

# Chapter 12

## THE STATUS OF JERUSALEM



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The General Assembly and the Security Council have called upon Israel not to alter the physical, demographic and institutional status of Jerusalem (Al Quds in Arabic).

### **The UN plan for Jerusalem, 1947**

General Assembly resolution 181 (II) of 29 November 1947 on partition envisaged a demilitarized Jerusalem as a separate entity under the aegis of the United Nations Trusteeship Council, which would draft a statute for Jerusalem and appoint a Governor. A legislature would be elected by universal adult suffrage. This statute would remain in force for 10 years and would then be duly examined by the Trusteeship Council, with citizens' participation through a referendum.

The ensuing hostilities prevented implementation of the resolution. Israel occupied the western sector of the Jerusalem area, and Jordan occupied the eastern sector, including the walled Old City. Thus, there came into existence a de facto division of Jerusalem.

The General Assembly, however, by resolution 194 (III) of 11 December 1948, reaffirmed both the principle of internationalization and existing rights. The Arab States, refusing to recognize Israel, did not accept it. Israel also ignored the resolution and moved to extend its jurisdiction to that part of Jerusalem which it had occupied. On 23 January 1950, Israel declared Jerusalem its capital and established government agencies in the western part of the city. Jordan, for its part, moved to formalize its control of the Old City; however, Jordanian legislation indicated that this action did not prejudice the final settlement of the Palestinian issue.

### **Israel's occupation of East Jerusalem, 1967**

The war of June 1967 radically changed that situation. As a result of the war, Israel occupied East Jerusalem and the West Bank. Since then, a number of demographic and physical changes have been introduced, and both the General Assembly and the Security Council, in several resolutions, have declared invalid the measures taken by Israel to change the status of Jerusalem. Security Council resolution 252 (1968) in particular is explicit in this regard. In it, the Council considered "that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status". Israel was urgently called upon "to rescind all such measures already taken and to desist forthwith from taking any further action which tend to change the status of Jerusalem". The Security Council has reaffirmed these two positions many times.

When Israel took steps to make a united Jerusalem its capital, the Security Council on 30 June 1980 adopted resolution

476 (1980) urgently calling on Israel, the occupying Power, to abide by this and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy City of Jerusalem.

After Israel's non-compliance with the resolution, the Council, on 20 August, adopted resolution 478 (1980), in which it reiterated its position that all actions altering the status of the city were null and void, and called upon States that had established diplomatic missions in Jerusalem to withdraw them. The General Assembly also considered Israel's action to be a violation of international law that did not affect the continued applicability of the Fourth Geneva Convention. This understanding, affirmed by the Assembly in December 1980, has been reaffirmed in subsequent years.

During the 1980s, United Nations resolutions dealt with the Jerusalem issue in the wider context of the inadmissibility of the acquisition of territory by force and the applicability of the Fourth Geneva Convention to the Palestinian territory occupied by Israel since 1967. East Jerusalem has been considered, by both the General Assembly and the Security Council, as part of the occupied Palestinian territory.

As the international community and in particular the Security Council continued to follow with concern developments affecting the question of Palestine, an important action was taken by the Council through resolution 672, adopted on 12 October 1990 following the violence that took place in Jerusalem at Haram Al-Sharif, where the Al-Aqsa mosque, the third holiest shrine in Islam, is situated. The Council, after condemning "especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life", called upon Israel "to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to all the territories occupied by Israel since 1967".

The applicability of the Fourth Geneva Convention to Jerusalem was reaffirmed by the Security Council on 20 December 1990, when it expressed grave concern at the deteriorating situation in "all the Palestinian territories occupied by Israel since 1967, including Jerusalem", and called on Israel to abide by it.

Since 1997, the tenth emergency special session of the General Assembly has been resumed several times. At the resumed emergency session held in February 1999, the Assembly affirmed its support for the Middle East peace process on the basis of the relevant Security Council resolutions and for the principle of land for peace. Recalling its relevant resolutions, including resolution 181 (II) (the Partition Plan) and those of the Security Council, the Assembly reaffirmed that the international community, through the United Nations, has a legitimate interest in the question of the city of Jerusalem and the protection of its unique spiritual and religious dimension. It further reaffirmed the continued invalidity of all actions taken by Israel, the occupying Power, that have altered or purported to alter the character, legal status and demographic composition of Jerusalem.

### New settlements in East Jerusalem, 1999

In May 1999, the Israeli Government approved a plan to enlarge the area of the settlement of "Maaleh Adumim", east of Jerusalem, by over 1,300 hectares (3,250 acres), forming a continuous strip of settlements. According to the 1999 report of the Palestinian Rights Committee submitted to the fifty-fourth session of the General Assembly, once completed, the number of settler households in the settlement would increase by an estimated 25 per cent.

The General Assembly, in a resolution adopted on 9 February 1999, reiterated that all legislative and administrative measures and actions taken by Israel, the occupying Power, which had altered or purported to alter the character, legal status and demographic composition of Occupied East Jerusalem and the rest of the occupied Palestinian territory, were null and void and had no validity whatsoever.



The General Assembly revisited the question of Jerusalem at its fifty-fifth session. In a resolution adopted on 1 December 2000, the Assembly determined that the decision of Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem was illegal and, therefore, null and void. The Assembly also deplored the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980).

These statements and resolutions, as well as many others adopted by United Nations bodies, international organizations, non-governmental organizations and religious groups, demonstrate the continuing determination of the international community to remain involved in the future of Jerusalem. They also show the great concern over the delicate status of the peace process and the unanimous desire that no actions be taken that could jeopardize that process.