CHAPTER III

UNITED NATIONS AND REGIONAL CONFLICTS

The United Nations is the device the victorious nations in the World War II established in 1945 to secure world public order peace and security. The first declared objective of the UN is ‘to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind and towards this end to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and institution of methods, that armed forces shall not be used, save in common interest...’ To attain these goals the Charter, laid down some prescriptions and set up an enforcement machinery.

The prescriptions are contained principally in Article 2 Clauses (3) and (4). The Members are required to settle their international dispute by peaceful means in such a manner that international peace and security and justice, are not endangered. These are further required to refrain from in their international relations from threat to use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations’.

The machinery consists of the Security Council, the General Assembly and Regional Organisations. The Security Council is vested with the primary responsibility for the maintenance of international peace and security. It is vested, as is well known, with two types of competences, firstly, to act to settle international disputes or situations the continuation of which is likely to endanger the maintenance of international peace and security; and secondly to determine the existence of a threat to the peace, breach of the peace or act of aggression, and to recommend or decide on measures of maintain or restore international peace and security.
Broadly speaking, the dispute settlement under the auspices of the United Nations is made possible through proceedings which may come into being in the following ways:

a) Through the initiative of the Security Council;

b) Through the initiative of any Member State;

c) Through the initiative of a non-Member State;

d) By virtue of the mandatory provisions of the Charter;

e) Through the mutual request of the parties to disputes; and

f) Settlement through other agencies.

**Through the Initiative of the Security Council**

Chapter 4 of the charter of the United Nations, which deals with pacific settlement of disputes, gives the security council powers, under Article 34, to investigate any dispute or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of such dispute or situation is likely to endanger the maintenance of international peace and security.

Further, under Article 36, the Security Council may, at any stage of a dispute of the nature referred to in Article 33, namely, disputes continuance of which is likely to endanger international peace and security, recommend, but not order, appropriate procedures or methods of adjustment at its own initiative, keeping of course, in view, as required under Article 36(3), that while making recommendations under this Article the Security Council should also take into consideration that legal disputes should, as a rule be referred by the parties to the International Court of Justice. Besides, by virtue of its powers under Article 24 of the UN Charter, in the form of “primary responsibility for maintenance of internationals peace and security” the Security Council can, either on a request from a disputant party, or its own initiative, use its “good offices” or “mediation”, as it in fact did in case of the Indonesian Conflict in 1947.
Article 33 of the UN Charter stipulate that:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their disputes by such means.

These provisions indicate that the choice of the appropriate procedure lies with the parties and as such they make use of any of the procedures laid down in Article 33(1) for the pacific settlement of their disputes. Thus, under Article 33(2) the Security Council can, and therefore, shall, when it deems necessary, call upon the parties to settle their disputes by such means as enumerated in Article 33(1).

**Through the Initiative of any Member State**

Under Article 35(1) of the UN Charter “any Member of the UN may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or the General Assembly.”

Thus, the provisions of Article 35(1) are wide enough to entitle “Member” to take initiative in this respect irrespective of the fact whether that member is a party to such a dispute or not.

**Through the Initiative of Non-Member State**

Article 35 clause (2) provides that:

“A State which is not a Member of the United Nations may bring to the attention of the Security Council or the General Assembly any dispute to which it is a party if it accepts in advance, for the purpose of the dispute, the obligation of pacific settlement provided in the present charter.”
The provisions of clause (2) of Article 35 differ from the provisions of clause (1) of that Article in this respect that under the clause (1), a Member State can take the initiative irrespective of the fact whether Member State is party to such a dispute or not whereas under clause (2), a non-member State is entitled to make such a move only then if it itself is a party to such a dispute. Further, a non-member state has to accept in advance, for the purpose of the said dispute, the obligation of pacific settlement provided in the charter, before it takes such an initiative.\textsuperscript{117}

By virtue of the Mandatory Provisions of the Charter

1. “Should the parties to a dispute of the nature referred to in Article 33 fails to settle it by the means indicated in that Article, they shall refer it to the Security Council.”

2. “if the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recomme4nd such terms of settlement as it may consider appropriate.”

The provisions of Article 37 are mandatory and they contain the obligation of the parties to compulsorily refer a dispute to the Security Council as well as the powers of the Security Council to make recommendations if the circumstances of the dispute are such that the provisions of this Article can be invoked.

\textsuperscript{117} Just like the right of a non-member state, under Article 35(2), the General Assembly and the Secretary General are given a right under Articles 11, (3) and 9, respectively, to bring to the attention of the Security Council, “Situation” or “any matter”, respectively if such “situation” or “any matter” are likely to endanger or may threaten “international peace and security.”
Through Mutual Request of the Parties to a Dispute

Article 38 states that:

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute request, make recommendations to the parties with a view to a pacific settlement of the dispute.

The Action of the Security Council in the form of recommendations etc., under this Article is dependent upon the factum of agreement of all the parties to make requests to the Security Council. If all the parties do not join in such a request then the Security Council may move under the provisions of any other Article, e.g.; Article 36, etc.; but it cannot move under Article 38 in the absence of the element of mutuality, of all the parties, in the said request.

Settlement through other Agencies:

Article 33 makes provision that the parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security, shall seek a solution through means enumerated in the said Article. Along with other means of settlement there is a mention of the means of “resort to regional agencies or arrangements.”

Besides Article 33 there are also some other provisions of the Charter, which contain such references. Article 52(3), for instance provides that:

3 “The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council.”
In the light of these provisions, or otherwise, some regional organisations have emerged within the community of States and these organisations have created some mechanism for the settlement of disputes arising among the member states with reference to the field covered within the framework of the respective organisations. Some of these arrangements or development are:

iii) The Inter-American Treaty of Peaceful Settlement of Disputes of 3-4-1948 (Bogota Pact).  
v) The European Community for Coal and Steel, The European Atom Community (EUR ATOM), The European Economic Community (EEC) and The Court of European Community.  

It is evident from chapter IV that the Gulf region is infested with internecine conflicts among its member states on one or the other issue. However, the magnitude of these conflicts is localized. There are a few major conflicts like the Arab-Israel, Iraq-Iran and Iraq-Kuwait that have acquired global dimensions and reached the UN. This chapter will document the role of UN in the two major conflicts of the region viz; Arab-Israel and Iraq-Iran. A separate chapter is devoted to the UN role in the Iraq-Kuwait conflict.

118 US Department of State Publication 646, 1243 ff, (1957).  
119 2 B.G. Bl, Bundesesetzblatt, 256, 195.  
121 2 B.G. Bl. 81 ff, 1961.  
122 2 Archive des Veolkerrecht, 318 ff.
The Arab-Israel Conflict

For several decades, the Palestinian Question and the conflict in West Asia remain a moot question both in the United Nations and the nations of the world. It remained a source of international tension and a threat to world peace and security. Ever since its creation the United Nations has been concerned with this issue. The partition Plan marked the beginning of a meddling process of the UN in the Palestinian problem. Earnest Begin, then British Foreign Secretary, on 18 February 1947 in the House of Commons said "His Majesty’s government saw no prospect for a settlement of the problem of Palestine, and had no choice but to submit the whole problem of Palestine to the United Nations." On, 2 April 1947 the British representative, Sir Alexander Cadogan, wrote a letter to the Acting Secretary-General of the United Nation, Victor Chi Tsai Hoo, requesting him:

To place the question of Palestine on the Agenda of the General Assembly at its next regular annual session to sum on, as soon as possible, a special session of the General Assembly for the purpose of constituting and instructing a special committee to prepare for the consideration, at the regular session of the Assembly."

A special session of the UN General Assembly took place on 27 April 1947. The special session of the UN General Assembly discussed the question of the future government of Palestine. The United Nations special commission on Palestine submitted its report in September 1947. The report offered two plans, a majority and minority plan. The majority plan proposed the termination of mandate, the partition of Palestine and the creation of an Arab State, a Jewish State and special international regime for the city of Jerusalem to be administered by the UN. The Arab and Jewish states were to be lined by an economic union. The minority plan also suggested termination of the mandate, but favored the setting up of a federal state and Jewish State with Jerusalem as the capital.

123 UK House of Commons, Parliamentary Debates, Vol. 433, Col. 1938
124 Un Document A/364
Despite Arab opposition the General Assembly adopted on 29 November 1947, by a vote of 33 to 13 with 1 abstentions, a resolution for the partition of Palestine basically along with proclaiming the State of Israel on 14 May 1948, when the British Mandate lapsed. The British withdrew their forces without making any arrangement for maintaining the law and order. The Arabs were determined to fight the division of their land. The Palestine Commission appointed by the UN General Assembly was convened to consider further the question of the future government of Palestine. Discussion in this session revealed at a number of states had by now revised their opinion about the durability of partition of Palestine. The UN General Assembly met on 4 May 1948, the last day of British mandate and adopted Resolution 186-S-2, which in effect annulled the earlier (dubious) partition recommendation and appointed a UN mediator to virtually run the country and try to reach a peaceful adjustment of the Culture situation of Palestine.

On May 1948, the Security Council accepted Israel’s application for admission to the United Nations. A wee later, the General Assembly also passed a resolution – GA Resolution 273 (III) – and granted Israel the membership in the United Nations. The Israeli representative had given assurance that Israel would observe the principles of the UN Charter and would implement its resolutions without invoking the claim of domestic jurisdiction. The UN General Assembly resolution admitting Israel had made specific reference to those assurances and to the fundamental resolutions. It said:

“Noting.... The declaration by the declaration by the State of Israel that is unreservedly accepts the obligations of the United Nations Charter and undertakes to honor them from the day the it becomes a member of the United Nations.”

Recalling its resolutions of 29 November 1947 and 11 December 1948 and taking note of the declaration and explanations made by the representatives of the Government of Israel before the adhoc Political Committee in respect of the implementation of the said resolutions.
“The General Assembly…. Decides to admit Israel to membership in the United Nations.”

The consequence of the establishment of Israel in Palestine against the opposition of the Palestinian Arab majority widened into a broader Arab-Israeli conflict. The 1956 Suez War was one outcome of this dispute, although not directly involving the Palestine issue or territory. The Arab-Israel war of June 1967, however, brought immediate and direct repercussions on the Palestine question. Israel occupied the West Bank, the Gaza strip and East Jerusalem as well as territories beyond the control far more than the area claimed by the World Zionist Organisation in 1919, except for the East Bank of the Jordan.

The great majority of Palestinians in the West Bank and Gaza were made refugees—may for the second time, having sought refugee in these areas during the first exodus of 1948—those that stayed in Israeli occupied territory after 1967 came to form a new category distinct from those within Israel’s pre-1967 borders, who were entitled to Israeli citizenship. The new class was one of a people under foreign military occupation, subject to military rule, its repercussions and its consequences for the suppression of civil liberties and rights.

An uneasy peace had been maintained since 1956 with the help of the United Nations Emergency Force (UNEF) and after 1967 peacekeeping responsibilities were assumed by the Unit Nations Truce Supervision Organisation in Palestine (UNTSO). Immediately after the cease-fire of June 1967, the Security Council unanimously passed resolution 237 from the United Nations. Standpoint, Resolution 242 was intended to establish a framework for peace in the Middle East. However, it did not explicitly mention Palestine the only cognizance of the underlying issue of Palestine was in the reference to “the refugee problem”. Further, on the territorial plane, resolution 242, by calling on Israel to withdraw to the pre-1967 war borders. Implicitly endorsed Israel’s jurisdiction over the territory occupied by Israel in the 1948 war beyond the line laid down by the partition resolution.
Under Security Council Resolution 242, the Secretary General appointed Ambassador Jarring of Sweden as Special Representative in another United Nations effort to try and negotiate a Middle East settlement. Ambassador Jarring’s attempts from 1967 to 1970 to promote agreements on the basis of Resolution 242 did not succeed. In 1971, in identical aide-memoire to Egypt and Israel, he proposed that they give simultaneous and reciprocal commitments subject to the eventual satisfactory determination of all other aspects of a peace settlement. Israel would give a commitment to withdraw its forces from occupied Egyptian territory to the former border between Egypt and mandate Palestine, and Egypt would give a commitment to enter into a peace treaty with Israel on certain explicit undertakings in relation to Resolution 242. Egypt agreed to give the commitment required if Israel would likewise give the commitments covering its own obligations.

The Israeli response, without specific reference to the commitment requested from it, stated that it viewed favourably Egypt’s expression of readiness to enter into a peace agreement with Israel, and reiterated that it was prepared for meaningful negotiations on all subjects relevant to a peace agreement between the two countries. Israel stated it would give an undertaking to withdraw its forces to secure recognized and agreed boundaries to be established in the peace agreement; Israel would not withdraw to the pre-5 June 1967 lines. The Jarring missions could not produce an agreed basis for discussions, and was suspended in 1972.

On 6 October 1973, the Egyptian and Syrian armies simultaneously attacked Israel to get back the territories that they had lost in June 1967 the Security Council met ten time between 8 and 27 October to consider the West Asian situation.

The debate in the council remained inconclusive till 20 October. Nothing tangible in the form of a cease-fire resolution was achieved, chiefly because of lack of consensus among members. At the same time, no initiative was taken to persuade either side to cease hostilities. Indeed there prevailed a feeling of frustration in the United Nations over the worldbody’s inability to influence events. At last on 21 October, the
United States and the Soviet Union presented a joint resolution containing the basis of a cease-fire. This resolution was adopted as resolution, 338 (1973) by a vote of 14 to nil. (China did not participate in the vote). The Resolution called upon the parties concerned to stop the fighting to cease-fire and terminate all military activity within twelve hours and in the positions these parties occupied at the time of the adoption of resolution. The council also called upon them to start implementing Resolution 242 (1967) in all of its parts immediately. The Israeli representative demanded that cessation of military activity should also include the lifting of the blockade imposed by Yemen at the Bab-el Manadab Straits.\textsuperscript{125}

The cease-fire arranged on 2 October was broken when Egyptian and Israeli clashed again on both sides of the Suez Canal. Resolutions 338 (1973) was incomplete in the sense that it did not link the call for a cease-fire with the means to ensure response to it, a weakness that Israel tried to exploit with a view to improving its military position. A second cease-fire was, therefore arranged on 23 October. The council adopted joint US-Soviet draft resolution as resolution 339 (1973) by 14 votes to nil. China did not participate in voting.

On the initiative of the non-aligned countries the Council adopted a resolution 340 (1973) – following abortive and persistent Israeli attempts to invade the city of Suez and proceed to the West Bank of the Canal.

In 1973, the General Assembly specially and strongly again endorsed the right of return of the Palestinian people, tracing it directly to resolution 194 (III) of twenty-five years earlier, declaring that the Assembly:

"Declares that full respect for land realization of the inalienable rights of the people of Palestine, particularly its rights of self determination, are indispensable for the establishment of a just and lasting peace in the Middle East, and that the enjoyment by the Palestine Arab refugees of their right to return to their homes and

\textsuperscript{125} Official records of the Security Council (SCOR) yr 281, Col. 64-66.
property, recognized by the General Assembly in resolution 194 (III) of 1
December 1948, which has been repeatedly reaffirmed by the Assembly since that
date, is indispensable for the achievement of a just settlement of the refugee
problem and for the exercise by the people of Palestine of its right to self-
determination.  

In 1975, reaffirming to the previous resolution, the General Assembly established
the Committee on the Exercise of the Inalienable Rights of the Palestinian people. 

The Committee on Palestinian Rights presented its report in May 1976.

The Committee’s report was discussed by the Security Council in June 1976. A
draft resolution was submitted affirming:

“The inalienable rights of the Palestinian people to self-determination, including the
right of return and the right to national independence and sovereignty in Palestine,
in accordance with the Charter of the United Nations.”

The resolution failed due to the negative vote of a permanent member (the USA).

The Committee’s report was endorsed by the General Assembly in November
1976, and in December 1977 the Assembly on both occasions re-endorsed the right
to return of Palestinian people.

On 14 October 1974, the General Assembly adopted a resolution GA Resolution
3210 (XXX)-recognising the PLO as the true representative of the Palestinian people. It

126 General Assembly Resolutions 3089 D (XXVIII) of 7 December 1973 Votes: 87 in favour, 6 against,
33 abstentions.
127 General Assembly Resolution 3376 (XX) of 10 November 1975 Votes: 90 in favour, 18 against, 27
abstentions.
128 General Assembly Resolution 31/20 of 24 November 1976 Votes: 90 in favour, 16 against, 30
abstentions.
129 General Assembly Resolutions 32/40 of 15 December 1977.
authorized the PLO “to participate in the deliberations of the General Assembly on the question of Palestine.”

On 13 November 1974, the Chairman of the PLO, Yasser Arafat, was invited to address the Assembly. In his speech Arafat declared that the United Nations had no authority to partition Palestine in 1947. The General Assembly partitioned what it had no right to divide- an “indivisible homeland”. He concluded by saying that he had come bearing “an olive branch and a freedom fighter’s gun. Do not drop the olive branch.”

On 22 November the General Assembly adopted another resolution GA Resolution 3236 (XXXIX) – which conceded to the Palestinians the “inalienable right to self-determination, independence and national sovereignty.” It declared that “the inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine.”

On the same day, by another resolution - GA Resolution 3237 (XXXIX) it accorded observations to the PLO in the General Assembly and at all international conference that might be convened under the UN auspices in the future. Thus the United Nations sought to correct and make amends or the error it had committed when deciding on partition of Palestine and on 29 June 1976 the Security Council considered a draft resolution taking note of the report of the committee and affirming the inalienable rights of the Palestinian people to self-determination, including the right of return and the right to national independence and sovereignty in Palestine, an accordance with the UN Charter.

On 13 November 1974 Yasser Arafat, Chairman of the Palestine Liberation Organisation, addressed the General Assembly. In his speech he directly addressed the question of the terrorist image of the PLO.
"Those who calls us terrorists wish to prevent world public opinion from discovering
the truth about us and from seeing the justice on our faces. They seek to hide the
terrorism and tyranny of their acts, and our own posture of self-defence."

"I appeal to you to enable our people to establish national independent sovereignty
over its own land.

Today I have come bearing an olive branch and a freedom fighter’s gun. Do not
let the olive branch fall from my hand. I repeat: do not let the olive branch fall from my
hand.

War flares up in Palestine, and yet it is in Palestine that peace will be born."

As its thirtieth session in 1975, the General Assembly requested the Security
Council to act to enable the Palestinian people to exercise their rights. The Assembly
also called for the participant of the PLO, on an equal footing with other parties, in all
negotiations on the Middle East held under UN auspices, requesting the Secretary-
General to make effort to secure the invitation of the PLO to the Peace Conference on the
Middle East (first convened at Geneva in December 1973).

Further in another resolution, the General Assembly expressed its concern and
established the committee on the Exercise for the inalienable Rights of the Palestinian
people.

Ambassador Medoune Fall of Senegal, Chairman of the Committee, "... (the
committee’s) mandate was not to deal with Middle East question in its entirely, but,
rather, to seek ways and means of implementing the inalienable rights of Palestinian
people. In other words, the task of our committee consists, above all, in righting the basic
imbalance which has always characterized the various United Nations approaches to

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130 Document A/PV.2282, pp. 31ff.
131 United Nations General Assembly Resolution no. 3375 (XXX) of 10 November 1975.
Palestine, to redress that regrettable imbalance and to give the Palestine question its rightful place and its true dimension...”\footnote{United Nations Document S/PV. 2041, p. 8.}  

The Chairman stressed that the inalienable rights of the Palestinian people had been recognized by most countries adding that:  

“Israel’s right to exist is no longer challenged by anyone. But Israel in turn must recognize the legitimate rights of its neighbours. The world is now thirsting for peace and security Israel has no right to continue to pose constant threats to the very survival of our planet...”\footnote{Ibid, p. 11.}  

However, the Security Council adjourned the discussion without taking any action.  

\section*{The Camp David}  

In the mean time Egyptian President Anwar Sadat visited Jerusalem on 19 November 1977 this visit by the head of state of the largest Arab country to Israel, with which it had been at war for 30 years had the effect of bombshell in the Middle East. In his address to the Knesset on 20 November he outlined two basic points of his peace proposal:  

(i) Total Israeli withdrawal from Arab lanes occupied in 1967. Such withdrawal, he said, being “elementary, not negotiable and not subject to argument.”  

(ii) Realization of the fundamental rights of the Palestinian people and their self-determination, including the establishment of their own state.  

In the negotiations that followed between Begin the Sadat, a complete deadlock occurred on the question of Israeli withdrawal from Egyptian territory. Sadat declared: Egypt will insist on Israel’s withdrawal from ‘every inch of Sinai’, on the dismantling of
every Jewish settlement’ established there and on the departure of ‘every Israeli settler’ from Egyptian territory.

To which begin retorted in Shylock fashion that Israel would not return ‘one grain of sand’ of Sinai without receiving value in return and would maintain its settlements and settlers. In the face of this impasse, US President Jimmy Carter offered his service as a mediator and invited the two men to come to Camp David to negotiate under his patronage. During two weeks of seclusion and intense negotiations the three protagonists developed what they thought to be a suitable terrain for compromise: Palestinian rights and territory in consideration for withdrawal from Sinai. This formula inspired the Camp David Accords which were signed on 17 September 1978 and embodied a framework for peace in the West Bank and Gaza as well as provision for the Egyptian-Israeli Peace Treaty that followed and was signed on 26 March 1979. The Camp David Accords were denounced and declared invalid in several resolutions of the General Assembly of the UN as being inconsistent with the inalienable rights of the Palestinian people.

The General Assembly of the UN proclaimed the invalidity of the Camp David Accords. In its resolution 33/28 of 7 December 1978 the General Assembly declared in paragraph 4 that:

“The validity of agreements purporting to solve the problem of Palestine requires that they lie within the frame work of the United Nations and its Charter and its resolutions on the basis of the full attainment and exercise of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine and with the participation of the Palestine Liberation Organization.”

This was followed by resolutions 34/65 of 29 November 1979 in which the General Assembly declared in paragraph 4 that, “The Camp David Accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian territories occupied by Israel since 1967.” Resolution 34/65 was reaffirmed
by the General Assembly on 16 December 1981 in its resolution 36/120 which rejected any accords that ignore, infringe, violate or deny the inalienable rights of the Palestinian people, including the rights of return, self-determination, national independence and sovereignty in Palestine.

With the Intifadah, Israel’s perception of its security environment slowly began to change. It realised that its internal security problems could wrench the country apart unless solutions were found for dealing with violence and the political sources of Palestinian discontent. And in 1988, when Iraq defeated Iran, it received a further shock. Israel feared the Arab world would fall under the spell of Saddam Hussein and sure enough during the spring of 1990, Saddam’s rhetoric against Israel found a receptive audience in Arab capitals.

In order to crush the uprising thousands of Israeli forces, military vehicles, armoured Vehicles, helicopters and light planes were employed in the West Bank and Gaza. The Zionist repression meted out to the Palestinian included measures such as demolishing houses, beating the curfew breakers, breaking the bones of the demonstrators, harassing the inhabitants and deporting the people.

In November 1988, some 90 nations formally recognised the existence of the state of Palestine and the US entered into a dialogue with PLO, now recognised as the sole representative of as the sole representative of the Palestinian people. In December, Yasser Arafat announced his support for a two-state solution to the Arab-Israeli conflict and accepted the right of Israel to exist. The talks lasted till June 1990, but broke off because the PLO refused to condemn terrorist attacks on Israel.

A whole realignment of the geographical situation also brought about change in attitudes among the political elite in the region. With the end of super-power rivalry Israel realised it could not continue its occupation of the West Bank, Gaza and the Golan Heights without creating some friction with Washington. And finally in 1990, Iraq’s invasion of Kuwait created new dangers for Israel as both Jordan and the PLO tilted
towards Saddam. Though Saddam was defeated by the Allied forces, Israel’s inability to
defend itself against Scud bombardment during the war made it conscious of its own
vulnerabilities. The United Nations stand was very clear. The first resolution of the
Security Council when the intifadah commenced, disapproved Israeli policies and its
exercises which were nothing but violation of Human rights of the Palestinian people in
the occupied lands. The UN resolution 605 which was issued on 12.12.1987 mentioned
specifically the shooting incidents by the Israeli Army which led to the killing and
injuring of a large number of the unarmed Palestinian civilians.

The Israeli Prime Minister, Izhaq Shamir was against this resolution. Shamir
during his discussion with US expressed fear of reaching a mediator solution which will
prevent US from voting. Shamir also announced that the refusal of the US to use its veto
power will encourage the extremist at real. However, it voted in favour of the second
resolution 607 which was passed on 5.01.1988 this resolution 607 called upon authorities
in the occupied territory to stop the forced immigration of the Palestinians and asked
them to stay committed to their responsibilities mentioned in the Geneva Agreement of
1949 which is related to the security of the civilians under occupation.

In the meantime the Secretary General of the UN as per resolution No. 605
authorised Assistant Secretary General of the UN Mark Golding, to prepare a report on
the situation in the occupied lands. He was appointed on 12.01.1988 and very soon he
started his work. But Mark Golding was prevented from his duty. The Israeli Army tried
to make his task difficult from entering the Gabalia camp, and Al-Shaten in Gaza Strip.
The reason given was that the first camp was in a military zone, and in the area of second
camp, prohibition orders were in effect. But Golding reached the conclusion at the end of
his task that the Palestinian actually hated occupation. He exposed further that his
impression of 20 years of occupation made the situation unbearable.135

Even in the presence of Golding in the occupied territory the Zionist state violated
the Security Council Resolution 607 and removed four more Palestinians from the

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occupied lands. The Security Council issued resolution 608 on 15.01.1988 with 14 votes in favour and the US abstaining which asked the authorities in the occupied area to cancel the orders of the removal of civilians and to return those who were sent out.136

The Israeli authorities in occupied areas adopted a new method to freeze the Palestinian people uprising. They adopted the hunger siege method as a means of freezing uprising. At that time the Attorney General of the International Agency for Relief Word (UNRWA) warned that the dis-continuation of the supply to the area would lead to actual starvation of children and elderly women and men.137

The UN Secretary General prepared a detailed report to put it forward to the Security Council on the prevailing situation in the occupied territory on 22.01.1988.138 In this report the main thrust was on the ways and methods of securing safety to the civilians under Israeli occupation. It also reiterated the need to implement the Geneva Agreement of 1949. Despite efforts and numerous resolutions adopted by the United Nations, regrettably, all these remained unimplemented. In an era when most nations have attained freedom, the Palestinians continue to live under Israeli occupation. Resolution 181 of 20 November 1947 had set up a Jewish state and an Arab state. Whereas, Israel has been created the Arab state of Palestine has still not come into existence.

**The Iraq – Iran Conflict**

From 1929 to 1958 relations between Iran and Iraq were stable, as both regimes were monarchies, despite their old conflict which they inherited from the Ottoman Empire. But after the revolution of 1958 which brought a military regime to power in Iraq, the direction of Iraq’s domestic and foreign policy changed. During this period, the relations between the two countries sunk to its lowest point, and even in 1968 by the coming of the Arab Baath Party, relations became worse, because Iran escalated its

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138 UN Document.
support to the Kurdish rebels in northern Iraq. However, in March 1975, the mediation by several leaders, especially Algerian President Boumedian, led to the signing of the treaty known as the Algiers Accord. But this compromise did not last long. On September 17, Saddam Hussein abrogated this treaty in response to Iran’s provocation and military skirmishes along the Iran-Iraq frontiers, and on September 22, 1980, a full-scale war started with Iraqi forces invading Iran.

Ideological rivalry has always been and explosive issue between the two countries. Each side is driven by a set of goals: Iran by Shiite revivalism and Iraq by secular Islam, striving towards Arab destiny. This rivalry opted radical Arab socialism, including Ba'thism against the Shah who, as defender and protector of the regional status quo was determined to prevent the Iraqi influence and power throughout the Gulf region. With the success of the Iranian revolution, the ideological debate reached a severe intensity under its spiritual leader, Ayatollah Khomeini, who branded Ba’thism as a satanic philosophy and who swore to destroy it and Saddam Hussein. Khomeini, like the Shah before him, declared himself under the Shia banner, a champion of Iranian supremacy driven by a religious ideology to achieve domination of his nation.

Another factor in the war was the existence of a large Shia population in southern Iraq. Khomeini banked on the call on the Iraqi army to overthrow Saddam Hussein. Shia militants in Iraq were executed and 40 thousand Shia of Iranian origin were deported and expelled from Iraq. Relations between the two countries became intense and the conflict became imminent in September 1980.

Besides, the Iranian revolution was the single most important event that led the way to war. With the coming of Khomeini and his clerics, Iran was swept by human upheaval and its institutions fell into chaos and turmoil. Iraq got the impression that because of chaos sweeping Iranian institutions, particularly the armed forces which had been purged of their best trained elements, Iran became weak, isolated internationally and easy prey in armed conflict with Iraq. Similarly, the signing of the Camp David Accords by Egypt and Israel under the sponsorship of the United States made room for Iraq to
claim a leading role in the Arab world after Egypt forfeited its role. Saddam Hussein saw that opportunity coming to him if he ever took advantage of a coup that would put him in the forefront of Arab leadership.

In 1929, Britain asked Iran to recognize Iraq so it could have more votes and be accepted as a member of the United Nations. But Iran, having old border disputes with the Ottoman Empire said it would only recognize Iraq under one condition: The Iraq would recognize Iranian sovereignty over the Shatt Al-Arab waterway Britain assured Iran that the Iraqis would recognize Iran and opened her first embassy in Baghdad. But the negotiations went nowhere, causing anger and despair in Iran. As a result, the Iranian government notified Iraq on December 1, 1931 that the 1914 treaty which defined the border lines between the two countries was invalid from the Iranian point of view. Following this new development, the border conflicts between the two countries resumed once again.

In 1932, King Faysal of Iraq, who was serious about resolving the conflict with Iran, visited Tehran accompanied by his Prime Minister, Noory Al-Saeed. In a friendly atmosphere the problem was discussed with the Shah of Iran (Reza Shah). And it was also agreed that the Shah of Iran would visit the following year. But due to the death of king Faysal in September 1932, the trip was cancelled and despite the positive progress that was made during the King’s earlier visit, the basic dispute concerning the division of the Shatt Al-Arab based on the thalweg line between the two countries remained unresolved and the clashes between the two neighbours increased.\footnote{Manchester Parsadust, The Roots of the Iran-Iraq War, Iranian Book Published, Tehran, 1982, pp.51-70.}

For the first time Iraq took her border conflict with Iran to the United Nations in 1934. In a letter, which was signed by Foreign Minister Noory Al-Saeed, Iraq claimed that the border conflict with Iran, according to the 1847 Ardum Treaty and the Protocol of 1913 were signed by four countries: Ottoman (Turkey), Persia, Britain and Russia. Noory Al-Saeed emphasized that according to the treaty, once all parties agreed on the
side of the border and it was defined, the other side of the border should apply for the same condition, and there should not be any change from the other side (Iran). He added that unfortunately the Iranians had ignored this treaty. The Iraqi representative at the United Nations emphasized that Iraq would approach all possible ways to resolve this problem with Iran peacefully and would negotiate with Iran directly. Another letter was delivered by the Iraqi charge d'affaires in Iran to the Iranians authority explaining that the Iraqi complaint to the United Nations should not be considered as in Iraqi escalation of tension between the two countries. The main point of Iraqi foreign policy would be friendly with Iran, and after resolving this matter, Iraq would open a new era of friendship between the two peoples of Iraq and Iran.\(^{140}\)

Iran defended here position that according to the 1847 Ardum Treaty and Protocol of 1913, all of the lands located on the east port (left side) of the Shatt Al-Arab which was occupied mostly by Persia, so the land known as Iranian territory, above the water of the left side from the river will belong to Iran. And because the navigation and direction of the water in the river make it hard to define the border. The thalweg line which divides the river is reasonable to be considered as a border line between the two countries. Also, according to international law, all of the countries bordering the sea have the right to a six-twelve mile border. So this law could be applied for the river between Iran and Iraq. After a long discussion from 1932 until 1935 between Iran and Iraq at the United Nations, the two countries finally decided in may 1935 to negotiate directly in their respective countries and Noory Al-Saeed, the Iraqi Foreign Minister, with a high-level delegation, went to Iran. At last Iran and Iraq agreed, with the help of the British, to recognize the border in the area of Abadeen (Khider Island) to be divided equally between them according to the thalweg line, and in 1937 Iran and Iraq signed a treaty which is known as the Treaty of Saad Abad. According to this treaty, which contains six chapters, for the first time, the thalweg line near Abadeen from both sides. The important point of this treaty is Iraqi sovereignty over Shatt Al-Arab was not mentioned. During the following 13 years, the Iranian authorities complained that Iraq never followed the agreement and the money which Iraq was receiving from the Shatt

\(^{140}\) Ibid.
was never used for the cleaning and the Iranians were not advised of how the money was being spent, when in 1957 the Prime Ministers from Iran and Iraq met in Karachi, Pakistan during the Baghdad Pact, they discussed the problem but they never reached an agreement, and when King Faisal II visited Iran, they agreed to appoint a Swedish mediator to define the border line, but the coup in Iraq in 1958 by Abdul Karim Qasim stopped this mission. Relations between Iran and Iraq deteriorated further in July 1958, when General Abd-al-Karim Qasim seized power in a bloody coup and brought pan-Arabists to power in Baghdad.\textsuperscript{141}

The July 1968 Revolution injected an ideological element into Iraqi politics. The newly establishment Ba'th party in Iraq appointed Ahmad Hassan Al-Bakr as President, and from its early days of revolution tries to establish good relations with all political factions including the Kurds in Iraq, as well as trying to resolve its border problem with Iran. A high delegation headed by Prime Minister Taher Yahya went to Iran to discuss the border problem and the treaty of 1937 which Iran felt was imposed on her by Foreign powers. In December 1968, both countries agreed to appoint a commission to negotiate the dispute over the Shatt Al-Arab. The commission met in Baghdad in January 12969. the Iranian delegation insisted that the treaty of 1937 was signed under British pressures and requested that a new treaty be prepared based on international law, using the thalw3eg line as border line between Iran and Iraq. The negotiations failed since each side insisted on its original claim. As a result, the armies of both countries were put on alert.

In 1969, two important events took place in the Gulf which encouraged Iran to play an important role in the Gulf in general and with Iraq in particular. First, the British decision to withdraw from the Gulf made Iran announce that it would take back the two greater and smaller Tunbs and Abu Musa Islands, belonging to the United Arab Emirates, situated at the mouth of the Strait of Hormuz which were strategically important to Iran. Finally on December 3, 1971, Iran occupied these Islands and assumed full control. This action by Iran prompted opposition by All Arab countries, especially Iraq, which saw it

as an imperialist attempt to change the Arab character of the Gulf and to take control of its natural resources. Iraq cut off its diplomatic relations with Iran and ordered the charge d'affaires and all other staff members of the Iranian embassy in Baghdad to leave Iraq within 24 hours.

The Second even which gave Iran more encouragement was President Nixon’s Doctrine which, burdened by the war in Vietnam, initiated a new US policy in the Gulf. This policy which is known as the Twin-pillar policy to furnish military and economic assistance of nations whose freedom was threatened. The aim of this policy was that the United States had strategic interests in Iran and Saudi Arabia, which meant the support for either would alienate the other. Despite the distrust, their cooperation was needed in the face of growing Arab radicalism. Since Iran was willing to fill the vacuum left by the British, and also was ready to pay for all necessary equipment, the US provided the Shah with the advanced American aircraft, and all military assistance which was requested by Iran.

Iran by the late 1960s, having the support of the United States felt stronger to expand their control over the Gulf and to play the role of the policeman in the region. The issue of the Shatt Al-Arab was raised by Iran again in February 1969 claiming that the Iraqis were using revenues from the waterway for purposes other than maintaining the Shatt which was stipulated in the 1937 accord.

In April 1969, the Iranian government abrogated the 1937 treaty and Iran’s Deputy Minister for Foreign Affairs in the Iranian Parliament declared: “on the basis of establish international principles, the 1937 Frontier Treaty is considered null and void and worthless by the Imperial Government....the Imperial Government does not recognize, along the entire length of the Shatt Al-Arab any principle of international law, i.e.; the median as baseless. Hence, it will use all that is in its power to prevent any violation of its sovereign rights in the Shatt Al-Arab and will not allow anyone to violate them.”

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Following Iran's abrogation of the 1937 Treaty, relations between Iraq and Iran reached their lowest point. Iran intensified here supply of arms to the Kurdish rebels, and Iraq accused the Shah of planning a coup attempt against the Ba'ath government in 1970. Iraq refused to accept the Iranian claims over the Shatt. They argued that Iran's actions violated international law and that the Shatt remained Iraqi. Iran responded by sending through the waterway and Iranian ship guarded by Iranian naval vessels. Iraq countered by expelling more than 10,000 Iranian many of whom were forcibly removed. A military clash between Iraq and Iran erupted on April 14, 1971 in the Khanagin region of northern Iraq.

The situation worsened during 1972-73, when open fighting broke out along the border at several points. The fighting broke out along the border at several points. The fighting occurred on a small scale but casualties mounted. Fighting ceased during the 1973 Arab-Israeli war, as Iraq diverted its troops to its western borders, but conflict resumed in January 1974 in February of the same year, a major battle took place with 23 Iraqis and 70 Iranians killed and a large number wounded. Both countries accused the other of trying to launch an invasion. In late February 1974, Iraq took the border dispute to the United Nations Security Council. Turkey, Algeria and Jordan all tried to mediate an end to the fighting. Negotiations to settle all pending issues were initiated at the UN Security Council. It was another year, however, before a settlement was reached.

From the beginning of the revolution which started in 1979 Iran initiated fundamental changes in her foreign policy, especially with the regional states, particularly Iraq. A propaganda war between Iran and Iraq erupted shortly after the revolution. In February 1980, Ayatollah Khomeini stated: "We will export our revolution to the four corners of the world, because our revolution is Islamic…"

On another occasion, Khomeini stated: "We should try to export our revolution to the world. We should set aside the thought that we do not export our revolution, because Islam does not regard various Islamic countries differently and is the supporter of the all

oppressed people of the world. If we remain in an enclosed environment, we shall
definitely face defeat.” In Khomeini’s words, “Islam is a sacred trust from God to
ourselves and the Iranian nation must grow in power and resolution until it has fed Islam
to the rest of the World.”

On the contrary Saddam Hussein believed “The Ba’ath idea oppose the use of
religion for politicl purposes. While we respect out Islamic religion, we also must respect
other religions which our people believe in.” Obviously the sensitivity of these two
issues of religion and nationalism lead to the conflict between the two regimes. A bomb
was thrown in a crowded student gathering at Al-Mustanesiriyah University in Baghdad,
and Iraq accused Iran and in retaliatiion, expelled large numbers of Shites of Iranian
origin. Throughout 1980, a series of border classes occurred between the two countries.
Iraq accused Iran of having violated the Algiers Agreement more than 187 times between
the period of June and September 1980 by military actions. On September 17, 1980,
President Saddam Hussein renounced the Algiers treaty which had defined the thalweg
line the Shatt Al-Arab waterway between Iraq and Iran.

After renunciation of the Algiers treaty on September 27, 1980, by Iraq, Iran
began to attack some residential and economic areas on the other side of the Shatt Al-
Ara. Some merchant ships were hit in the waterway. On September 22, 1980 Iraqi
forces crossed the Iranian border, and advanced into Iranian territory for several hundred
miles.

Soon after the outbreak of hostilities, the UN Security Council “applied” to the
two states to cease hostilities and authorized the Secretary-General to use his “good
offices” to secure an end to the crisis. However, the mediatory efforts of the UN were
subjected to a delay, a few days later, “to give more time to the Islamic Peace initiative
by President Ziaul Haq. Following this, a Mexican sponsored resolution in the Security

See Annexure I.
Ibid, P. 5.
Statesman, Delhi, 30 September 1982.
Council, "(called upon) Iraq and Iran to refrain immediately from any further use of forces and to settle their dispute by peaceful means and in conformity with the principles of justice and international law."^148

When these efforts failed to produce the desired results, the Secretary General appointed Mr. Olaf Palme, the former Prime Minister of Sweden, as his special representative to Baghdad and Tehran. By the end of his second mission to the two capitals in January 1981, Mr. Palme, despite the rejection by Iran of his proposals, was able to state that though "hard positions" were being maintained by both countries "both parries are interested in continuing to see whether one could find a peaceful process to end the war."^149 At the end of Mr. Pale's fifth mission in March 1982, the conflict still defied solution. Therefore, in July 1982, the Security Council called for a ceasefire and propped the withdrawal of forces to internationally recognised boundaries; the dispatching of observers to verify, confirm, supervise the ceasefire and withdrawal, and the continuation of mediation in a coordinated manner through the Secretary General.\(^150\) These proposals, however, were rejected by Iran.

At the thirty-seventh session of the UN General Assembly (September 21 - December 21, 1982), Resolution 37/3 declared that the conflict endangered international peace and security proposed an immediate ceasefire and the withdrawal of forces to internationally recognized boundaries "as a preliminary step" towards the peaceful settlement of the dispute, and furthermore, called on other states to refrain from hindering peace efforts.\(^151\) These proposals were once again rejected by Iran.

In October 1933, the UN Security Council, despite the rejection of its proposals twice in the preceding months, asked the Secretary General to continue his mediatory efforts and called upon both states to refrain from endangering international peace and

^149 Times of India, Delhi, 14 July 1982.
^150 UN General Assembly Resolution, October 22, 1982, 37/3 adopted by 119 votes to 1, Iran and 15 abstentions, Keesing's Contemporary Archives, 1983.
^151 This was in response to the Iranian threat to close the straits of Hormuz if Iraq used her recently acquired French Super Etendard bombers, Indian Express, Delhi, 4 November 1983.
security as well as from jeopardizing marine life through pollution of the Gulf as a consequence of attacks of oil installations. A further clause sponsored by Zaire, Togoland and Guyana, stressed the right of free navigation and commerce in international waters.\textsuperscript{152} Iraq accepted this resolution and Iran though rejected the proposals, expressed its confidence in the UN Secretary General and Mr. Palme.\textsuperscript{153}

The Security Council Resolution 598\textsuperscript{154} (20 July 1987) sought a cessation of hostilities between Iran and Iraq, and bilateral peace negotiations between the two countries. The United Nations proposal did not cast blame for the hostilities on either of the protagonist. Iraq accepted the UN proposal relatively quickly; however, two days short of one year elapsed before Iran accepted the proposal.

Despite relentless efforts in resolving the conflicts in region the UN's performance provides much less cause for celebration. The record is particularly grave with regard to the application of the most basic principles of the Organisation having to do with the maintenance of International peace and prohibition of unilateral violence. The Charter promised much but for complex reasons, achieved precious little. Article 2 (4) of the United Nations Charter stipulates:

\begin{quote}
All members shall refrain in their international relations from the threat or use of force against the territorial integrity of political independence of any state, or in any other manner in consistent with the purposes of the United Nations.
\end{quote}

Article 2 (5) affirmed the commitment of Member states to lend assistance to United Nations and to refrain from assisting states “against which the United Nations is taking preventive or enforcement action.”


\textsuperscript{153} The member of the mission were the foreign ministers of Algeria, Cuba, India, Pakistan, Yugoslavia, Zambia and the head of the PLO. Political Department, \textit{Ibid}, P. 5.

\textsuperscript{154} Acting under Articles 39 and 40 of the Charter of the United Nations Resolutions 598 read:
1. Demands that, as a first step toward a negotiated settlement Iran and Iraq observe an immediate cease-fire discontinue all military actions on land, at sea and in the air, and withdraw all forces to the internationally recognized boundaries without delay:
Under Article 10 of the UN Charter the General Assembly has power to discuss everything under the sun and in fact discussed many things from the High seas and seabed to pollution and outer space. Article 11 empowers the General Assembly to discuss the steps to be taken to maintain international peace and security. It will refer the matter to the Security Council. It is of course, the primary responsibility of the Security Council under Article 24 of the Charter to maintain and restore international peace and security. But its composition neutralized its power as a peace-keeping organ of the UN. In violation of the accepted principle of equal sovereignty the Security Council was designed to be dominated by five big powers and the concurrence of these big five who are permanent members of the Security Council in all important decisions was made essential under Article 27 (3). This article further provides that decision on procedural matters may be carried out by a simple majority of nine member, but decisions on important matters require nine votes including (concurring votes of the five permanent members.” It is understandable why the Security Council was invested with the Security Council being a small body could be convened at a short notice. Article 28 of the charter requires that the Council will be in sessions for all the twelve months and its member-states shall station their diplomats in New York so as to be easily available in the case of emergency. But why the veto power was required to vest in the Big Five or on what moral legal principles it so vested in them, is yet to be searched out. If even responsibility of maintenance of the world peace is shifted to the General Assembly from the Security Council. It is doubtful in the present context of conflicting interests between different nations, whether great or small, that there will be no breach of peace or recurrence of war.

The ability of the smaller members of the UN to disturb peace is essentially limited. War between smaller states can easily be avoided if supplies of arms are prevented by the joint action of the arms-dealers, such a war cannot either break out at all or escalate. In this regard a positive step is expected from the super powers. The increasing difficulties of financing international police actions the discrepancies between legal rights on the one hand and political and economic responsibilities on the other hand
have restricted the active role of the United Nations in its peace keeping activities and have left major political decisions in the hands of the major powers, acting directly with or against each other.

Despite this, the United Nations is useful or even indispensable as a medium for exchange of views, a forum of world opinion, or even as a sanctioning organ for decisions made between the major powers. With the rise of new powers, new philosophy of co-existence, common concept for international peace, democratization of the world and with the fear of total war and futility of war, pursuits of collective security and the realization of anachronism of national sovereignty, the United Nations has acquired strength, despite lack of enforcement power of authority, as an instrument of global peace and order.
The Algiers Agreement

Following the agreement between the two leaders of Iran and Iraq, the foreign ministers of the two countries met separately with the attendance of the foreign minister of Algeria and agreed to the following:

1. Both countries agreed to carry out final delineation of their lands boundaries in accordance with the Constantinople Protocol of 1913 and the proceedings of the Border Delimitation Commission of 1914.

2. Demarcation of their river boundaries according to the thalweg line.

3. The two parties shall restore security and mutual confidence.

4. The two parties also agreed to consider the agreement as inseparable elements of a comprehensive solution.

From the above mentioned agreement the following remarks can be made:

A. Iraq gains some land bordered with Iran, according to Constantinople Protocol of 1913.

B. For the first time Iraq agreed that the border between the two countries will be drawn at the thalweg of the Shatt Al-Arab. Iran always argued that when a river forms the boundary between two sovereign nations, the thalweg of the river is generally considered the border line. But Iranian claims concerning this river are weak, Iraqi sovereignty over that Shatt had been recognized in three different agreements – the 19847 Erzerum Accord, the 1913-14
Constantinople Agreements, and the 1937 treaty signed by three Iranian governments. So in this part, Iran had gained a substantial victory.

C. The Kurdish rebellion collapsed shortly after Iran ended its support in accordance with an agreement. This was a big victory for the Iraqi government, since Iran agreed on the principles of territorial integrity and non-interference in internal affairs of both countries. But in the eyes of the Kurdish people, Iran had committed a moral crime in that they did not carry out their promises, and they were looking only for their own interests.

Lastly, both countries agreed to put aside their old disputes and to open a new chapter of friendship between each other.