UN treats the State of Israel, the one Jewish country in the world, as different from all other sovereign nations. That begins with denying Jews' right of self-determination—their right to govern themselves. It also includes denying Israel the right to self-defense, to security for her citizens, and to have effective borders around her land. And it includes holding Israel to different standards from those applied to all other sovereign states, denying its right to equality with all other nations. This paper explores some of those responses, situating them within the legal and political history of the UN and Israel and documenting and explaining how the UN has treated Israel and how Israel has responded to the antizionism that has dominated and politicized all parts of the UN.

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## Introduction<sup>1</sup>

The atrocities perpetrated by Hamas against Israelis and other citizens on October 7, 2023, were amongst the single worst acts of terrorism committed during the United Nations' existence. It might have been expected that the United Nations, the world's only universal and global organization built on the principle of the sovereign equality of all its members,<sup>2</sup> would express solidarity with Israel and condemnation of Hamas's atrocities. That would have mirrored UN responses to other terrorist atrocities perpetrated against other member states. It soon became apparent, however, that such solidarity would not be forthcoming.

The UN Secretary-General issued a swift condemnation of the attacks, although within that eight-sentence statement he "urge[d] all diplomatic efforts to avoid a wider conflagration."<sup>3</sup> The UN General Assembly took 20 days to pass a resolution, and when it did the text failed to condemn Hamas for its atrocities and instead focused on Israel's response.<sup>4</sup> The Security Council first discussed the atrocities a week after they had occurred, and within the context of a failed Russian-proposed resolution calling for a humanitarian ceasefire that failed to mention, let alone condemn, Hamas for its atrocities.<sup>5</sup> That pattern continued both within those two bodies at subsequent sessions and also at the UN Human Rights Council, another intergovernmental body, as well as within UN funds, programs and agencies. Shamefully, UN Women took eight weeks to condemn gender-based and sexual violence perpetrated against women and girls by Hamas and others who joined them.<sup>6</sup>

Also of particular note was the UN Secretary-General's comments, two weeks after the atrocities, that the October 7<sup>th</sup> attacks by Hamas were "appalling" but did not happen in a vacuum. "The Palestinian people have been subjected to 56 years of suffocating occupation," he said. "They have seen their land steadily devoured by settlements and plagued by violence; their economy stifled; their people displaced, and their homes demolished. Their hopes for a political solution to their plight

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<sup>1</sup> The author is grateful to the late Felice Gaer for her input, advice and support when writing this paper, and for the many years of guidance, mentorship, and friendship.

<sup>2</sup> UN Charter Article 2 (1)

<sup>3</sup> "Statement attributable to the Spokesperson for the Secretary-General - regarding the situation in the Middle East Stéphane Dujarric," Spokesman for the Secretary-General, October 7, 2023, available at: <https://www.un.org/sg/en/content/sg/statement/2023-10-07/statement-attributable-the-spokesperson-for-the-secretary-general-regarding-the-situation-the-middle-east>.

<sup>4</sup> "General Assembly Adopts Resolution Calling for Immediate, Sustained Humanitarian Truce Leading to Cessation of Hostilities between Israel, Hamas," Press Release about Tenth Emergency Session GA/12548, October 27, 2023, available at <https://press.un.org/en/2023/ga12548.doc.htm>.

<sup>5</sup> "With 5 Members in Favour, 4 Against, Security Council Rejects Russian Federation's Resolution Calling for Immediate Humanitarian Ceasefire in Israel-Palestine Crisis," Press Release about 9439<sup>th</sup> Meeting SC/15445, October, 16, 2023, available at: <https://press.un.org/en/2023/sc15445.doc.htm>.

<sup>6</sup> UN Women statement on the situation in Israel and Gaza, December 1, 2023, available at: <https://www.unwomen.org/en/news-stories/statement/2023/12/un-women-statement-on-the-situation-in-israel-and-gaza>.

have been vanishing.”<sup>7</sup> Instead of apologizing for those remarks, after a diplomatic row ensued, he doubled-down on them.<sup>8</sup>

To observers who know the history of the UN and Israel, these responses were not surprising but rather were to be expected. Since its creation, the state of Israel has been subjected to egregious politicization, attacks, and attempts to delegitimize it as a sovereign nation from all parts of the UN. This paper thus explores the history of the UN’s relationship with Israel to demonstrate how and why the responses to October 7<sup>th</sup> are simply a continuation of the way that country has been mistreated within the world’s sole universal and global organization.

Throughout its existence, Israel has been the subject of a grossly disproportionate amount of UN debates, resolutions, decisions, special agenda items, special sessions and meetings, compared with any other country in the world. Even though Israel has managed to fight off the efforts to oust it from the UN General Assembly and other bodies, it continues to be targeted unlike other countries, contradicting the “sovereign equality” of nations large and small promised in the UN Charter. Israel has also been “assigned” a unique number of specialized bodies to address it, once again marking Israel out from the family of nations.<sup>9</sup>

More than this, unique standards are applied to Israel unlike other countries. Allegations of racism, apartheid, and genocide have been used for decades by the Arab countries and their friends, and more recently there has been added the charge of “settler-colonialism.” The treatment of Article 49 of the Geneva Convention on transfer of population has been distorted. The interpretation and use of the term “forced displacement,” instead of warning civilians how to evacuate armed conflict zones, is another example. The denial of Israel’s right to security or self-defense under UN Charter Article 51 is yet another. And these are just the tip of the iceberg.

In 1998, Secretary-General Kofi Anan became the first leader to acknowledge the UN’s deep-set problems. He called the UN “biased” against Israel, highlighting the “hypocrisy and double-standards in the intense scrutiny given to some of its actions, while other situations fail to elicit the world’s outrage and condemnations.”<sup>10</sup> He demanded an end to antisemitic speech in the UN, the only form of hate speech that has consistently persisted and been allowed to occur within the UN. And he decried the isolation tactics used against Israel, including the state’s “position as the only Member State that is not a member of one of the regional groups,” emphasizing the need to “uphold the principle of equality among all United Nations Member States.”<sup>11</sup> Annan’s successor, Secretary-General Ban Ki-Moon, similarly recognizing the bias against Israel, used his final statement on Israel and Palestine to the UN Security Council to reiterate what his predecessor had said: “Decades of political maneuverings have created a disproportionate volume of resolutions, reports and

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<sup>7</sup> <https://www.theguardian.com/world/2023/oct/24/un-calls-for-immediate-ceasefire-to-end-epic-suffering-in-gaza>.

<sup>8</sup> <https://www.theguardian.com/world/2023/oct/25/israel-says-it-will-ban-un-staff-after-secretary-generals-comments>.

<sup>9</sup> Including the Special Committee on Inalienable Rights of Palestinian People, Special Rapporteur on Israel and the Occupied Palestinian Territories in perpetuity, and a special division on Palestine in the Secretariat.

<sup>10</sup> “Secretary-General Says it is Essential for Israel and her Adversaries to Commit Themselves to Comprehensive Peace,” Press Release, SG/SM/6504/Rev.1, March 25, 1998, available at: <https://press.un.org/en/1998/19980325.sgsm6504.html>.

<sup>11</sup> *Ibid.*

conferences criticizing Israel. In many cases, rather than helping the Palestinian cause, this reality has hampered the ability of the United Nations to fulfil its role effectively.”<sup>12</sup>

This paper begins by providing a brief history of the UN to show the politicized ways in which Israel has been treated, the methods used to attempt to delegitimize it including by treating it differently from all other states, and the ways in which antizionism has been used to isolate it within the UN. It then turns to explore politicization of the UN, what it means, and how it manifests specifically in relation to Israel. The following sections focus on the main UN responses to October 7<sup>th</sup>, including at the Security Council and General Assembly, and the UN human rights system. The sections first explore how those entities work and later show their treatment of Israel through documentary evidence of how biased and selective treatment has been. Analysis then turns to understanding how and why those bodies have been politicized, the manner in which that has occurred across the UN, and the states and blocs driving forward that agenda. This kind of unique and unfair treatment extends throughout the system, and the examples provided here are simply illustrative of a systemic and entrenched problem across the UN.

To explore these issues, it is crucial first to understand the United Nations. Created in 1945, the UN is a world organization comprised of 193 member states who gather to discuss and address global issues. The UN serves the will of those member states and is built on the foundation of the sovereign equality of those countries. They meet within the UN’s main organs, which are intergovernmental bodies where states send diplomats to represent their interests. The UN also has a mandate to consult with civil society, enabling “we, the peoples” to engage with and be part of the world organization. Independent experts come from civil society but hold a somewhat different position within the UN as they are appointed by the UN to specific mandates that they perform pro-bono and independent of their home country. Lastly, the UN Secretariat essentially is the international civil service tasked with supporting and carrying out the UN’s work, and is assisted by UN funds, programs and agencies. Those personnel do not represent their home states of nationality. Although this paper cannot provide a comprehensive and robust investigation of all parts of the “UN Family,” the entities selected are a representative sample that spans across the different parts of the organization.<sup>13</sup>

## **1. Background – Israel and the UN, a brief history**

On November 29, 1947, the United Nations General Assembly (UNGA) passed Resolution 181, which recommended partitioning Palestine into a Jewish state and an Arab state, with Jerusalem placed under a special international regime. This followed decades of instability in the region, including waves of Arab and Jewish emigration to the territory and campaigns for national autonomy by both groups. UNGA established the Palestine Commission to implement the plan, with civilian control

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<sup>12</sup> “Secretary-General Stresses Palestine’s Right to Exist, Israel’s Need for Peace with Neighbours,” in Final Security Council Briefing on Middle East, SG/SM/18372-SC/12633-PAL/2211, December 16, 2016, available at: <https://www.un.org/unispal/document/auto-insert-204485/>.

<sup>13</sup> For background on these bodies leading up to October 7<sup>th</sup>, see Rosa Freedman, “The UN and Israel,” in Brustein and Michlic (eds.) *Research Handbook on Global Antisemitism* (forthcoming).

handed over in stages to the Commission as the British forces withdrew. The Commission was instructed to establish provisional governing councils followed by general elections when the two states achieved independence, at the latest by October 1, 1948. In this way, the UN sought to address the Palestine question.

The UN Partition Plan can be understood only in context of the international movement for an enshrined human right of peoples to self-determination.<sup>14</sup> Self-determination attracted widening political support during and between the First and Second World Wars, as part of vision of a post-imperial new world order.<sup>15</sup> During the First World War, Britain captured Palestine from the Ottoman Empire. In 1922 the League of Nations granted Britain mandatory power over the territory. By 1945, however, the principle of self-determination had evolved sufficiently to be included in the Charter of the United Nations.<sup>16</sup> By the time of the 1947 UNGA Partition Plan, all Class A mandated territories other than Palestine had achieved full independence.<sup>17</sup> On April 2, 1947, following years of fighting between the Arabs and the Jews, as well as against the British, and within the context of mandates becoming fully independent, the United Kingdom wrote to the UN Secretary General requesting that the “the question of Palestine” be placed on the agenda of the next UNGA regular annual session.<sup>18</sup>

Today, many observers claim that UNGA Resolution 181 created both two states and the two-state solution to the Palestine question. At the time, the Jews accepted the plan to create a state of Israel and a state of Palestine, whereas the Arabs rejected partition of the territory. It is important, however, to understand how the UN works, the powers given to each of its main organs, and the ways in which those bodies were used from the outset to push back against the very existence of the state of Israel, its rights as a sovereign nation, and the right of Jews as a people to self-determination.

The UN is a multilateral institution governed by its 193 member states. It is divided into principal and subsidiary organs.<sup>19</sup> The principal organs are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the UN Secretariat. Subsidiary organs fall under the jurisdiction of the principal ones, for example the UN’s main human rights body, the Human Rights Council, is a subsidiary of the General Assembly. Not all organs have the same powers as one another; indeed, the UN was deliberately designed in that way. We shall focus on the Security Council, General Assembly, human rights system, and Secretariat.

## 1.1 UN Security Council

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<sup>14</sup> The roots of this are often traced to President Woodrow Wilson’s 14 points:

[https://avalon.law.yale.edu/20th\\_century/wilson14.asp](https://avalon.law.yale.edu/20th_century/wilson14.asp).

<sup>15</sup> Report to the General Assembly, UNSCOP 2d Sess., Supp. 11 at 24, U.N. Doc. A/364, (September 9, 1947).

<sup>16</sup> U.N. Charter Article 1 (2), Article 55.

<sup>17</sup> Iraq, 1932; Lebanon, 1943; Syria, 1945; Transjordan, 1946.

<sup>18</sup> Letter from the United Kingdom Delegation to the United Nations to the U.N. Secretary-General, April 2, 1947, UN Doc. A/286 3 April 1947 <https://www.un.org/unispal/document/auto-insert-189500/#:~:text=to%20the%20United%20Nations%2C,2nd%20April%2C%201947.&text=%E2%80%9CHis%20Majesty's%20Government%20in%20the,its%20next%20regular%20Annual%20Session>.

<sup>19</sup> UN Charter Articles 7-8.

The Security Council was designed to prevent or respond to threats to world peace.<sup>20</sup> It has the greatest powers and least democratic structures of all UN bodies. China, France, Russia, the US and the UK were each granted a permanent seat on the Security Council and the power to veto any of its resolutions. The Council's ten non-permanent members are elected for two-year terms and do not hold a veto power. As a result, those permanent five members and their closest political allies are protected from any Security Council action. China has blocked every resolution on Tibet that has been proposed at the Security Council; the USA vetoes almost any action against Israel; Russia ensured that the Security Council did not act against Bashar al-Assad's regime in Syria.

The Security Council is the only UN organ with the power to mandate action on the ground. It may use whatever measures it deems necessary up to and including military action to ensure the continuance of international peace and security.<sup>21</sup> The UN's other bodies are granted far less far-reaching or effective powers. With the exception of the International Court of Justice, the most significant power held by other UN bodies is that of passing non-binding resolutions or decisions. While these may, and often do, carry political weight, they provide results on the ground only if countries choose to take heed of their substance.

A lack of enforcement powers means that almost everything at the UN needs to be achieved through political and diplomatic processes. Many UN bodies have powers to fact-find, investigate, and hold discussions with national experts and individuals on the ground, all of which allow them to disseminate information and provide recommendations. However, the UN's main bodies are often hampered, and at times paralyzed, by politicization. Countries use UN bodies to achieve political objectives. Many of those aims are not connected to the work being done within that particular body.<sup>22</sup>

The initial responses from Arab states to the 1947 Partition Plan were to challenge the competence or legitimacy of the UN to create the two states, to refuse to recognize Israel's statehood, and to attack that country militarily. At the UN Security Council's 22<sup>nd</sup> Meeting on December 9, 1947, there was significant discussion about whether or how the Council should respond to UNGA Resolution 181. The Syrian representative to the UN, Faris El-Khoury, insisted that "the General Assembly is not a world government which can dictate orders, partition countries or impose constitutions, rules, regulations and treaties on people without their consent," and repeatedly objected to the wording and existence of the resolution.<sup>23</sup> On February 6, 1948, Arab states insisted to the UN Secretary General that the UN did not have jurisdiction to create the partition plan, and therefore they viewed it as null and void.<sup>24</sup> The Security Council refused to send an international force to the region, although it did eventually pass resolutions calling for a truce between Jewish and Arab armed groups

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<sup>20</sup> For a more detailed background on the history and operation of the Security Council, see D. M. Malone, "Security Council," in T. G. Weiss and S. Daws (eds.), *The Oxford Handbook on the United Nations* (Oxford: Oxford University Press, 2007), pp. 117-35.

<sup>21</sup> UN Charter (1945), Articles 40 and 41.

<sup>22</sup> See, generally, M. Lyons, D. A. Baldwin and D. W. McNemar, "The 'Politicization' Issue in the UN Specialized Agencies," *Proceedings of the Academy of Political Science*, 32 (1977), pp. 81-92.

<sup>23</sup> Security Council Official Records available at: [file:///C:/Users/ol913772/Downloads/S\\_PV-222-EN.pdf](file:///C:/Users/ol913772/Downloads/S_PV-222-EN.pdf).

<sup>24</sup> "First Special Report to the Security Council: The Problem of Security in Palestine," United Nations Palestine Commission, February 16, 1948.

in April 1948,<sup>25</sup> without expressing an opinion on the Partition Plan *per se*. Soon afterwards, on May 14, 1948, when British law specified that the British mandate ended, Israel announced its statehood based on UNGA Resolution 181, after which Arab nations waged war on the fledgling country. Secretary-General Trygve-Lie described this as “armed defiance of the United Nations.”<sup>26</sup> Abba Eban went further, stating, “They took up arms, they crossed their frontiers, they launched a war for the purpose of overthrowing that Resolution by force.”<sup>27</sup>

Although the UN played a role in mediating a truce, first through Swedish diplomat Count Folke Bernadotte and, after his assassination, Ralph Bunche, UN Security Council Resolution 73 noted the formal conclusion of the 1948 war as “an important step towards the establishment of permanent peace,” not that any form of peace was actually established. It took until 1949 for Israel to be accepted as a UN member, first with a Security Council vote of nine in favor, one (Egypt) against, and the UK abstaining,<sup>28</sup> followed by General Assembly Resolution 273<sup>29</sup> adopted by 37 votes to 12, with nine abstentions,<sup>30</sup> formally admitting Israel to UN membership. All Arab states voted against Israel joining the UN. Turkey abstained. From then until at least the 1970s, Arab states adopted a policy at the UN and its agencies “of pretending that Israel does not exist and of trying to ostracize it—the explanation for the fact that Israel is so rarely elected to any office in the U.N.”<sup>31</sup> By doing so they isolated Israel and sought to delegitimize it as a state and as a member of the family of nations.

## 1.2 UN General Assembly

The most political body in the UN is the General Assembly.<sup>32</sup> At first glance, this appears to be a global democratic body representing all 193 UN members equally because each country has a seat and a vote. However, some countries populations numbering billions and others only a few thousand, so “one country, one vote” clearly makes little sense. Unlike the European Union, where the number of votes is roughly proportionate to the size of a country, the UN’s version of democracy fails to take states’ populations into account. As a result, what the General Assembly does is to give unrepresentative bargaining power to smaller or weaker states. Political blocs dominate the body’s proceedings. Vote-trading and political games are rife, frequently undermining the General

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<sup>25</sup> UN Security Council Resolutions 43, 44, 46, 48.

<sup>26</sup> Trygve Lie, *In the Cause of Peace: Seven Years with the United Nations*, quoted in JBI Mandate of Destiny, p. 90.

<sup>27</sup> Abba Eban, *Israel: The Case for Admission to the United Nations*, quoted in JBI Mandate of Destiny, p. 108.

<sup>28</sup> Resolution 69 (1949), March 4, 1949.

<sup>29</sup> May 11, 1949.

<sup>30</sup> Those voting in favour at UNGA were: Argentina, Australia, Bolivia, Byelorussian SSR, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, France, Guatemala, Haiti, Honduras, Iceland, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, South Africa, Ukrainian SSR, USSR, United States, Uruguay, Venezuela, Yugoslavia. Those voting against: Afghanistan, Burma, Egypt, Ethiopia, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Yemen. Abstentions: Belgium, Brazil, Denmark, El Salvador, Greece, Siam, Sweden, Turkey, United Kingdom.

<sup>31</sup> Rosenne Shabtai, “Israel and the United Nations: Changed Perspectives, 1945–1976,” *American Jewish Year Book* (1978), p. 17.

<sup>32</sup> For a more detailed exploration of the history and practices of this body, see M. J. Peterson, “General Assembly,” in T. G. Weiss and S. Daws (eds.), *The Oxford Handbook on the United Nations* (Oxford: Oxford University Press, 2007), pp. 97–116.

Assembly's credibility. States regularly prefer to focus on national objectives rather than on fulfilling the UN's purposes, and those national aims often involve supporting or protecting allied states. Similar politicization occurs in the other intergovernmental bodies where states are represented by diplomats rather than by independent experts. No issue has been more consistently and repeatedly politicized than the Israel-Palestine question.

Over the years, nearly every UN body, regardless of its main subject of concern, has been pressed by Arab countries (working with or at the request of the Palestinian delegation) to adopt a special resolution, procedure, or agenda item condemning Israel for its treatment of Palestinians. The General Assembly has had as many as 35 resolutions in a single session that focused on and condemned Israel and its authorities. After Oslo, this number was reduced substantially to some 22 or so resolutions. In 2023, this had been reduced to between 16 and 19 as some are biennial. No other country is subjected to anywhere near as many specific, critical resolutions.

In addition, the General Assembly has, since 1950, established a procedure under resolution 377A(V), "Uniting for peace," which enables it to convene on an emergency basis. There have been 11 such sessions over the years, of which six have focused on the Middle East and the Occupied territories. The tenth special session was called by Qatar in 1997 over Israeli decisions to build settlements in "Har Homa." Rather than conclude the session, and have to gather votes for a new session each time events warranted special attention, a provision is included in the 1997 resolution and the various meetings since then for the emergency session to be reconvened upon the request of member states, without any number or threshold required for such a reconvening. As a result, the Tenth Emergency Special Session has been reconvened eighteen times since 1997, most recently in May 2024, to enable the Assembly to upgrade the status of Palestine as a non-member state in the UN.<sup>33</sup>

Over the years, the rhetoric in the General Assembly's resolutions about Israel/Palestine has grown more exaggerated and condemnatory. The "Zionism is Racism" trope was one of the earlier examples of this, equating Zionism—the self-determination movement of the Jewish people, which underlies the existence of the State of Israel—with racism, an evil denounced by UN human rights instruments and the newly independent states that emerged in the postwar era. Hostility to racism motivated efforts to eliminate the South African apartheid regime from the UN itself. Equating Zionism and racism is intended to do the same to the State of Israel. In the postwar context, no state would assert that it was antisemitic, but it was increasingly convenient to represent such views as anti-Zionist or anti-Israeli. It has been credibly documented that the Zionism is Racism resolution helped mask and enable the UN to conduct "open propagation of anti-Semitism ... from the various rostrums of the United Nations."<sup>34</sup>

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<sup>33</sup> No other country is treated this way. The other countries that were subjects of emergency NGA special sessions were Hungary (1956), Congo (1960), Afghanistan (1980), Namibia (1981), and Ukraine (2014).

<sup>34</sup> See the conclusions and proceedings of the International Legal Conference on Anti-Semitism, Anti-Zionism, and the United Nations, sponsored by the Center for International Studies of New York University's School of Law in cooperation with the Jacob Blaustein Institute for the Advancement of Human Rights, published in *Israel Yearbook on Human Rights*, Volume 17 (1987), pp. 9-148, and specifically, pp. 19-20.



### 1.3 UN Human Rights System

The politicization of the UN human rights system relating to Israel has been so egregious that at times it has been self-defeating. Indeed, it was a main reason for the disbanding of the UN's main human rights body, the Commission on Human Rights (1946-2005)<sup>35</sup> and its replacement by the Human Rights Council (2006-).<sup>36</sup> Nevertheless, from the outset the Human Rights Council continued, and even increased, its predecessor's grossly disproportionate scrutiny of Israel. This included having Israel and the Occupied Palestinian Territories as a standing item on the agenda for every session,<sup>37</sup> with all other substantive human rights discussions about countries dealt with under the standing item on country issues. The Council has the ability to convene Special Sessions to discuss grave or crises situations, and in its first five years one third of those sessions focused on Israel.<sup>38</sup> And unlike other countries, Israel is condemned in at least 4 annual resolutions.

That excessive focus goes against the Human Rights Council's founding principles of universality, non-selectivity, and lack of bias.<sup>39</sup> It is not only the Council that violates those principles but also the expert mechanisms that form part of the system. Commissions of Inquiry (COIs) are one such expert mechanism. They are discrete, ad hoc, and created to fact-find and share information about human rights violations within a specific period and geographic region. COIs are appointed to fulfil those mandates and report back to the UN entity that appointed them. The 1991 General Assembly Declaration on Fact-Finding sets out that COIs may be established by the Security Council, the General Assembly, the Secretary-General, the High Commissioner for Human Rights, or the Commission on Human Rights (a power that was passed to its successor body, the Human Rights Council). Five Commissions had been established under UN Charter-based powers before the Declaration,<sup>40</sup> but the vast majority have been created since 1991. Of those, the majority of the mechanisms were set up by the UN's main human rights body, particularly since 2006 when the Human Rights Council was created.

Another key part of the human rights system is the Special Procedure. Described by former UN Secretary-General Kofi Annan as "the crown jewel of the [UN human rights] system,"<sup>41</sup> Special Procedures protect and promote human rights primarily by investigating and reporting on violations

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<sup>35</sup> See for example, Roznai, Yaniv, and Ido Tzang, "The United Nations Human Rights Council and Israel: Sour Old Wine in a New Bottle," *Hum. Rts. & Globalization L. Rev.* 5 (2013), p. 25.

<sup>36</sup> See, for example, Rosa Freedman, "The United Nations Human Rights Council: More of the Same," *Wis. Int'l LJ* 31 (2013), p. 208.

<sup>37</sup> HRC Resolution 5/1, Part V (B), UN Doc A/HRC/RES/5/1.

<sup>38</sup> Three sessions focused on Syria over a nine-month period at the beginning of the civil war, and only one each on all other situations covered, including Central African Republic, Darfur, Democratic Republic of Congo, Ethiopia, Haiti, and Libya, amongst others.

<sup>39</sup> UNGA Resolution 60/251, UN Doc. A/RES/60/251.

<sup>40</sup> UN Fact-finding mission to South Viet-Nam to ascertain the facts of the situation in that country as regards relations between the Government of the Republic of Viet-Nam and the Viet-Nameese Buddhist community (1963); Commission of inquiry on the reported massacres in Mozambique (1973); Ad Hoc Working Group to inquire into the situation of human rights in Chile (1975); Security Council Commission concerning Israeli settlements in Arab territories occupied since 1967, including Jerusalem (1979); Mission to Cuba to observe the human rights situation (1988).

<sup>41</sup> Secretary-General Kofi Annan, Time Warner Center (US), December 8, 2006, available at <http://www.un.org/News/press/docs/2006/sgsm6020.sgsm6020.doc>.

as well as making recommendations. Mandates are created to examine human rights violations on a thematic issue or within a particular country. Individuals (Special Rapporteurs or Independent Experts) or Working Groups (comprising one person from each of the five regional groups) meet with a broad range of stakeholders including victims and NGOs, hold interactive dialogues with the Council, and may be called upon to address other UN bodies. Their reports and communications are a main part of the UN's human rights jurisprudence. Mandate holders are experts on human rights, are independent both of the UN and of their own national governments, and undertake their work part-time, unpaid, and for fixed-term appointments.

Special Procedures started as an *ad hoc* mechanism to respond to grave human rights abuses, and the creation and renewal of mandates remains sufficiently flexible to ensure that they are a key tool for responding to new and emerging issues. In 1967, the Commission created the "Working Group of Experts on the situation of human rights in southern Africa"<sup>42</sup> and a Special Rapporteur on the politics of apartheid.<sup>43</sup> The second Special Procedures mandate was created in 1969 to investigate the human rights situation in Israel and the Occupied Territories.<sup>44</sup> The first thematic mandate was created in 1980, prompted by the situation in Argentina in relation to enforced or involuntary disappearances, which the Commission was called upon to address.<sup>45</sup> Since that time the system has grown to 46 thematic and 14 country-specific mandates as of November 2024.<sup>46</sup>

The mandate on Israel and the Occupied Palestinian Territories has been heavily politicized in terms of appointments of mandate holders and their reports. But, as we shall see, it is not only the Special Rapporteur on that country-specific region that has focused on the human rights situation. Many thematic mandate holders have written reports or included in their jurisprudence the situation in Israel and the Occupied Palestinian Territories (OPT), leading again to the type of excessive scrutiny and singling out of Israel seen in other parts of the human rights matrix.

## **2. Zionism is Racism**

It is not possible to understand the UN responses to October 7<sup>th</sup> without first understanding the "Zionism is Racism" agenda that dominated the Organization for decades, and which continues to underpin the language, substance and tactics relating to Israel's treatment within UN entities. While much occurred at the UN after Israel was accepted as a member, the main attempt to delegitimize the state came through the "Zionism is Racism" campaign. That agenda, beginning in 1965 and continuing to this day, both exemplifies and defines the way Israel has been viewed and treated by

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<sup>42</sup> UN Commission on Human Rights Resolution 2 (XXIII) of March 6, 1967.

<sup>43</sup> UN Commission on Human Rights Resolution 7(XXIII) of March 16, 1967.

<sup>44</sup> UN Doc. E/CN.4/RES/6(XXV) of March 4, 1969.

<sup>45</sup> See ECOSOC Resolution 1979/38 of May 10, 1979; GA Res 33/173 of December 20, 1978; Sub-Commission Resolution 5(XXXII)B of September 5, 1979 (UN doc. E/CN.4/1350-E/CN.4/Sub.2/435).

<sup>46</sup> <https://www.ohchr.org/en/special-procedures-human-rights-council>.

the world organization. As such, it is worth understanding and analyzing the history and impact of the UN's formally equating Zionism with racism.

The first proposal to call Zionism a form of racial discrimination took place during negotiation on what would become the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), adopted in 1965.<sup>47</sup> The Soviet Union proposed it during discussions about whether to include antisemitism in the Convention. It did so to counter the criticism of antisemitism in the USSR after a wave of swastika-daubing in 1959 across Western and Eastern Europe, which led the UN Commission on Human Rights and then the General Assembly to address antisemitism for the first time. Discussions and focus on discrimination and racism were taken up by the influx of newly independent nations, mostly from Africa, that led to the decision to adopt the ICERD.

While the framing of Zionism as racial discrimination was eventually not taken forward into the final text—a quid-pro-quo for dropping the proposal to include antisemitism in ICERD—Meir Rosenne, then the Ambassador of Israel to the United States, years later noted the role that the negotiations had played in the Zionism is Racism agenda:

With this clever tactic, the USSR for the first time injected its own ideology and propaganda on Zionism and Judaism onto a world stage. In doing so, Moscow won a double victory: First, it prevented the explicit definition of anti-Semitism as a form of racism—and thus succeeded in downgrading the moral [and] political weight that a condemnation of Jew-hatred would have carried throughout the world. Second, Moscow established the precedent for linking Zionism with Nazism which led to the overwhelming adoption by the UN General Assembly, eleven years later, of the resolution that equated Zionism with racism. It is essential to remember this history and to keep the record straight: In 1975 it was certainly the Arab states that took the initiative with this resolution. But it is the Soviet Union that is the source of this evil doctrine.<sup>48</sup>

By 1975 the UN had grown from 51 founding members to 144 states, largely as a result of decolonization and the exercise of the right of self-determination.<sup>49</sup> There had also been seismic political changes, particularly the growth and collective strength of the “Global South” within the Cold War geopolitical landscape. The Non-Aligned Movement—of states not formally aligned with either of the Cold War superpowers—was set up in 1962 as a forum to take forward the South's political agenda. Two years later the G77 was created, and it drove through the South's economic agenda. By 1973, these two parallel processes had converged.<sup>50</sup> Those states used their collective power within the UN and their economic power, particularly that of the oil-producing states, to drive forward their agenda. While they failed to create the new economic and international world order

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<sup>47</sup> For a comprehensive analysis of the negotiations and positions, see Ofra Friesel, "Equating Zionism with racism: The 1965 precedent," *American Jewish History* 97, 3 (2013), pp. 283-313.

<sup>48</sup> Meir Rosenne, Israeli Ambassador to the United States, "Zionism Equals Racism"—An Assault on Human Rights," December 10, 1984, World Zionist Organization Information Department seminar held at the US State Department

<sup>49</sup> <https://www.un.org/en/about-us/growth-in-un-membership#1970s>.

<sup>50</sup> See, generally, C. Alden, S. Morphet, M.A. Vieira, "The Non-Aligned Movement and Group of 77 During the Cold War, 1965–89," in *The South in World Politics* (London: Palgrave Macmillan, 2010).

envisaged at the 1973 Algiers summit, their collective power was a key driver for the Arab states' and Soviet Union's goal of isolating and delegitimizing Israel.

Made up largely of countries recently under colonial rule, the Non-Aligned Movement (NAM)'s main motivation was anti-imperialism which was often hard to distinguish from anti-Westernism. Arab states had significant influence within that bloc, particularly given that Egypt was one of its leaders, and given the economic and political power many oil-producing Arab countries held globally. Arab countries used their collective position to advance the pro-Palestinian and anti-Israel causes as central NAM concerns. One group of Arab states also held collective strength as members of the Asian regional group and the others as members of the African regional group, as well as within two other sizeable political blocs: the Organization of the Islamic Conference<sup>51</sup> (founded in 1969 to oppose Israel at the UN), and the Arab League. All of this gave those states a strong platform from which to advance their aims and objectives.

Following their failures in the 1967 and 1973 wars against Israel, Arab states turned to the UN to once again seek to delegitimize the State of Israel, expel it from the General Assembly, and as many other UN bodies as possible. In 1974, South Africa's credentials had been revoked by the General Assembly, effectively expelling it from the UN. The Arab states, joined by the Soviet Union and NAM, sought to do the same to Israel, beginning to advance that campaign in earnest by promoting, supporting and advancing the agenda that Zionism is Racism.

The Zionism is Racism agenda was prominently proposed and adopted at the first UN conference on women held in Mexico in 1975.<sup>52</sup> For the first time, the formulation was included in an official UN document. Article 24 of the Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace called for "the elimination of colonialism and neo-colonialism, foreign occupation, zionism [sic], apartheid, and racial discrimination in all its forms." As Evelyn Sommer points out, "[f]rom then on, Zionism was always listed among the great evils of the world."<sup>53</sup> Miguel Alfonso-Martinez, Cuba's Representative to the UN Commission on Human Rights' Sub-commission on the Prevention of Discrimination and the Protection of Minorities, on several occasions explained publicly—and proudly—to delegates that he was personally responsible for introducing it and getting it adopted. Cuba, of course, was not only advancing the Soviet position as a key ally but also taking forward its own interest in dividing North and South at the UN.

Four months later, UNGA Resolution 3379 (1975) was passed on November 10, 1975, with 72 states in favor, 35 against, 32 abstentions, and three countries absent from the room at the time of the vote. The resolution contains five preambular paragraphs followed by a single substantive sentence declaring that the UN General Assembly, "Determines that zionism [sic] is a form of racism and racial discrimination."

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<sup>51</sup> The name was changed to Organization of Islamic Cooperation in 2011.

<sup>52</sup> World Conference of the International Women's Year June 19 -July 2. 1975, Mexico City, Mexico.

<sup>53</sup> Evelyn Sommer, "Fighting Delegitimization: The United Nation's 'Zionism Is Racism' Resolution, a Case Study," *World Jewish Congress*, available at: <https://www.worldjewishcongress.org/en/85th-anniversary/fighting-delegitimization-the-united-nations-zionism-is-racism-resolution-a-case-study>.

With the intent manifest, Aaron Jacob described it as “the worst resolution ever adopted by the UN regarding Israel. Previous UN resolutions had stated that racism should be eliminated. If Zionism is a form of racism, then Zionism, and the state it created, Israel, must be eradicated, too.”<sup>54</sup>

The Zionism is Racism agenda continued to be advanced at UNGA throughout the 1980s, with resolutions passed by overwhelming majorities, and with new language added. In 1982, Israel was accused of not being a peace-loving state and not having carried out its obligations under the UN Charter. This again signaled the Arab states’ ultimate intent of expelling Israel from the UN.

The end of the Cold War, and with it the waning of Russia influence in a changed geopolitical landscape, created the conditions for the end to Zionism is Racism resolutions at UNGA on December 6, 1991. With strong efforts to coordinate voting by the US delegation, Resolution 3379 was rescinded by a vote of 111 in favor, 25 against, 13 abstaining, and 17 absent from the room. The resolution’s contents were minimalist: it simply rescinded UNGA Resolution 3379 (1975) without further explanation. However, the damage had been done. For 16 years, Israel had been singled out amongst all UN member states and condemned for what would be accepted as nationalism in all other countries.

In the years that followed, a major effort was made to continue the use of exaggerated language to depict Israeli policies as the worst in the world. For example, some diplomats claimed that Israeli policies amounted to genocide and apartheid—international human rights crimes so grave that individual treaties were adopted to demand they be prevented and punished. The terms “war crimes,” “crimes against humanity,” and the charge of “terrorism” were often invoked as well. This was notable in the speeches and proceedings of the Commission on Human Rights. For example, in 2000, the chief Palestinian diplomat in Geneva, Nabil Ramlawi, called Israeli actions in the OPT “war crimes and crimes against humanity” that were “inconsistent with the Charter of the UN.”<sup>55</sup> Israel, he claimed, has “carried out a policy of political assassinations, constituting a crime of genocide against the Palestinian people.”<sup>56</sup> At the same session, the Syrian delegate denounced “genocide of the Palestinian people and the kidnapping of children,” and Jordan criticized the “imposition of Judaization” in Jerusalem. Libya declared that “a whole people ... were subjected to the worst forms of terrorism and genocide ...” and denounced “the conspiracy to create a racist, Jewish state ...”<sup>57</sup>

The third World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance [WCAR] was held in Durban in 2001, a decade after the Zionism is Racism agenda was officially ended in UNGA. It was grossly politicized against Israel and against Jews, and saw a revival of the Zionism is Racism agenda. The two earlier World Conferences on Racism (in 1978<sup>58</sup> and

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<sup>54</sup> Aaron Jacob, “The Zionism = racism lie isn’t over,” *The Times of Israel*, December 16, 2021, available at: <https://blogs.timesofisrael.com/the-zionism-racism-lie-isnt-over/>.

<sup>55</sup> Commission on Human Rights, “Fifty-seventh session Summary Record of the 19<sup>th</sup> Meeting,” April 4, 20021, UN Doc. E/CN.4/2001/SR.19.

<sup>56</sup> Ibid., paras 36-39.

<sup>57</sup> Ibid., paras 55, 57, and 86-89.

<sup>58</sup> World Conference to Combat Racism and Racial Discrimination August 14-25, 1978, Geneva: <https://www.un.org/en/conferences/racism/geneva1978>.

1983,<sup>59</sup> both held in Geneva) had denounced Zionist policies of Israel as subjects of concern. The first conference focused on apartheid but also denounced the Zionist state of Israel and some of the speeches addressed the Zionism is Racism resolution specifically.<sup>60</sup> The second one focused more on the Zionism is Racism agenda.

An NGO Forum was held in the week immediately prior to the 2001 Durban Conference, at which it was clear that the conference had been hijacked by anti-Israel and antisemitic groups and states.<sup>61</sup> Palestinian human rights advocates took control of the text and inserted language that accused Israel of apartheid, ethnic cleansing and genocide, demanded re-instituting the notorious “Zionism is Racism” resolution, and even sought to distort the meaning of the word “antisemitism” so as to deny the suffering of Jews. The final NGO document included language condemning Israel for apartheid and genocide. The final text adopted was so offensive that the High Commissioner for Human Rights refused to present it to the World Conference.<sup>62</sup>

Felice Gaer explains:

Prior to the conference, as the Second Intifada raged, Palestinian activists engaged in a campaign to intertwine their political objectives with the South African solidarity agenda. Thus, when 25,000 people marched through the streets of Durban outside the conference, ostensibly for action against poverty, some threatened all Jews with violence, carrying signs like “Hitler should have finished the job.”

Posters with swastikas over the Star of David adorned the walls of the cricket stadium where the parallel NGO Forum was held. Many participants wore t-shirts with “Apartheid Isreal” (sic) on one side and “Racism-Colonialism-Apartheid” on the other. Pamphlets with cartoons showing other classic antisemitic stereotypes were displayed. One handbill with a picture of Hitler stated: “What if I had won? The good things: there would be no Israel and no Palestinian bloodshed.” A meeting organized by the Jewish NGO Caucus on antisemitism was stormed by Palestinians and their allies.<sup>63</sup>

The official governmental Conference itself was no better.<sup>64</sup> It began with a draft text that associated Zionism with racism, accused Israel of genocide, ethnic cleansing and apartheid, and singled that country out as the only state to be named and focused upon. Despite the US delegation’s efforts to keep the focus on combating racism, it soon became clear that Arab states were using Durban solely to single out and attack Israel, and they would not compromise on the offensive language or on using

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<sup>59</sup> Second World Conference to Combat Racism and Racial Discrimination August 1-12, 1983, Geneva: <https://www.un.org/en/conferences/racism/geneva1983>.

<sup>60</sup> Report of the World Conference to Combat Racism and Racial Discrimination, Geneva August 14-25, 1978, A/CONF.92/40, paras 18 and 19.

<sup>61</sup> For detailed analysis see David Matas, “Civil society smashes up,” *B’nai Brith Canada Institute for International Affairs* (2010).

<sup>62</sup> Christopher N. Camponovo, “Disaster in Durban: The United Nations World Conference against racism, racial discrimination, xenophobia, and related intolerance,” *Geo. Wash. Int’l L. Rev.* 34 (2002), pp. 659, 695.

<sup>63</sup> Felice Gaer, “It’s Time To Reject Racism But Disconnect From Durban,” *Jerusalem Post*, September 21, 2021.

<sup>64</sup> See, for detailed discussion, Tom Lantos, “The Durban Debacle: An Insiders’ View of the UN World Conference Against Racism,” *Fletcher Forum of World Affairs*, 26:1 (Winter/Spring 2002).

the conference to delegitimize Israel. Secretary of State Colin Powell ordered the official US delegation to return home because the anti-Israel and antisemitic agendas were so extreme. He reasoned: “I know that you do not combat racism by conferences that produce declarations containing hateful language, some of which is a throwback to the days of ‘Zionism equals racism,’ or supports the idea that we have made too much of the Holocaust; or suggests that apartheid exists in Israel; or that singles out only one country in the world, Israel, for censure and abuse.”<sup>65</sup>

Despite the widespread criticisms of Durban, its follow-up resolutions and conferences have not departed from this pattern. The impact of singling out Israel and denying Jewish victimhood from hatred continues. What happened at Durban is only one example of many cases where the UN system has been used to isolate and delegitimize Israel.

### **3. Responses to October 7<sup>th</sup>**

This paper does not seek to document all UN responses to 7 October, but rather to provide a representative sample from three key areas of its work: the Security Council, the General Assembly, and the human rights system. The aim is to show how those responses build upon the politicized tactics used to attack and delegitimize Israel since the UN was created.

#### **3.1 Security Council**

The Security Council did not issue a condemnation of the October 7<sup>th</sup> attacks in the immediate aftermath of those atrocities, ignoring Israel’s request for it to “unequivocally condemn the appalling terror attacks carried out by Hamas.”<sup>66</sup> It did not hold a public meeting until October 16, despite first meeting for consultations on October 8, and when it did some states sought only to focus on the humanitarian catastrophe in Gaza. At that first public meeting, the Council discussed and attempted—unsuccessfully—to take action through a draft resolution tabled by Russia that called for an immediate humanitarian ceasefire in Gaza.<sup>67</sup> That text received only five votes in favor,<sup>68</sup> four—including two permanent members—against,<sup>69</sup> and six abstentions.<sup>70</sup> The explanations for the votes against, including the vetoes and the abstentions, largely focused on the resolution not condemning the atrocities perpetrated by Hamas and not supporting Israel’s right to self-defense under the UN Charter.<sup>71</sup> The DARVO—deny, attack, reverse victim and offender—tactics from the outset made

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<sup>65</sup> Secretary Colin L. Powell ‘World Conference Against Racism’, *US Department of State*, Washington DC, 3 September 2001, available at: <https://2001-2009.state.gov/secretary/former/powell/remarks/2001/4789.htm>.

<sup>66</sup> “Identical letters dated 7 October 2023 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, 9 October 2023, UN Doc. S/2023/742.

<sup>67</sup> UN Doc. S/2023/772 available at: [https://digitallibrary.un.org/record/4024403/files/S\\_2023\\_772-EN.pdf](https://digitallibrary.un.org/record/4024403/files/S_2023_772-EN.pdf).

<sup>68</sup> China, Gabon, Mozambique, Russian Federation, United Arab Emirates.

<sup>69</sup> France, Japan, United Kingdom, United States.

<sup>70</sup> Albania, Brazil, Ecuador, Ghana, Malta, Switzerland.

<sup>71</sup> S/PV.9439 available at [https://digitallibrary.un.org/record/4024698/files/S\\_PV.9439-EN.pdf](https://digitallibrary.un.org/record/4024698/files/S_PV.9439-EN.pdf).



clear to observers that the UNSC would continue to be politicized in relation to Israel even after these terrorist atrocities.

Over the initial three months following October 7<sup>th</sup>, the Security Council held more than 15 meetings and voted on seven draft resolutions relating to Israel and Gaza, adopting two of those texts: resolution 2712 and resolution 2720. Resolution 2712 was adopted on November 15, by a vote of 12 in favor to none against, with three abstentions.<sup>72</sup> It called for urgent and extended humanitarian pauses and corridors through the Gaza Strip to facilitate the provision of essential goods and services and the return of Israeli hostages, but it did not mention the October 7<sup>th</sup> atrocities nor Israel's right to self-defense, which led to the UK and US abstentions. Russia's reasons for abstaining were different. Instead, Russia focused on the resolution failing to call for a cessation of the hostilities, which it has proposed in a draft amendment to the resolution.<sup>73</sup> On December 22, 2023, the Security Council adopted Resolution 2720, authored by then-Council member the United Arab Emirates (UAE), which called for "urgent steps to immediately allow safe, unhindered, and expanded humanitarian access and to create the conditions for a sustainable cessation of hostilities."

Throughout those first three months, the meetings almost-exclusively focused on the humanitarian situation in Gaza. Of course, this was of deep concern, with ever-increasing humanitarian needs of the civilian population as the war escalated against Hamas and other terrorist groups in the region. The Security Council's failure, however, to condemn the terrorist atrocities or to support Israel's right to self-defense stood in stark contrast to the ways it treated other UN member states. As events unfolded, the Security Council's deadlock on reaching agreement about Israel and Gaza demonstrated its impotence where the veto power is used for political reasons. Since the end of the Cold War, relatively few situations have so clearly shown the Council's flaws in this regard. Of course, Permanent Five members use the veto to prevent action being taken against themselves, as seen by the Council's inability to take action in response to Russia's wars in Georgia and Ukraine, and its military intervention in Syria. The situation in Israel and the OPT has garnered the most use of the veto to block resolutions tabled by parties supporting either side of the conflict.<sup>74</sup>

During those first few months, the Council regularly heard from UN actors in the region who reported on the ongoing hostilities and the impact on the civilian population in Gaza. Those actors condemned the massacre on October 7<sup>th</sup> but largely focused on the humanitarian situation without discussing the displacement of hundreds of thousands of Israelis in the South and North owing to the ongoing rocket bombardments and attacks from Gaza and Lebanon respectively.<sup>75</sup> At no point, despite the increasing evidence from the ground, did the UN acknowledge let alone accept that its own hospitals, schools and other buildings had previously been used and continued to be used by Hamas to attack Israel. The one-sided discussions and focus were then used by Israel and her allies to condemn the UN as politicized, biased, and failing to treat Israel as it did all other sovereign nations

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<sup>72</sup> Russian Federation, United Kingdom, United States.

<sup>73</sup> <https://press.un.org/en/2023/sc15496.doc.htm>.

<sup>74</sup> <https://research.un.org/en/docs/sc/quick>.

<sup>75</sup> See, for example, <https://www.un.org/unispal/document/security-council-2023-round-up-war-in-gaza-un-press-release-9jan-2024/>.



defending herself and her civilians. This helped Israel to avoid scrutiny or accountability for the unfolding humanitarian catastrophe in Gaza.

In 2024, two further resolutions were passed. The first, in March, called for a ceasefire for the month of Ramadan and a return of all hostages held by Hamas, and the second in June urged Hamas to accept the terms of a ceasefire that had been announced on May 31. Those two resolutions were not vetoed, although the US abstained on the former and Russia on the latter. Despite those attempts, a cessation of hostilities did not occur that year. The Security Council remained deadlocked and therefore impotent to take action, leading to significant frustration across the UN system, including Secretary-General Guterres who engaged Article 99 in Chapter XV of the Charter, for the first time since taking office in 2017, to “bring to attention of the Security Council any matter which in his opinion, may threaten the maintenance of international peace and security.”<sup>76</sup> The resulting Council session on December 8, 2023, once again led to a vetoed resolution. The frustration resulted in states turning to other UN bodies to seek resolution to the conflict.

### 3.2 General Assembly

On October 27<sup>th</sup>, with the Security Council deadlocked in terms of Israel and Gaza, two thirds of General Assembly members voted in favor of a resolution on protection of civilians and implementing legal and humanitarian obligations.<sup>77</sup> Some states who voted in favor of the Resolution<sup>78</sup> were nonetheless critical that it did not condemn Hamas or explicitly call for the release of Israeli hostages. Similar criticisms were the basis for other states abstaining<sup>79</sup> or voting against the resolution.<sup>80</sup>

On December 11, after yet another resolution tabled at the Security Council had been vetoed, Egypt and Mauritania invoked Resolution 377A (V), Section A of which is aimed at resolving a situation in which the UN “fails to exercise its primary responsibility for the maintenance of international peace and security.” The Resolution, also known as also known as “Uniting for Peace,”<sup>81</sup> empowers the

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<sup>76</sup> See SG letter of December 6, 2023:

[https://www.un.org/sites/un2.un.org/files/sg\\_letter\\_of\\_6\\_december\\_gaza.pdf?\\_gl=1\\*1fyvgaa\\*\\_ga\\*MTgyODg3NDYyMC4xNjQ2OTExNTky\\*\\_ga\\_TK9BQL5X7Z\\*MTczODI0MzIxNi44NC4xLjE3MzgyNDM0NTYuMC4wLjA.\\*\\_ga\\_S5EKZKSB78\\*MTczODI0MzIxOC4zMS4xLjE3MzgyNDM0NTYuNTEuMC4w](https://www.un.org/sites/un2.un.org/files/sg_letter_of_6_december_gaza.pdf?_gl=1*1fyvgaa*_ga*MTgyODg3NDYyMC4xNjQ2OTExNTky*_ga_TK9BQL5X7Z*MTczODI0MzIxNi44NC4xLjE3MzgyNDM0NTYuMC4wLjA.*_ga_S5EKZKSB78*MTczODI0MzIxOC4zMS4xLjE3MzgyNDM0NTYuNTEuMC4w).

<sup>77</sup> A/RES/ES-10/21.

<sup>78</sup> Including as set out by France, Ireland, Norway, Switzerland, amongst others.

<sup>79</sup> E.g., as set out by Germany, Netherlands, Bulgaria, Canada, Poland, Australia, Republic of Korea, amongst others

<sup>80</sup> For more information, see the meeting record; A/ES-10/PV.45.

<sup>81</sup> Uniting for Peace has been used 13 times in 74 years, most recently in 2022 after Russia invaded Ukraine. It is a way of UN member states showing their frustration that the Security Council is deadlocked. The Uniting for Peace resolution was adopted in 1950 when the Security Council was deadlocked owing to Cold War politics. The five permanent members (China, France, Russia, UK, and USA) were split along Cold War lines and used their veto powers accordingly. This rendered the Council largely impotent other than on matters about which neither side felt strongly. And given that the Security Council is the only body with enforcement powers, there was concern that the UN would fail to address threats to peace and security. Uniting for Peace is aimed specifically at times when the Security Council does not act because there is not unanimity among its permanent members. Or, to put it another way, it is an attempt to circumvent one of those members using their veto power to block a Council resolution or action.

General Assembly to convene a meeting through the Secretary-General and to make recommendations for collective measures, including “the use of armed force when necessary.” Uniting for Peace does not enable the General Assembly to circumvent Security Council decisions. Essentially, the resolution sets out that, if the Council does not take action to maintain international peace and security, the Assembly may (at a regular or emergency session) make recommendations to restore that peace and security. So, rather than giving the Assembly the Council's enforcement powers, it enables the Assembly to use its existing powers or to make recommendations that member states may or may not choose to adopt. Those existing powers include calling for an International Court of Justice advisory opinion, which is not legally binding, allocating funds from the UN budget to an issue, establishing investigative mechanisms, or calling for states to do or not do certain things. It has created a UN disengagement and supervising force, with the concerned state's consent, and with monitoring rather than enforcement powers. None of these are the kind of coercive measures that the Council can deploy, such as sanctions, embargoes, no-fly zones, peacekeeping operations, and authorized use of force.

At the emergency session convened under the Uniting for Peace resolution on December 12, the General Assembly called for a ceasefire and the “immediate and unconditional release of all hostages.”<sup>82</sup> Only 40 states did not vote for the resolution, showing the increasing global desire for the war to end. The following week, the Assembly voted on a resolution to “reaffirm” the Palestinian people's right of self-determination.<sup>83</sup> That resolution, and multiple others passed earlier in the month on December 7 and 8, was part of the ongoing regular resolutions passed about Israel and the Occupied Palestinian and Syrian Territories. Discussions of course included references to the ongoing war, but the resolutions focused on their usual areas of concern rather than on the current war between Israel and Hamas.

In 2024, two resolutions of note were passed at the General Assembly. The first focused on Palestinian statehood and the second responded to an Advisory Opinion from the International Court of Justice. The importance of these resolutions goes beyond their substance as they were again politicized tactics seeking to circumvent the Security Council's deadlock and to use other UN bodies to pressure Israel to end the conflict.

Resolution A/RES/ES-10/23 was passed on May 10, 2024. The General Assembly determined that the State of Palestine was qualified for UN membership and accordingly recommended that the Security Council reconsider the matter, in light of this resolution and of the ICJ advisory opinion of May 28, 1948, and “in strict conformity with Article 4 of the UN Charter.”<sup>84</sup> The substance of the resolution, however, focused on giving Palestine additional rights as an observer member, but not the same rights that member states hold.

The focus on the right of self-determination of the Palestinian people is an ongoing one that highlights the need for a two-state solution. But declaring that Palestine is a state does not mean that it is or

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<sup>82</sup> A/RES/ES-10/22.

<sup>83</sup> A/RES/78/192.

<sup>84</sup> A/RES/ES-10/23.

can become one. When the UN was created in 1945, as we have seen, the majority of today's countries were still under colonial rule.<sup>85</sup> Since then, states have been created through secession following civil war,<sup>86</sup> the break-up of countries,<sup>87</sup> or dissolution of empires.<sup>88</sup> There are also peoples at various stages of exercising their right of self-determination, ranging from Biafra to Balochistan, from Kosovo to Kurdistan, from Taiwan to Tibet.

The best and most used formulation for statehood is found in the Montevideo Convention on the Rights and Duties of States (1933). It sets out four key criteria: (1) defined territory, (2) permanent population, (3) effective government, and (4) capacity to enter into relations with other states.<sup>89</sup> The first three are factual; the fourth is political. A state must be able to behave like other states, which it can only do if other countries allow it to. Biafra had all three factual criteria between 1967 and 1970, but with only a handful of states granting it formal recognition it could not operate as a state. 119 countries currently recognize Kosovo, but some powerful countries (e.g., China, Russia, Spain, and Greece) do not, which prevents it from joining the EU and the UN, and other international organizations.

Currently, more than 145 UN members recognize Palestine as a state. Those who do not include France, UK and US, three of the five permanent members at the Security Council, as well as the majority of EU members, amongst others. Palestine is a full member of the Organization of Islamic Cooperation. The General Assembly made it a non-member observer state in 2012. Before that it was a non-member observer entity. For full membership, it needs the support of nine of the 15 Security Council members, and for no permanent member to veto it, as happened on April 18, 2024.<sup>90</sup> General Assembly Resolution ES-10/23 must be seen in the context of the ongoing push for a two-state solution, the right of Palestinian people to self-determination, and the frustration of many UN members at the Security Council's deadlock on the conflict.<sup>91</sup>

On September 18, 2024, the Assembly passed Resolution A/RES/ES-10/24, responding to the International Court of Justice's advisory opinion dated July 19, 2024, which had been requested by the General Assembly in Resolution 77/247 on December 30, 2022. In all, 124 states voted in favor of the resolution, which others criticized as going "well beyond" the ICJ opinion and perhaps even beyond the ICJ's powers. This resolution must be seen within the context of the ongoing case brought by South Africa against Israel under the Genocide Convention, and the spotlight on the International Court of Justice's provisional measures ruling around that same time. The world court does not have enforcement powers, but its rulings have gravitas. It has frequently been called upon to issue judicial

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<sup>85</sup> See, for example, Frederic L. Kirgis Jr., "The degrees of self-determination in the United Nations era," *American Journal of International Law* 88.2 (1994), pp. 304-310.

<sup>86</sup> e.g., South Sudan.

<sup>87</sup> e.g., the Former Yugoslavia.

<sup>88</sup> e.g., the USSR.

<sup>89</sup> For more on this topic, see for example Thomas D. Grant, "Defining statehood: The Montevideo Convention and its discontents," *Colum. J. Transnat'l L.* 37 (1998), p. 403.

<sup>90</sup> <https://press.un.org/en/2024/sc15670.doc.htm>.

<sup>91</sup> For discussion of the difference between recognising the right to statehood vs the recognition of statehood, see G. Kyris, "The Recognition of a Right to Statehood and Palestine," *Ethnopolitics* (2024), pp. 1-11. <https://doi.org/10.1080/17449057.2024.2362510>.

rulings or opinions on Israel and the Occupied Palestinian Territories as part of a lawfare strategy to delegitimize and isolate Israel.

### 3.3 UN Human Rights System

As discussed above, the UN Human Rights Council has continued in its predecessor's footsteps in terms of being used as a vehicle for politicized tactics to keep excessive scrutiny on Israel. The UN Human Rights Council has time and again shown bias, selectivity, and double standards where it comes to Israel. It has focused excessive and grossly disproportionate attention on Israel while ignoring far worse human rights abuses elsewhere. It has used Israel as a way to deflect attention away from other—often far worse—human rights crises. It has sought to turn Israel into a pariah state while giving important positions to countries far more deserving of outcast status.

It was therefore unsurprising that the Council and its related mechanisms, including support staff in OHCHR, devoted significant time and attention to the human rights catastrophe in Gaza with little or no mention of the human rights violations on October 7<sup>th</sup> or the ongoing attacks and displacement of Israelis in the South and North of the country. This subsection does not provide a comprehensive analysis of the response from the UN human rights system, as to do so would require more documentary evidence and in-depth analysis than space constraints allow. Instead, it provides some illustrative examples of the ways in which Israel has been treated by the system.

It is noteworthy that the human rights system, unlike the Security Council, condemned the atrocities perpetrated by Hamas. It also called for the return of the hostages. Within five days of those attacks, a group of UN Special Procedures mandate holders issued a statement that both condemned the October 7<sup>th</sup> attacks and also called for an immediate ceasefire and humanitarian aid into Gaza.<sup>92</sup> The ongoing demand for a ceasefire from the outset, whether by the mandate holders, member states, or UN personnel, was viewed by many as a denial of Israel's right to self-defense under the UN Charter. From the perspective of human rights bodies and experts, however, this was supposedly justified by stating:

Armed attacks and military responses have already proven incapable of leading to security and respect for human rights of all. Restoring international legality, accountability and respect for humanity and dignity of all must prevail, including an end to Israel's 56 years of military occupation.<sup>93</sup>

One key point to note, and one that occurred time and again in later joint statements, is the number of mandate holders who signed the statement who had no connection to Israel or the Occupied Palestinian Territories.<sup>94</sup> While clear links can be drawn between the war in Gaza and the impact on

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<sup>92</sup> <https://www.un.org/unispa/document/un-experts-statement-gaza-israel-12oct2023/>.

<sup>93</sup> Ibid.

<sup>94</sup> These include: Ian Fry, Special Rapporteur on the promotion and protection of Human Rights in the context of Climate Change; Javaid Rehman, Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Tomoya Obokata, Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Mohamed Abdelsalam Babiker, Special Rapporteur on the Situation of Human Rights in Eritrea; Attiya Waris, Independent Expert on

water and sanitation, education, food, housing, and violence against women, there are no obvious reasons other than politicized objectives for mandate holders on areas such as albinism or climate change to sign the statement.

This pattern continued, and as time went on the language moved from condemning all human rights violations to focusing solely on Israel. Those joint statements were led by the Special Rapporteur on Israel and the Occupied Palestinian Territories, Francesca Albanese, who had long been criticized as biased against Israel even before her appointment to that mandate. In November 2022, Albanese had told a Hamas conference, “You have a right to resist.”<sup>95</sup> That same year, Deborah Lipstadt, the US Special Envoy on Antisemitism, insisted that Albanese’s “blatant antisemitic rhetoric” was “an established pattern” that “severely undermines” her credibility.<sup>96</sup> This is not unusual for the people appointed to this mandate, and indeed follows a long history of complaints about the gross biases of previous mandate holders.

Albanese’s focus on the ongoing human rights violations can fully be understood given the escalating humanitarian catastrophe in Gaza. The criticisms of her statements and reports, however, were that the sole focus was on Israel misdeeds with no mention of the human rights violations perpetrated by Hamas against Gaza’s own population, let alone against Israelis. Moreover, she used her mandate to go beyond human rights and to engage in the type of rhetoric used to delegitimize Israel. One clear example was when she claimed that the threshold for genocide had been attained despite no investigations having been undertaken and the ICJ not having made that ruling.<sup>97</sup> She insisted that “the genocide in Gaza is the most extreme stage of a long-standing settler colonial process of erasure of the native Palestinians.”

The Commission of Inquiry on Israel and the Occupied Palestinian Territories had also been accused of being biased prior to October 7<sup>th</sup>.<sup>98</sup> The questions raised about Albanese’s use of antisemitic tropes were also raised about one of the Commission’s members, Miloon Kothari, and yet no action was taken.<sup>99</sup> Amongst the Commission’s many activities and reports, not only did it fail even once to address the atrocities and sexual violence by Hamas, but on May 7, 2024, it released a report<sup>100</sup>

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the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; Vitit Muntarbhorn, Special Rapporteur on the situation of human rights in Cambodia; Barbara G Reynolds (Chair), Bina D’Costa, Catherine S. Namakula, Dominique Day, Miriam Ekiudoko, Working Group of Experts on People of African Descent; Isha Dyfan, Independent Expert on the situation of human rights in Somalia; Richard Bennett, Special Rapporteur on the situation of human rights in Afghanistan; Obiora C. Okafor, Independent Expert on human rights and international solidarity; Livingstone Sewanyana, Independent Expert on the promotion of a democratic and equitable international order; Muluka-Anne Miti-Drummond, Independent Expert on the enjoyment of human rights by persons with albinism.

<sup>95</sup> <https://www.jns.org/un-envoy-to-hamas-you-have-the-right-to-fight-israel/>.

<sup>96</sup> <https://x.com/StateSEAS/status/1603160247417405441>.

<sup>97</sup> <https://news.un.org/en/story/2024/03/1147976>.

<sup>98</sup> <https://www.ejiltalk.org/biased-selective-antisemitic-accusations-against-the-un-commission-of-inquiry-on-israel-and-the-occupied-palestinian-territories/>.

<sup>99</sup> See, for example, <https://www.ejiltalk.org/biased-selective-antisemitic-accusations-against-the-un-commission-of-inquiry-on-israel-and-the-occupied-palestinian-territories/>.

<sup>100</sup> <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-26-auv.docx>.

insisting that the atrocities on 7th October “must be seen in context.”<sup>101</sup> Of course, the only challenges to such a statement from the UN human rights community was by those few who had already criticized Hamas for its atrocities.

#### **4. Concluding Observations**

Antisemitism is generally understood to manifest in three broad ways: religious antisemitism, racial antisemitism, and political antisemitism. The triangulation of antisemitism from the far left, far right, and radical religious groups is also well understood. The United Nations is made up of 193 member states, 192 of which have witnessed antisemitism of at least one type during their recent history. There is no country in the world in which Jews have lived where they have not at one time been persecuted, discriminated against, expelled, or killed for being Jewish. And there are no countries in the world that have not been impacted by antisemitic discourse and/or practice by their regional or political allies. It is against this backdrop that we must understand Israel, the one Jewish homeland and the symbol of Jewish people’s right of self-determination, and indeed their right to be treated like all other nations.

This paper is not aimed at providing comprehensive documentary evidence and analysis of the UN’s response to October 7<sup>th</sup>, but rather to explore the historical foundations needed for understanding what has occurred within the world’s global organization since that date in 2023. Some examples have been provided from key UN bodies, but it is worth noting that not all bodies or types of independent experts have been included, and that responses by UN personnel, funds, programs and agencies have not been included at all. Full analysis and documentary evidence of all parts of the UN Family goes beyond the scope of this paper, but there exists a need for them to be explored in a systematic manner that takes forward understandings of the UN’s treatment of Israel.

In order to counter the antisemitism within the UN, much more needs to be done to understand the common themes throughout the Organization’s existence. For example, Soviet and now Russian antisemitism and attempts to delegitimize Israel have been influential for decades. Russia’s support for Hamas and attempts to shield it from condemnation after October 7<sup>th</sup> can be understood only against that backdrop. Similarly, the politicization of UN bodies since October 7<sup>th</sup> can be understood only within the framework of the discourse and tactics used against Israel since the idea of a Jewish homeland was first introduced at the UN. A problem can be addressed only when it is named and understood. The UN responses to October 7<sup>th</sup> demonstrate that it is time to name and understand the problem of UN antisemitism in order that it may finally be countered.

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<sup>101</sup> (paragraph 6)