International Legal Solutions to the Middle East Crisis*

I. Introduction

In view of the years of distrust and bloodshed between the Arabs and Israelis, applying the almost utopian concept of international law to the Middle East may seem impractical. Yet, it should be pointed out that international law created that problem and applying the tort concept of responsibility for the natural and foreseeable consequences of an action, it follows that international law should find a solution to it. Also, the states in the region adamantly stress their adherence to its principles. While this adherence alone does not prove the value of international law, the possibility of utilizing it to materially alleviate discord ought not to be overlooked.

Applying the principles of International Law to these questions not only helps to sharpen the issues, but also provides a source of new ideas which might . . . provide a basis for accommodation.  

With hope toward a resolution of issues, an attempt will be made to search for international legal solutions to the Middle East crisis.

II. Possible Legal Solutions

A. The International Court of Justice

The first and most obvious institution for settlement of international disputes is the International Court of Justice. Unfortunately, the practical ability of this august body leaves much to be desired, for “It is fair to

*This paper was one of the two joint winners of the 1971 Henry C. Morris International Law Contest. The second winning paper follows.


2 Of course, this depends on one’s criteria for evaluating performance. It should be noted that “Since 1947 the Court has been seised of a total of 51 cases, in which it has been given 30 judgments and 13 advisory opinions . . .” [1968–69] I.C.J.Y. 99. On July 29, 1970 the U.N. Security Council requested an advisory opinion, bringing the total to 14. The number of public hearings dropped from 78 in 1968–69 to 2 in 1969–70, according to the Yearbooks of those years.
assert that the disputes which have been most dangerous to the peace and security of the world were heard neither by the Permanent Court of International Justice, nor the International Court of Justice." Though conceptually profound, the Court's major function today appears to be the relaxation of tensions by directing settlements into the political arena.

Further, new states display special reluctance to appear before this forum. While accepting the compulsory jurisdiction of the Court, both Israel and Egypt have seriously restricted the scope of litigable issues. Israel lists six broad reservations; Egypt severely limited the Court's compulsory jurisdiction to disputes between parties to the Constantinople Convention of 1888. Under the reservations of either state, a case between the U.A.R. and Israel is impossible.

Israel seems to have a special reason for wariness. The U.N. Charter provides for redress to the Security Council if a party does not comply with a Court judgment. The present political make-up of the Council gives Israel good reason to believe that steps would be taken to implement a judgment against her, while the likelihood of a Soviet veto gives Egypt great leverage to disregard adverse decisions with impunity. Since Russia uses her veto to implement foreign policy, and the U.S. avoids using hers, the likelihood of a U.S. veto to assist Israel is small.

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4 "The major reason behind the lack of enthusiasm toward the Court on the part of new states is . . . the availability of alternative methods which in their view offer greater opportunity for a compromise in a shorter time and with less expense and which leave them a wider freedom of action if the final settlement is not to their liking." Ibrahim Shihata, The Attitude of New States Toward the International Court of Justice, 19 INT'L ORGAN. 203, 217-8 (1965).

5[1956-57], I.C.J.Y.B. 214-215. See also Shihata, supra, and Owen, supra.

6 Egypt allowed the Court jurisdiction only as to "[D]isputes between the parties to the Constantinople Convention of 1888 concerning the Suez Canal as to the interpretation or application of its provisions." [1956-57] I.C.J.Y.B. 212-213, and 241. But see Rosenne, Directions for a Middle East Settlement—Some Underlying Legal Problems, 33 LAW & CONTEMP. PROB. 44, 46 (1968). He does not feel that this was really an acceptance.

7 According to the Israeli acceptance, Articles (c) and (d) would both preclude litigation involving Egypt, and since Israel was not a signatory of the 1888 Convention it does not meet the Egyptian requirements. It should also be noted that these are the only states in the region that have accepted any jurisdiction at all. Supra note 4.

8U.N. CHARTER article 94(2): "If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment." See also Rosenne, The International Court of Justice (1957 edition), 102-112 for an interpretation of the article.

9 Prof. Reisman points out that applications for enforcement directives in the U.N. can be blocked by the use of Article 94(2). He says "... It is difficult to imagine that the U.S.S.R., which is doctrinally antipathetic to international adjudication, is anxious to maintain or extend the power of the Court." "... verbatim records indicate that the U.S.S.R. would have vetoed any measures against Iran." W. M. Reisman, The Enforcement of International Judgments, 63 A.J.I.L. 1, 10 note 30 (1969). But it is also true that the Security Council can use armed
Professor Rosenne suggests that under the conditions of the Middle East, the Court might not even render an advisory opinion.\textsuperscript{11} This conclusion seems to be substantiated by the \textit{Aerial Incident of 27 July, 1955} [1959] I.C.J. Rep. 127, involving Israel and Bulgaria. In light of the Communist view of international law, it was obvious to the court that a decision against Bulgaria would go unheeded. Apparently taking this factor into account, the Court dissaesied itself of jurisdiction.\textsuperscript{12} Thus, where non-compliance is probable, there is reason to believe that the Court would follow this precedent and avoid the case.

\textbf{B. The United Nations}

1. Imposed Settlement

There are several ways the U.N. could help solve the Middle East problem. For example, the Security Council could declare the area a threat to international peace and, under the terms of the Charter, impose a settlement.\textsuperscript{18} Unfortunately, it is difficult to perceive any lasting settlement arising from this procedure. Another problem with this approach is the realities of enforcement procedure. For the U.N. to resort to force to implement a decision seems a bit unrealistic,\textsuperscript{14} but this may be their only alternative if both parties do not accept the settlements.

2. Voluntary Settlements

(a) \textit{In General}. A more practical approach would be the creation of a special committee, similar to U.N.S.C.O.P.\textsuperscript{15} This committee would make recommendations about its findings on possible equitable solutions, and

\begin{itemize}
  \item \textit{Force only} when peace is threatened and so Israel could conceivably disregard an adverse judgment without serious fear of forceful implementation, and suffer only adverse world opinion. U.N. Charter ch. 7.
  \item For 25 years the U.S. made a point of shunning the use of the veto absolutely. The first veto was cast in March, 1970, \textit{see} 74 \textit{Newsweek} 47 (March 30, 1970).
  \item "Experience of the use of the advisory opinion in political circumstances seems to indicate two things at least:
    \begin{itemize}
      \item (a) That before the advisory procedure can be put to fruitful use, there has to be some measure of general agreement that the judicial pronouncement, \textit{whatever it might be}, would facilitate the political decisions; and
      \item (b) that in the circumstances there is a reasonable measure of agreement between the states concerned that procedures available under the Statute of the International Court of Justice would be appropriate for the determination of given and agreed issues."
    
    His conclusion is that the necessary consensual basis in fact is missing in the Middle East and that "... in such circumstances, the Court would have found it improper for it to have taken part in such an abuse of the judicial machinery." Rosenne, \textit{supra} note 6 at 46, 47.
  \end{itemize}
\end{itemize}


\textsuperscript{15}U.N. Charter art. 24, 36(1), 39, 40, 41, 42.

\textsuperscript{14}Note that the resort to force can only be attempted when peace is threatened. \textit{See} U.N. Charter ch. 7.

\textsuperscript{16}United Nations Special Committee on Palestine, 1947.

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report back to the General Assembly. Since a recommendation of this type would not be binding,\(^{16}\) the countries of the Middle East would receive the benefits of a "world court of equity," without the detriments accompanying an adverse decision. Even if the recommendation were not accepted by the parties, it would provide a basis for concrete negotiations.

(b) **Sinai.** The balance of power in the Middle East suggests that Egypt is the most important country for Israel to deal with,\(^{17}\) since a settlement between the U.A.R. and Israel would permit the remaining Arab states to follow suit without loss of face.

Some commentators have tied their hopes on a settlement with Egypt to the question of control of the Suez Canal.\(^{18}\) While this waterway is an important item on the agenda, the willingness of the oil-rich states to underwrite the loss of toll revenue to Egypt indicates that she can exist quite well without its operating. Moreover, Israel has flourished for 23 years without using the Canal and has shown that it is not essential to her existence, either. Since Egypt has consistently refused any reopening of the Canal that does not include Egyptian control over part of Sinai, the conclusion reached is that the Suez Canal cannot be discussed without taking the Sinai into consideration.

Professor Reisman's recent publication contains a credible plan for the Sinai.\(^{19}\) He proposes a Sinai Development Trust to administer the area for a lengthy period of time, with reversion of sovereignty to Egypt at its expiration. The Trust would operate similar to a corporation and contract out for plans leading to industrial development of the peninsula. By agreeing to this partial relinquishment of sovereignty, Egypt would acquire the economic benefits of an industrially developed Sinai, the withdrawal of Israeli troops, and the guaranteed return of her land. Israel, for her part, would acquire a buffer zone where Egypt had such concentrated industry that she would hesitate to commence warfare.

Due to the heavy world investments in the trust area,\(^{20}\) world pressure would help maintain peace also. Since the Sinai is huge and virtually uninhabited, unique industrial experiments would be possible. The accompanying rise in the standard of living in the region would reduce Arab


\(^{17}\)See Nadav O. Safron, *The Alternatives in the Middle East*, 47 Commentary 45, 50.


\(^{20}\)The proposal suggests floating huge bond issues on the world market to provide problems of voting, etc., but involving large numbers of influential people and governments.
dependence on Russia, and eliminate the need for belligerency as a tool for internal pacification. The long-term status of the trust assures Israel of 30 to 50 years of peace. By appointing the World Bank as trustee, the possibility of partisan politics would be minimized and the U.N. could stand behind the plan to ensure the fulfillment of the trust’s terms.

Though Prof. Reisman’s proposal is solidly based in the international instrumentalities he suggests, it draws heavily upon the belief that economic interests will keep Arab nationalism in check. Unhappily, the factors that make international interests crucial in some parts of the world may not necessarily apply to the Middle East. Israel’s socialistically committed government and precarious political position could not allow economic interests to prevent her from conducting a war she considered necessary for survival. Egypt, on the other hand, has shown the world that she can be led to a war contrary to her interests by runaway rhetoric and inept brinksmanship. The ability and apparent desire of the wealthy oil states to underwrite the costs of a Jihad also indicate the need for a settlement not heavily dependent on economic factors.

Prof. Reisman’s suggestion is helpful though and should be viewed as one possibility for international control of the Sinai. It should be emphasized however, that neither the Canal nor the Sinai will finally determine the success or failure of efforts towards peace in the Middle East. Instead, it is the resolution of the internal problems of Egypt that will eventually lead to lasting peace. With one Egyptian baby born every 40 seconds, the real threat to Egypt is not Israel but her own underdevelopment. Prof. Reisman’s work is most commendable because it is directed to this critical problem.

An effective settlement should speak to the economic problem and answer the needs of the Egyptian leadership to effectuate a return of land as proof of Arab strength. One method would be to fuse the trust idea with a return of land. The Sinai would be partitioned along a line drawn from El Arish to Sharm el-Sheikh. The Egyptians would then regain sovereignty over the eastern part under the following conditions.

First, the area would be demilitarized. U.N. guards—not just observers—would ensure compliance with this condition and show that the pre-

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21 For this plan to work, it is not necessary for Israel to purchase any bonds, but it is likely that she would do so to show good faith. Regardless, if she felt threatened, the monetary factor could not possibly outweigh the threat of possible politicide and genocide.

22 Arabic for “Holy War.”


24 To dispel any fears on either side, only neutral nations should be allowed to participate, and the U.S. and the U.S.S.R. would both be excluded.
ventive measures were not illusory. Egypt would be the sovereign, though, and might be allowed a nominal police force. Second, the World Bank would be granted a concession similar to the trust discussed above. The object of the concession would be to bring industry to the Sinai. The western sector would remain under Israeli control, but subject to the same conditions. Final disposition of the Israeli sector would be decided at a set future date by an international commission created by the U.N.\textsuperscript{25}

The benefits of this synthesis would be threefold. First, it gives each country's leaders enough land to combat internal extremists.\textsuperscript{26} Second, Egypt would regain sovereignty over a large part of her land and could, while remaining consistent with her demands, open the Canal. Third, the World Bank would be working to integrate the sectors economically. Since Gaza, the area of the major labor force, would lie in the Israeli's sector, free intercourse of people and goods would follow. The present relationship between Jordan and the West Bank illustrates the feasibility of this concept, and a planned interdependence could easily lead to normal trade relations between Israel and Egypt with the trust area acting as intermediary.

C. The West Bank

Since Israel is in control of the West Bank, it is reasonable to suggest that the most likely use of international law in this area would be by a unilateral move by Israel. Before discussing the possibilities though, it is important to explain the advantages to Israel of taking such moves.

First, a relinquishment of the West Bank would relieve Israel of her most pressing current problem, the nature of the state. The addition of 600,000 Arabs would seriously threaten Israel's Jewish character. Without resorting to apartheid or expulsion, surrender of this area is necessary to avoid the possibility of a Moslem majority in a Jewish state.\textsuperscript{27} Second, the

\textsuperscript{25}This commission would work on the presumption that the land would revert to Egypt, and the burden of proof would be on the state that argued differently. This would allow any new Arab state the right to argue for the territory as well as Israel.

\textsuperscript{26}There are a large number of Israelis who do not want to give back any large amounts of land due to security reasons. See Time, April 12, 1971 for a poll on the Israeli attitude toward return of the territories. For the Egyptians, they have been warned of the danger of Israeli expansionism for so long, that perhaps even the elite believe it. There is little doubt the masses do. Agreeing to a settlement that did not return at least some land to Egypt, could seriously undermine the strength of the ruling elite.

\textsuperscript{27}In 1970 there were 406,000 Israeli Arabs. The non-Jewish birth rate was 44.9 (crude birth rate per 1,000) versus 21.5 for Jews. The Jewish population at the beginning of 1969 was 2.4 million, and the number of Arabs in all the administered territories was about one million. This means that there are almost 1.5 million Arabs and 2.5 million Jews within the 1970 cease-fire lines. With a birth rate over double that of the Jews, the Arabs could outnumber the Jews within 20 years, all things being equal. Facts about Israel, 1970. Ministry for Foreign Affairs, Jerusalem (1970).
formation of a government that represents the Palestinians means that Israel could negotiate the questions of compensation and resettlement of the refugees. The solution to this problem might lead to Israeli integration into the area as an equal. Third, an Arab Palestine could attract Israeli Arabs, giving them an outlet for nationalistic energies. Fourth, there need be little worry about Israel's borders being disproportionately long, since the old cease-fire lines would not have to be followed.


Israel could ask the U.N. to conduct a plebiscite, thereby allowing the people of the area to decide their own destiny: to become an independent Palestinian State, reunite with Jordan, create an economic union with Israel, or some other alternative. Unfortunately, this method is pregnant with dangers of coercion and political terrorism. While this plan provides a legal disposition of the area, it could easily deteriorate into a situation politically and militarily unacceptable to Israel and should not be considered a likely alternative.

2. Trust.

A second alternative would work a compromise between the Israeli need for security and the Arab desire for self-determination. Under Article 73 of the U.N. Charter, Israel could declare herself trustee of the West Bank in the name of the Palestinian people until they achieve self-governing status. This would prevent the nascent state from becoming a puppet of Jordan or acting as a jumping-off ground for future hostilities. By the addition of the Gaza Strip and the cessation of a route between the two areas, Israel would add a Mediterranean port to the new state, thereby ensuring its economic viability and substantially increasing its stability.

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28Israel's pre-1967 borders were: Land 590, Water, 159. After the war there was an actual decrease in land borders. Land 523, Water 826. The peculiar configuration of the bulge of Jordan into the center of pre-1967 Israel was responsible for this. Id. at 41.

29It is interesting to note that in the Armistice agreements between Israel and the Arab states, the Arabs insisted that a clause be inserted indicating that the lines drawn up were NOT to be considered permanent, and were made due to military expediency. See, for example, 42 U.N.T.S. 303, n. 656, the treaty between Israel and Jordan or 42 U.N.T.S., 251 n. 654, Egyptian Israeli Armistice agreement.

30During the 1936-1939 Arab riots, Arab extremist elements used the tumult to eradicate the more moderate Arab leaders. The end result was that the Arabs killed more Arabs than Jews. 187 Arabs were killed and 80 Jews. C. SYKES, CROSSROADS TO ISRAEL 161. Note 30 (1965).

31U.N. CHARTER article 73 provides, in part: “Members of the United Nations which have or assume responsibilities for the administration of territories whose people have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount and accept as a sacred trust the obligation to promote . . . the well-being of the inhabitants. . . .”
3. Return to Jordanian Control.

As pointed out by Professor Blum, there are serious legal questions regarding the legal reversion of the West Bank.32 Jordan’s status was only that of belligerent occupant, and the legality of returning to her is questionable. Nevertheless, it appears that the International Community of Nations would likely support its return to Jordan.33

As a prerequisite for return to Jordan, Israel would demand a border readjustment.34 Conditions for return would be greatly enhanced by the demilitarization of the area under U.N. auspices. A joint U.N.-Israeli-Jordanian Force could easily patrol the Jordan River to prevent the introduction of arms, and the West Bank could logistically evolve into a miniature Switzerland. Reacquisition of the area would be such an obvious benefit to Jordan, it is not unreasonable to assume her assent to these conditions. For Israel, the benefits would be almost the same as those flowing from a Palestinian state, since provisions for the refugees would be a condition for return. It should be noted though, that for an enduring peace to come about in the Middle East, the justifiable cries of the Palestinians must be answered.35

D. The Gaza Strip

Gaza has been left out of the above discussions due to a desire for flexibility in bargaining. The most beneficial disposition of it would be a link to the new Palestinian state, but if the people did not demand otherwise, a return to Egypt would not be an unreasonable solution.36

III. Politico-Legal Considerations
Concerning Jerusalem and the Golan Heights

A. Jerusalem

In the short passage of time since the 1967 war, there has been a proliferation of legal articles about Jerusalem.37 In view of the adequate

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33See note 47, infra for the Security Council’s opinion of the status of Jerusalem and the legal critique.
34See note 28, supra.
35"The only group in the contemporary Middle East situation with a legitimate grievance is the Palestinian Arabs. By a complex convergence of circumstances, they have been denied the opportunity for self-determination and for twenty years have lived in the most degraded conditions," REISMAN, supra n. 19 at 44.
36The people of Gaza would appear before the U.N. Commission and testify as to their desires for disposition of the land.
37E.g., Eli Lauterpacht, Jerusalem and the Holy Places, Monograph for Anglo-Israel Association (1968); JULIUS STONE, NO PEACE—NO WAR IN THE MIDDLE EAST, Sydney (1970); S. S. Jones, The Status of Jerusalem: Some National and International Aspects, 33
treatment elsewhere, extended legal discussion would be redundant. This
exceptional interest in Jerusalem points out its special importance. To the
Jewish people this is especially true. As the holiest place in the Jewish
religion, Jerusalem’s emotional significance cannot be overestimated.
Also, it is a political reality that Jerusalem has become an integral part of
the State of Israel, and the Israelis will not relinquish it. Any government
agreeing to a radical change in Jerusalem’s status would fall under a vote of
no-confidence, and the succeeding government would, of course, retain
control of it.

In view of the Israeli laws assuring free access to holy places and
freedom of religion, there is no need to change the status of Jerusalem.
The proposed internationalization of 24 years ago was intended to assure
these very rights. Political control of the city by Jordan showed that they
were incapable of fulfilling their obligations, while the Israeli rule has
shown the opposite to be true. Since Israel guarantees these rights,

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\textit{LAW & CONTEMP. PROB.} 169 (1968); Roslyn Higgins, \textit{The June War: The U.N. and Legal
Background}, \textit{J. OF CONTEMP. HIST.}, July 1968, 252.

\textsuperscript{38}It is considered to be a mitzva (a good thing) to be able to live in the Holy City, and in
modern times Jews have always exceeded Moslems in Jerusalem:

In 1844 there were 7,120 Jews to 5,000 Moslems; in 1876, 12,000 Jews to 7,560
Moslems; in 1896, 28,112 Jews to 8,560 Moslems; in 1910 47,000 Jews to 9,800
Moslems; in 1931, 51,222 Jews to 19,894 Moslems; in 1948, 100,000 Jews to 40,000
Moslems, and in 1967, 200,000 Jews to 54,903 Moslems.”

\textit{STONE op. cit., supra} note 47, at 19.

As to its importance to other religions, since the end of the crusades, Christian control
has not been an issue, as long as the religious community had autonomy. For Moslems it is
not a major item. In a discussion of the important places in the world to Muslim Jurists, Prof.
Mahmassan discussed Mecca, Medina, the Hedjaz and the remaining Islam lands. Jerusalem
was not even mentioned in this context. S. Mahmassani, \textit{The Principles of International Law
in the Light of Islamic Doctrine}, R.A.D.I., Tome 117 (Leyde, 1967), at 250–251. \textit{See also
REV. 120.}

\textsuperscript{39}In a recent \textit{TIME} poll, although only 29% of Israeli Jews favored annexation of
Western Sinai, and 39% favored annexation of the West Bank, 90% favored annexing
Jerusalem, and only 0.5% would favor returning it. About 8% favored some form of

\textsuperscript{40}In Israel, personal jurisdiction falls under the authority of the religious community, that
is marriage, divorce, etc., is only religious; there is no way to get married by the state. This
insures the freedom to each community to legislate as it desires and follow its own precepts.


Besides desecrating Jewish cemeteries, and destroying synagogues, the Jordanians also
tried to control the Christians in their jurisdiction. In 1958 a law was passed obligating the
priests attached to the Church of the Holy Sepulchre to have Jordanian citizenship; these
priests had been of Greek nationality since the 5th Century, A.D. In 1965 a law was passed
with the object of preventing new churches being built, and lands being sold in Jerusalem for
churches to be built in. Jehovah’s Witnesses were banned completely, and other Protestant
sects were severely restricted. \textit{See Dafna Alon, \textit{Arab Racialism}, published by The Israel
Economist, Jerusalem, Israel, pp. 77–90, p. 83.}

\textsuperscript{42}See Text of Open Letter of 14 December 1970, directed by the Moslem Qadis of Israel
to the Congress for the Propagation of Islam Meeting in Tripoli, Libya. Mimeographed only.
Consulate General of Israel. Part of the Letter:
international status would add nothing, except perhaps confusion. While
the U.N. seems to take the stand that Jordan has rights to Jerusalem,
Israel's legal claim to it is well based in international law.44

There is, however, the question of the relationship of the Arab citizens
of Jerusalem to the State of Israel. One solution would be formal annexa-
tion followed by the grant of Israeli citizenship. Another solution would
require the utilization of international law. Executing an agreement be-
tween the Palestinian State and Israel, the Arabs in Jerusalem could
become Palestinian subjects while retaining Jerusalem citizenship. They
would pay municipal taxes and could vote in municipal elections.

For cases involving divorce or marriage, the religious courts would have
jurisdiction, and a special provision would be drafted for tort and criminal
jurisdiction. This provision would specify whether the Jerusalemites would
litigate in a special international court in Jerusalem, be subject to the laws
of their state, or would combine one or the other with an appeal to the
International Court of Justice. Each religious community would retain
control over their own holy places and if desired, the Moslem community
could fly the Palestinian flag over their holy shrines. The overall effect of
this would be to make Jerusalem the de facto capital of both countries,
while conforming to the realities of current Israeli control.

B. The Golan Heights

Syria's increasing belligerency coupled with her refusal to participate in
the Jarring talks, demonstrates her unwillingness to seek a peaceful set-
tlement with Israel. In view of this, and the important strategic value of the
heights45 an annexation of this area would be likely. The Security Council

"We, the Moslems of Israel, maintain our beliefs. No change has taken place in our
religious life. We enjoy full freedom in the observance of our religious obligations, and
our religious courts pass judgment according to Moslem law. Nothing is denied us....
We regret that Moslem governments with whom we are as one in our religious faith
should prevent us from fulfilling the obligation of making a pilgrimage to the house of
Allah...." (Signed) "Sheikh Mahmud Tewfik Asalieh, Qadi of Yafo-Jerusalem, Sheikh
Husni el-Zuabi, Qadi of Nazareth, Sheikh Amin Amin Qasim Madlah, Qadi of Acco,
Sheikh Hasan Amin Habash, Qadi of Central Region."

44"The assumption has grown out of that resolution (G.A. Res. 2253, about altering the
status of Jerusalem).... that Jordan has a legal title in Old Jerusalem which is preferrable to
that of Israel's. Jordan holds Old Jerusalem by virtue of her military action against Israel in
1948...." "But there was no discussion at all within the Security Council of this point; or of
the question whether, if Jordan was in occupation of Old Jerusalem but without title to it, it
could be legally dispossessed by a country claiming to have responded in self-defense to an
attack by Jordan." "... resolutions which by implication take a stand on those questions have
been passed without proper consideration of the legal issues involved." Rosalyn Higgins,
Place of International Law in the Settlement of Disputes by the Security Council, 64 A.J.I.L.
1, p. 7 (1970). See also Blum, supra note 32; Lauterpacht, supra note 37; and Stone, supra
note 37.

45The Israelis realize this also and in a TIME poll, 86% favored annexation while only 3%
favored return. supra note 42.

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could lawfully approve this annexation without regard to Israel's legal claim to the area. Even assuming the Council's disapproval, there is adequate general international law to justify this action.

Alternatively, a trust territory could be set up for the Druze inhabitants and in anticipation of nationalistic feelings among the Druze youth in Israel. This would insure Israel a friendly neighbor to the North.

IV. Conclusion

An examination of methods and actualities in applying international law to the Middle East leads to these conclusions about its potential uses. First, the specialized skills of the International Court of Justice cannot be utilized in the super-heated political atmosphere surrounding the Arab-Israeli conflict. Even if the parties were pressured into asking for an advisory opinion, the court may try to avoid the issue out of a concern for its credibility. Second, while the U.N. has the political power to impose a settlement, this course of action would likely be detrimental to a search for a lasting peace, and it is doubtful that it would use its potential enforcement abilities.

Third, given the desire for peace by the parties involved, resort to the special U.N. position as third party enforcer could be quite useful. It is here that the U.N. can be of greatest help. Utilization of the U.N. as a Court is not useful nor advisable, but to have it fulfill a function could be of great help. Fourth, a peaceful solution to an emotional problem like this one may require unique applications of international law in order to take into account the political realities of the situation.

Let us hope international law can rise to this challenge and translate the concept of "World peace through world law" into reality.

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46"The Security Council is authorized to recommend a settlement which might involve an infringement upon the rights which the one or the other party has under existing international law. . . . In case of a territorial dispute, for instance, the Security Council might recommend as appropriate that one part shall cede a part of the disputed territory to the other party, regardless of whether the latter has any legally justifiable claim to this territory." Kelsen, The Law of the U.N. 385.

47See for example, Kelsen, id.; Schweber, What Weight to Conquest, 64 A.J.I.L. 344 (1970); Shapira, The Six Day War and the Right of Self-Defense, 6 Israel L. Rev. 65; and Stone, supra, n. 40. While the fact is an arguable one, the point is that it would not be out of the mainstream of international law for Israel to annex this territory.

48The Druze have always been on good relations with Israel, and Israeli Druze are subject to draft laws at the request of their community. For discussion see the proposal in Reisman, supra note 19.

49Another impediment has been the "political-legal" distinction, the core of which in international law is simply that what the organized community can do is "legal," what it cannot do is "political." To assume that enforcement is "political is to beg the question." Reisman, supra note 9 at 5.