



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/35/643
18 November 1980

ORIGINAL: ENGLISH

Thirty-fifth session
Agenda items 26 and 91

THE SITUATION IN THE MIDDLE EAST

PROGRAMME BUDGET FOR THE BIENNIUM 1980-1981

Letter dated 17 November 1980 from the Permanent Representative of
Israel to the United Nations addressed to the Secretary-General

In my letter to you of 31 October 1980 (A/35/587 and Corr.1), I drew attention to the objectionable series of blue pamphlets which has been produced over the last year by the "Special Unit on Palestinian Rights" within the United Nations Secretariat.

I expressed the view that these pamphlets, emblazoned with the emblem of the United Nations, suffer from the same defects as the earlier series of pseudo-scientific "studies", also produced by the Secretariat "under the guidance of" the body known as the "Committee on the Exercise of the Inalienable Rights of the Palestinian People". As is well known, that committee is nothing but an instrument in the hands of the terrorist PLO, and thus it comes as no surprise that the blue pamphlets too are little more than thinly disguised pieces of propaganda on behalf of the PLO, especially as for the most part they are merely a vulgarized version of the material in the so-called "studies".

In my letter I noted that one of the pamphlets, dealing with water resources in Judea and Samaria, was not based on previously published material. Accordingly, I attached a critique of it, illustrating the conscious omissions and distortions contained in it.

I also indicated that similar serious flaws permeate all the other pamphlets in the series. I enclose herewith an analysis of another pamphlet in the series entitled Acquisition of Land in Palestine. Like the one on water resources, this pamphlet is not based on previously published material. It too is riddled with factual errors, selective information, conscious distortions and highly tendentious material.

I must therefore reiterate my Government's strong objection to the publication of this series of pamphlets. As I have stated on previous occasions, by producing and disseminating these publications the United Nations is misusing international

A/35/643

English

Page 2

funds, compromising the integrity of the Secretariat and doing further damage to what little remains of the Organization's image and prestige. By doing so, it is not serving the cause of international peace. It is serving the cause of international terror.

I have the honour to request that this letter and its enclosure be circulated as an official document of the General Assembly under agenda items 26 and 91.

(Signed) Yehuda Z. BLUM
Ambassador
Permanent Representative of Israel
to the United Nations

ANNEX

Analysis of the United Nations Pamphlet
entitled
Acquisition of Land in Palestine*

This pamphlet is slavishly written with one object in mind: to try to show that Palestinian Arabs have been systematically dispossessed from their land ever since 1948 when the State of Israel was established, and perhaps even prior to that date.

In an attempt to sustain this totally distorted version of history, the pamphlet is based on a series of false premises and assumptions. It holds against Israel the fact that General Assembly resolution 181 (II) of 1947 -- the "Partition Resolution" -- was not implemented, as if the reasons for its non-implementation were the fault of Israel. It focuses on General Assembly resolution 194 (III) of 1948 as if its only significance was to call for the return of Arab refugees. In so doing, it totally ignores other parts of that resolution which inter alia called for negotiations with a view to the "final settlement" of "all questions outstanding" between the Arab Governments and Israel.

It associates the main phases of alleged dispossession of Palestinian Arabs with what are called the "military operations" of 1948 and 1967, while deliberately glossing over the question of responsibility for launching those hostilities and for their consequences. In that context, it asserts that at the end of the "military operations" of 1967 Israel came into possession of the whole of Mandated Palestine, even though Mandated Palestine also embraced the area east of the River Jordan which is today the Kingdom of Jordan. It makes this patently mendacious assertion as though to clinch its argument that since 1967 the Palestinian Arabs have been in danger of being deprived of all their land.

The pamphlet makes great play, and one should add highly questionable play, of what it regards as significant decisions of the international community from 1947 onwards. In this, it is eclectic at best. But nowhere is its selectivity more glaring than in its deliberate bypassing of the central provisions

*Production number 15652 - June 1980.

of the Mandate for Palestine conferred on Great Britain by the League of Nations in 1922. The central purpose of the Mandate was "the establishment in Palestine of a national home for the Jewish people," and to that end the Mandatory Power was required by Article 6 to facilitate Jewish immigration and "close settlement by Jews on the land" in Palestine "including State lands and waste lands not required for public purposes."

The pamphlet also suggests that in 1947-48 almost all the area that became the State of Israel was land owned in one form or another by Palestinian Arabs. This runs counter to the basic fact that over 70 percent of the land in question was state land, and much of it waste land. Rights to these lands were vested in the Government of Israel as the legal successor regime to the Mandatory Power.

Finally, the pamphlet takes a totally static view of history as if the land situation it describes in 1947-48 -- and incorrectly at that -- was somehow sacrosanct and not open to change for any reason, however legitimate.

The pamphlet is riddled with factual errors and conscious distortions in an effort to support the false premises and hypotheses of its authors. But rather than deal with all these errors one by one, it seems preferable to address directly some of the flawed foundations on which this pamphlet rests.

A. General Assembly Resolutions 181 (II) of 29 November 1947 and 194 (III) of 11 December 1948

1. The pamphlet begins with the extraordinary innuendo that because General Assembly resolution 181 (II) was not implemented, Israel's sovereignty over parts of Mandated Palestine is based on a "policy of territorial occupation" (p.5). The usefulness of this hypothesis from the point of view of the authors' objectives is obvious, but the logic behind it does not stand up to scrutiny.

General Assembly resolution 181 (II) was not implemented because at the time of its adoption the Arab States Members of the United Nations and the Arabs in Palestine rejected it out of hand and set out to put an end to it by illegal use of force. Their aggression and, in particular, the invasion of

Israel by the forces of seven Arab States one day after the State was established in 1948, irreversibly destroyed the resolution in question. It is surely an affront to history and good sense to imply that because it was aborted by Arab aggression, Israel's sovereignty is based on "territorial occupation".

The United Nations documentation of the historical events of 1947 and 1948 is unequivocal. It was attached in part to the letter of 12 December 1979 from the Permanent Representative of Israel to the Secretary-General of the United Nations (A/33/488*-S/12966*).

2. In describing General Assembly resolution 194 (III), the pamphlet states (p.6) that the operative part of that resolution "called upon the Provisional Government of Israel to permit and facilitate the return of the Palestinians to their homes, their land and their property."

This too is a complete misrepresentation. The operative part of the resolution in question comprised no less than 15 paragraphs which, taken together, form an integral whole. The description of the resolution in the pamphlet is a paraphrase-- and an inaccurate one at that -- of just the first half of paragraph 11, taken out of context.

For reasons of obvious expediency, the authors of the pamphlet ignore, inter alia, paragraph 5 of the resolution concerned, which called on Israel and the Arab States "to seek agreement by negotiations" with a view to settling finally "all questions outstanding". To have drawn attention to that paragraph would have been to admit that the General Assembly called upon the Arab States to conduct peace negotiations with Israel, and that ever since 1949 the Arab States have rejected that resolution.

Since the Arab States voted against the resolution in 1949, they are estopped from claiming any of its legal entitlements. They certainly cannot pick and choose parts of the resolution which, thirty years later, suit their political purposes. But the authors of the pamphlet, who build so much around resolution 194 (III), do not even have the intellectual integrity to tell the reader how the Arab States voted on it.

/...

Even operative paragraph 11, which the authors misquote, made the return of the refugees conditional on (a) a willingness on the part of the refugees to live at peace with their neighbours; and (b) practicability. Moreover, the paragraph in question offered the alternative of compensation to those refugees who preferred not to return. In other words, the refugees' return was neither as of right nor absolute, especially as another option was contemplated.

B. "Phased Dispossession" by "Military Operations"

Central to the pamphlet is the thesis that since 1947 Israel has been engaging in a conscious policy of "phased dispossession" of the Palestinian Arabs living west of the River Jordan, a policy which it has conducted inter alia through what the pamphlet loosely calls "military operations". As evidence thereof, the pamphlet cites the "military operations" of 1948-49 and of 1967. This thesis is spurious - demonstrably so.

In 1947, the Jewish community in Palestine accepted in principle and on the basis of reciprocity General Assembly resolution 181 (II) on the partition of Cis-Jordan (Western Palestine).

As has been pointed out above, it was the Arab States and the Arabs in Palestine who rejected that resolution and who in 1948 resorted to the illegal use of force in violation of the provisions of the Charter of the United Nations, with the declared aim of destroying both the resolution and the fledgling State of Israel. To describe that Arab aggression as "military operations" is glib, and to suggest that Israel initiated the hostilities is mendacious. Then to infer from these distorted "facts" a policy of dispossession is downright specious.

The same spurious argument is applied to what are again called the "military operations" of 1967. As is common knowledge, the Arab States precipitated the Six Day War of 1967.

With specific regard to Jordan, it should be recalled that on the morning that the war broke out, 5 June 1967, the then Prime Minister of Israel, Levi Eshkol, sent King Hussein, through the Chief of Staff of UNTSO, a message urging Jordan to refrain from joining the hostilities. Jordan received

this message, as King Hussein later acknowledged in an interview in Der Spiegel (Hamburg) of 4 September 1967 (cf. also Hussein of Jordan, My War With Israel, London, 1967, pp.64-65). Jordan replied, however, by opening fire on the New City of Jerusalem and along the length of the 1949 Armistice Line with Israel. Israel responded in self-defence.

As with the Arab-initiated war of 1948-49, it is thus disingenuous to speak of the war of 1967 as mere "military operations". By no stretch of the imagination can one suggest that these were part of a deliberate and ongoing policy on Israel's part. They were, rather, two phases of the ongoing and planned Arab aggression against Israel.

C. The Area West of the River Jordan Was the Whole of "Mandated Palestine"

The authors of the pamphlet make this false assertion on page 22 in order to bolster their equally false thesis that the Palestinian Arabs are a people without a land of their own.

As already mentioned, Mandated Palestine originally embraced territory on both sides of the River Jordan. In 1921, Great Britain decided to establish on the area east of the River an emirate under Abdullah ibn Hussein of the Hashemite family of Mecca. That area -- Transjordan -- comprised four-fifths of the total territory of Mandated Palestine. In 1922, the "Jewish National Home" articles of the Mandate were declared inapplicable to Transjordan, which remained an integral part of Mandated Palestine. With the passage of time, Transjordan was, in 1946, detached from the Palestine Mandate and became an independent State (subsequently renamed "Jordan"). Thus there was established an independent Arab State on the territory of Mandated Palestine. The independent Jewish State in Mandated Palestine -- Israel -- was established only two years later.

By virtue of its history, territory, population and culture, Jordan remains the Palestinian Arab State. The Palestinian Arabs have achieved their self-determination there. The vast majority of Jordanian citizens are Palestinian Arabs and, similarly, the vast majority of Palestinian Arabs are Jordanian

/...

citizens. Palestinian Arabs occupy leading positions in Jordan today too numerous to mention and are in fact the backbone and mainstay of the country. It is false, therefore, to argue that Israel has ever been in possession of the whole of Mandated Palestine, and that the Palestinian Arabs are without a state, having been somehow deprived of all their land. In fact the Palestinian Arab State of Jordan extends over about 80 percent of the former Palestine Mandate.

D. Land Ownership

Another allegation, central to the pamphlet, is that on the eve of the establishment of the State of Israel, almost all the land west of the River Jordan was owned in one way or another by Arabs living in Palestine. Apparently, sensitive to the patent inaccuracy of this claim, the authors of the pamphlet let their political views intrude, showing impatience from page one onwards not only with what they regard as deficiencies in the land laws in Palestine ever since Roman times, but also with the facts that prior to and during the British Mandate most of the land was state domain and much of the rest was in the hands of large landowners, rather than in the hands of the peasants themselves.

Politics aside, the facts speak for themselves. On the basis of official figures published by the Mandatory Power in the 1946 Survey of Palestine (p.257-258), the breakdown of ownership of the lands which made up the State of Israel as it was constituted in 1948 was as follows:

Owned by local Arabs or by absentee landlords	20.2%
Owned by Jews	8.6%
State domain, owned by the Mandatory Power	71.2%

There are good historical grounds to believe that the figure of 20.2 percent for land privately owned by Arabs is inflated. But putting that aside too, the fact remains that over 70 percent of the area which became Israel in 1948 was state domain, and rights to those lands vested in the Government of Israel as the successor regime to the Mandatory Power.

Nowhere in the pamphlet is this fact, so fundamental to the matter at hand, made clear. Instead it is suggested that Palestinian Arabs possessed -- or should have possessed -- those state-owned lands.

E. Israel Legislation

Much of the pamphlet is devoted to a questionable exegesis on Israel legislation in an effort to sustain the authors' thesis that the Government used, and often misused, its power to consolidate its grip on land which, according to the pamphlet, was originally owned by Arabs. Anyone familiar with the relevant Israel legislation can see how weak and grossly distorted the pamphlet is on this score as well. It completely ignores two of the underlying purposes of the Israel land legislation: first, to safeguard the rights of all property owners, including Palestinian Arabs who abandoned their property as a result of Arab aggression in 1948; and second, to allow access to land needed for legitimate development and security reasons.

A few examples of how the Israel legislation is severely misrepresented will suffice.

1. It is simply untrue to allege, as is done on page 9, that until the adoption in 1950 of laws dealing with absentee property, there was no precise legislation governing the management of land abandoned by Arabs. Article 37 of the Absentee Property Law, 1950, specifically states that it replaces Emergency Regulations (Absentee Property) 1948, which were published in the Official Gazette of Israel, no. 37, of December, 1948, Suppl. II, p.59.

2. On pages 10 and 11 of the pamphlet the authors maintain that the Custodian of Absentee Property "transferred responsibility of the management of this property to another institution, the Development Authority...", and that this authority made that property available to the State, which thus "became the owner". The words "transferred" and "became the owner" deliberately give the false impression that the lands in question were simply appropriated by the State. In fact, such transfers for development purposes were effected, as is accepted practice in many parts of the world, by an act of sale or by lease at a price not less than the official value of the property. Provisions for the release of vested property are contained in Article 28 of the Law in question. The remuneration from the sale or lease is held on behalf of the absentee owner or his successors in lieu of the property sold or leased.

/...

3. The Land Acquisition (Validation of Acts and Compensation) Law, 1953, does not deal specifically with abandoned property, as the pamphlet implies (pp. 12,18). Between 14 May 1948 and 1 April 1952, certain lands in Israel were used or assigned for the purposes of essential development or security. The owners of those lands could be Jews, Arabs or others, either living in the country or outside it. The Law was intended to regulate the disposal of lands required for such purposes at the date of its publication. It entitled the owners of the lands to compensation either in cash or in the form of other land.

4. Under a similar law, the Minister of Finance, acting under the power vested in him in the Lands (Acquisition for Public Purposes) Law 1943, expropriated in 1967 1800 acres in the north of the country for development purposes, 600 acres of which belonged to Arab citizens of Israel. Besides receiving adequate compensation as provided by the law, they were also offered alternative land.

5. The Israel Supreme Court has stated that the right to compensation is a "fundamental right." For example, in the case of Tel Aviv Yaffo v. Abu-Dayek (Judgments of the Supreme Court (1966) vol. 20, pt. iv, p.522) it was held that

"not only does the right to compensation bear today a universal character...but it also carries the status, or almost so, of a fundamental right irrespective of its being tied to any constitutional provision that vests it with such status, and even though in some places it is recognized by (ordinary) statute alone."

6. The universal right to compensation for expropriated property is thus a basic element of Israel law. According to section 9 of the Lands (Acquisition for Public Purposes) Law 1943, disputes as to compensation and title are to be settled by the court which has jurisdiction to hear and determine such matters.

7. Any landowner who is dissatisfied with the compensation or procedure of acquisition has the right to appeal to the Supreme Court. In several instances this right has been duly exercised and the Court, for its part, has made absolute orders against the authorities when it has found the grievances to be legitimate.

8. The pamphlet devotes considerable space to the question of Israel villages in Judea, Samaria and the Gaza District, even though this complicated topic is essentially irrelevant to its subject matter, since those villages have not been set up on privately-owned land. Where, in isolated and exceptional cases, there have been encroachments on privately-owned land, the owners have been able to petition the Supreme Court of Israel. Israel abides by the principles contained in the Fourth Geneva Convention, another major focus of the pamphlet - its well-known position on the non-applicability of the Convention to Judea, Samaria and the Gaza District notwithstanding. It should be noted, moreover, that the privilege of petitioning the Supreme Court goes beyond the principles contained in the Fourth Geneva Convention.

9. As another example purporting to show how the competent Israel authorities have allegedly abused their power to dispossess Arabs, the pamphlet alleges that whole areas in Israel populated by Arabs were declared closed areas by the "Military Administration" (pp.14-16).

However, the authors fail to explain that the Military Administration was set up only in limited border areas, and that movement therein was restricted only in order to prevent illegal border crossings, which could result -- and frequently have resulted -- in grievous harm to Israel civilians. Some of the areas had already been declared closed by the Mandatory Power under its Defense (Emergency) Regulations of 1945 mentioned on page 14 of the pamphlet. In fact, the competent Israel authorities repealed some of the British closures and, as the authors of the pamphlet admit (p. 15) most of the land closed by the competent Israel authorities was state-domain. But characteristic of their selective approach, the authors also neglect to observe that the Military Administration was gradually reduced and finally abolished in 1966.

E. Abandoned Jewish Land and Property in Arab Countries

Mention is made in the pamphlet of the immigration of nearly 700,000 Jews to Israel in the wake of the "military operations" of 1948 (pp. 10, 17, 29). But the authors carefully omit mentioning the origins of, and reasons for, this influx of Jews, and give the impression that they were lured to Israel by the prospect of taking possession of abandoned Palestinian Arab property.

A less partisan presentation would have made clear that the vast majority of these immigrants were Jewish refugees from Arab lands, victims of intensified persecution in the wake of the thwarted Arab aggression against Israel (see the letter of 27 June 1979 from the Permanent Representative of Israel to the Secretary-General of the United Nations - A/34/337). After a glorious history of thousands of years in those countries, they had to leave behind immovable property, together with cultural and religious treasures, the value of which has been estimated to far exceed that of the abandoned Arab land and property in custodianship in Israel. However, unlike that land and property, the abandoned Jewish property was pillaged, looted and confiscated, very often by the very Arab Governments forcing the Jews to leave.

An equitable settlement of the material and legal claims of these Jews now forms an indispensable element of a comprehensive solution of the Arab-Israel conflict. This is recognised not only in General Assembly resolution 194 (III) which referred to "all questions outstanding", but also in Security Council resolution 242 (1967) -- the only agreed basis for a negotiated settlement of the conflict -- which speaks inter alia of the need for a just solution to the refugee problem -- that is, both Arab and Jewish.
