

Relocation of the United States Embassy to Jerusalem (Palestine v. United States of America)

Topic A

International Court of Justice



Committee Introduction

The ICJ is the principal judicial organ of the United Nations, designed to adjudicate disputes between countries and interpret international law to which all states are subject. Established on the United Nations Charter, signed in 1945. This organ serves to reaffirm the sovereign state and the international state system but does not infringe on national sovereignty. The acceptance of the arbitration of the court by the states is merely voluntary, the states need only appear before the court if they agree to do so.

The headquarters are located in the palace of peace, in The Hague (Netherlands), it's the only one of the principal organs of the UN that are not located in New York.

The court is competent to solve a dispute only if the state concerned has accepted its jurisdiction.

The relationship between this and other organs from the United Nations: examines issues related to the maintenance of peace and international security, so it can formulate recommendations. The Court can attend two types of cases; legal conflicts between two nations submitted to it by them and are asking for advisory opinions on legal questions referred to the ICJ by United Nations organs or other specialized agencies. It is competent to enter a dispute only if the States concerned have accepted its jurisdiction.

The composition of the Court: consists of a body of independent magistrates, chosen, regardless of their nationality. 5 seats on the bench are occupied by African judges, 2 seats from Latin America and the Caribbean, 3 occupied by Asian judges, 5 from Western Europe and other western states, and the final two from Eastern Europe. The states have no permanent representatives accredited on the court, nonetheless, the Court has always included judges of the nationality of the permanent members of the Security Council, with the sole exception of China.

It has a president and vice president, the presidents chair all sittings of the court he or she directs its work and supervises its administration each year, the president presents a report on the activities of the ICJ to the General Assembly. In addition to the public hearings, which constitute the visible part of the Court's work, members of the Court participated in many internal meetings of all kinds: delegations, administrative meetings, as well as hearings for the reading of draft decisions.

The case:

The embassies are offices that represent the government in foreign countries. The embassy attends, in particular, the political relationship with the government and the state in which it resides. The different sections of which they are composed, have a specialized section to attend to consular matters.

They are a political connection between countries, so in the case of the United States and their relationship with Palestine, The United States does not acknowledge the government of Palestine, but since World War II United States own a dependent relationship with the Middle Eastern state of, Israel.

The United States' relations with both the states and societies of the Middle East have been transformed during the twentieth and twenty-first centuries. First, the alliance with Israel has grown progressively closer from the founding of the state in 1948 until today. American Government now gives Israel \$3 billion a year in military assistance and economic aid, however, it is the United States' supportive relationship with Israel that is most often cited as: "a cause of Arab and more generally, Muslims anger towards American foreign policy." (Hudson, 2005: 289)

The history between the United States and Israel for this matter is the Six-day War and the city of holy land, Jerusalem.

President Eisenhower's elections coincided with the Anglo-French Israeli invasion of Egypt, but casting these concerns aside he pushed the United Nations to condemn the invasion and was reelected with a landslide over the democrats. Then he went on to push for UN sanctions against Israel. Faced with a

concerted public campaign to overturn this decision he confronted the issue directly in a television podcast, which resulted in an Israeli climb-down. He ignored the potential electoral risks, and took his argument directly to the American people, over the head of the American Israel lobby, defending his policy. Israel was forced into a compromise. The Arab – Israeli conflict descended into open warfare for the third time in 1967, under Lydon B. Johnson's presidency. The stunning victory that Israel inflicted on its Arabas Neighbors confirmed in American public opinion image of Israel fighting. The victory of America's ally, Israel over the Arabas states, was beneficial to the US power, it shows that Israel can maintain their status and has huge military and economic resources, patrocinated by the US., The aftermath of the Six-Day war left Israel in occupation of Jordanian, Egyptian, Syrian, and Palestinian territories. Following this event caused the Yom Kippur war, following the war, Kissinger was unable to secure a sustainable peace settlement because Israel was unwilling to embark on further territorial compromise. It was regional diplomacy that broke the stalemate, with Egyptian president Anwar Sadat boldly flying to Jerusalem in November 1977. By this time Jimmy Carter was in the White House and he had to structure a peace settlement between Israel and one of its arabas. The signing in Washington of the March 1979 Treaty of Peace between Egypt and Israel ended 31 years of hostility between the 2 states. This was not the beginning of a comprehensive peace deal with the Palestinians or Israel's Arab neighbors, but the splitting of the Araba front.

The city of Jerusalem has been a palpable problem for the United States, Palestine, and Israel society, this city is considered a holy city for the big 3 monotheist religions, Jewels, Muslims, and Christians. The Islamic link with the city dates back to the Arab conquest around 638, when Caliph Omar took the city , guaranteeing freedom to Jews and Christians who accept Muslim political and religious control. , which they consider imminent.

During the first decades of the Araba government, they allow the jewel to perform their religious worship on Temple Mount, where they perform too. Tolerance of other monotheistic faiths was a part of the region. The book "The Jewish State", 1896, served as the basis for the establishment of the State of Israel. With this book, Herzl called upon the Jewish people to return to Zion (Jerusalem), with the aim of constituting a majority and achieving political independence and legitimate statehood. The l objective of Zionism was: "create a home in Palestine for the jewel people, guaranteed by the public right."

At the beginning of the XX, Palestine was part of the Ottoman Empire and existed an important muslin population who coexisted peacefully with a Christian population, not so dominant, but it was there. So, the Jewish people did know the presence of other ideological groups in the region.

During the First world war the Palestine territory was administrated under international influence, the Balfour declaration was an agreement between Great Britain and the jewel people to support the construction of a jewel independent state, gritting the first step for them to control Palestinian territory.

The Arab society felt threatened by the massive migration of the jewels, so the bigger the population the bigger the tensions. The tension grew during World War II with the antisemitism movement that resulted in the Holocaust, in which direct response was running to the holy city, this was the breakpoint for these two religions, also the Britain influence come to an end and the United Nations had to intervene under this conflict. This resulted in the division of Palestine into two states, 55% for the jewel people, named Israel, and 45% for the Arab people, known as Palestine.

Jerusalem city was considered an international territory under the mandate of the UN.

In 1948, during the Al-Nakba, the independence war, Israel proclaimed an independent state, the first nation to recognize this independence was the United States, and as it mentioned before, the stretch relation between the powers starts.

It start a period of numerous conflicts inside the region like the Six-Day War. Ben-Gurion, prime minister of Israel, realized that all the negotiations to achieve peace with the Arab world had disappeared, that peace

with the Arab nations would not come through peace negotiations, but would be achieved through struggle and violence.

As we indagate under history, Jerusalem is considered a holy city by excellence, since it hosts important religious matters for the events that occur there. This city has suffered various attacks and has a population of different religions, However, peaceful coexistence among these citizens has been disrupted by the outbreak of the Israeli-Palestinian conflict. In reference to what has been explained, the tension in this territory emerged after the intervention of the United Nations, where the plan was rejected by the Arab community, where the city is a neutral territory, purely for the symbolism of the city.

In 1980 during the management of Begin, a law was approved which stated, that Jerusalem city was the "forever capital of Israel", the Security Council denied this statement, because it was against International Rights. So, the United Nations ask all those countries that had established their embassies in the western part of Jerusalem to move them to Tel Aviv. The approval of this law came with great difficulties for Israel, in the matter of negotiations and diplomatic relations with other countries.

Why is such controversy over moving the embassy to another city, instead of Jerusalem?

The U.S. diplomatic presence in Jerusalem dates to 1844, more than 100 years before the nation of Israel was established in 1948. The Agron Street mansion was designated a consulate general in 1928. Decades later, the U.S. opened its embassy complex in Tel Aviv. For the last three decades, the Tel Aviv embassy has been responsible for reporting on developments in the Gaza Strip while the consulate has been responsible for reporting about developments in the West Bank and Jerusalem.

For years, the questions of U.S. diplomatic representation in Israel and the recognition of Israel's claim to Jerusalem have been constant, Israeli sovereignty over that portion of the city captured in 1967 and subsequently declared Israel's "united and eternal capital"; recognition of the expansion of Jerusalem's municipal boundaries in all directions over the past thirty years; The relationship with Israel is so important to them because, Israel is the connection of the Middle East countries, therefore The U.S. interest is continually furthered by giving the strategic, diplomatic, and economic support Israel needs to prosper. Also, Israel intervened in the Foreign politic of the U.S.A. Through its lobby AIPAC (American Israel Public Affairs Committee), especially regarding the Middle East.

By the end of 2017, the president of the United States by then, Donald Trump, made a declaration on the White House that brought back the Israeli- Palestinian conflict, in this declaration Trump made a reference, approved by the American congress in 1995, to move the embassy to Jerusalem. This issue has been ignored by the governments of recent presidents, thinking this action could benefit the resolution of the conflict. However, the president said: "by not being any closer to a lasting peace agreement between Israel and the Palestinians repeating the same process that previous presidents have carried out, will not bring a different result", by this, he states, "It is time to officially recognize Jerusalem as the capital of Israel" (Trump, 2017). Besides the recognition, Trump also fairies the immediate relocation of the American embassy from Tel Aviv to Jerusalem.

This triggers tension on the Middle East. By affecting the status of Jerusalem in the conflict, and also affecting the relationship between the United States and Palestine. This action ignores the importance of Jerusalem on national identity and the national Palestine aspirations.

Israeli leaders believe reopening the U.S. Consulate in Jerusalem would send a misleading and damaging message that in the future, the city may not remain Israel's undivided capital. They have expressed concerns that other states will follow the U.S. and also demand to open diplomatic missions to the PA in Jerusalem, further undermining Israeli sovereignty.

On the other hand, the U.S. says the move is being made for efficiency's sake. But Palestinians and their advocates say that shutting down the consulate will make it more difficult to get a full sense of what's happening in East Jerusalem, the West Bank and Gaza.

The State Department said that the merging of diplomatic missions "does not signal a change of the United States policy on Jerusalem, the West Bank or Gaza, also, they insisted that the U.S. continues to take no position on status issues, including boundaries or borders. This also breaks with the international consensus that no country would consider Jerusalem part of any state until Israelis and Palestinians negotiate its status in a peace agreement.

Ian Goldenberg and Hady Amr write that the arrangement suggests the U.S. *"is no longer truly pursuing a two-state solution and will treat the Israelis and Palestinians as a single political entity instead of two."*

This places the U.S. against the grain of UN decisions on this matter.

By this matter, Palestine requires the ICJ that "declare the relocation, to the holy city of Jerusalem of the embassy of the United States in Israel is a violation to the Vienna Convention" also it asks the ICJ "demand the United States of America withdraw the diplomatic mission from the Holy City and respect its obligation under the Vienna Convention."

The job of the International Court of Justice will be to indagate, analyze the demand propose by Palestine verses United States, also it generates a series of questions with the access of the Court, and therefore, with the condition with the Palestine state, also with the with the admissibility of the claim.

Leading Questions:

- ➔ Does Israel has more control on the region than Palestine government?
- ➔ How does my country see this action, taken by the United States president, and what actions, under the United Nations agreements, foreign policy and security matters does my country will proceed to?
- ➔ could Palestine initiate a case before the ICJ?
- ➔ Should the ICJ Secretariat have accepted the case to be processed?
- ➔ How does the Arab States see and participate in this decision?
- ➔ Does the ICJ have jurisdiction to adjudicate between Palestine and the United States?
- ➔ This case will apply the international cooperation or it just a matter of internal conflicts?

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