

**Resolution 242 Between International Legitimacy and Problematic Application****القرار 242 بين الشرعية الدولية وإشكالية التطبيق**

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Abstract

UN Resolution 242 of 1967 was the main reference to the resolution of the Arab-Israeli conflict. At the same time, however, it was a major problem in ending the conflict because of the difference in its interpretation by the conflicting parties on one hand and because of the passing of time and the internal, regional and international developments that have taken place over more than half a century since its publication. These include Israel's boast of a fait accompli and its adherence to the so-called safe borders, the weakness of the Arab system, the profound changes in the international arena and the United States' global dominance. In this paper, the researcher attempts to analyse the problematic nature of the implementation of the aforementioned decision in accordance with the changes taking place in the regional and international arenas.

Key word : International Legitimacy, the Arab-Israeli conflict, UN Resolution 242, Conflict Management,

المخلص

لقد شكّل القرار الأممي 242 الصادر عام 1967 المرجعية الرئيسية لحل الصراع العربي-الإسرائيلي، إلا أنه وفي الوقت نفسه شكّل إشكالية كبيرة في إنهاء هذا الصراع بسبب الاختلاف في تفسيره من قبل الأطراف المتنازعة من جهة، ومن جهة أخرى بسبب التقادم الزمني عليه، وتأثير المتغيرات الداخلية، الإقليمية، والدولية التي حدثت على مدار أكثر من نصف قرن منذ صدوره، منها تبجح إسرائيل بسياسة الأمر الواقع وتمسكها بما يعرف بالحدود الآمنة، وضعف النظام العربي، والتبدلات العميقة على الساحة الدولية وهيمنة الولايات المتحدة العالمية. في هذه الورقة يحاول الباحث تحليل إشكالية تطبيق القرار المذكور على وفق المتغيرات الحاصلة على الساحتين الإقليمية والدولية. الكلمات المفتاحية: الشرعية الدولية، الصراع العربي الإسرائيلي، القرار الأممي 242، إدارة الصراع.

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Introduction

Many scholars and politicians agree that the Arab-Israeli conflict is one of the longest and most complex conflicts in modern and contemporary history. Many of the factors and circumstances in this conflict have interacted to increase its complexity, in addition to the American position that is always supportive of Israel. Also the way of passing Resolution 242 of 1967 and its interpretation has become a profound reason for the failure to reach a final solution to the Arab-Israeli conflict and the establishment of a Palestinian state.

Although the resolution forms the core of the Arab-Israeli peace negotiations since 1979, and success in reaching a state of peace with Egypt and Jordan, it was not the case in the Syrian-Israeli negotiations, and the Palestinian-Israeli negotiations since 1991 till now without any worth mentioning results. The case is the same with the Syrian-Israeli negotiations which were stopped early.

This paper attempts to pay attention to the aforementioned resolution, and analyze how it posed a big problem in reaching a final solution to the conflict, even though it is the basis of negotiations, because of the difference in its interpretation by the conflicting parties on the one hand, and on the other hand because of the statute of time limitations on it. In addition to the impact of the internal, regional and international changes that have taken place over almost half a century since its publication. These include the chronicle that Israel boasts of as having become a reality on the ground, the weakness of the Arab system, the profound changes in the international arena and the United States' global dominance.

For the sake of understanding the subject, the paper was divided into two axes:

First: the United Nations management of Resolution 242.

Second: Israel and the implementation of Resolution 242.

First: The United Nations and The Conflict Management

When the Arab-Israeli conflict started and took its highest point, the war, the organization's position was weak and impotent in finding a just solution to this conflict, which turned it into the longest conflict of our modern and contemporary history, which in turn increased the degree of its complexity because of the lack of a unanimous international will towards it or because of the dominance of certain states over the organization's capabilities.

The Security Council, as the executive body of the United Nations, takes the greatest share of blame in this failure. As the Council, because of US hegemony, has pursued a non - neutral policy, the results of which have always been in the Israeli interest, to consolidate its occupation of Arab lands, through what is known as a fait accompli policy, and the failure to reach a solution that guarantees the Palestinian rights, through two main facts which are:

- The large number of cases of American veto of the resolutions condemning Israel.
- Selectivity in decisions taken by the Council under Chapter VI and VII of the Charter of the United Nations. By selectivity we mean the criterion upon which the Security Council based most of its decisions, as it was not to preserve international peace and security on the basis that it is the body responsible for it internationally, as much as it was the situation that Israel is living in its time. In the 1948 war, the initiative was in the hands of the Arabs, and



Israel's position was critical on many fronts ⁽¹⁾ The Council intervened and issued resolution 54 of 15 July 1948 under Chapter VII, considering that the situation in Palestine would threaten international peace and security. It requested the warring parties to refrain from fighting and ordered the governments and authorities concerned to cease any military action ⁽²⁾. In the June 1967 war, all the resolutions issued by the Council (235,234,233,236), taken during the period from 6 to 11 June 1967, which stopped firing, were taken under Chapter VI, and the reason in our consideration is that the position on the battlefield was in favor of Israel, as it took control of Egyptian and Syrian territory and occupied all of Palestine. These decisions did not include any withdrawal of Israeli forces, but merely directed calls for a cease-fire and cease military activities, while rejecting the Soviet draft submitted to the Security Council, on 14 June 1967, which demanded the Council to strongly condemn the Israeli aggression and occupation of parts of the Arab territories, also called on Israel to withdraw its troops beyond the armistice line ⁽³⁾ In other words, the territories occupied by Israel in 1948 were considered by the United Nations as the legitimate land of Israel.

Thus, Israel and its supporting countries in the Security Council succeeded in breaking up the issue that is supposed to be a ceasefire and a withdrawal of forces. However, what happened was the cease-fire only, and the withdrawal was supposed to be discussed later, and despite the acceptance of the Israeli and American view, the United Nations has not succeeded in putting pressure on Israel and to force it to withdraw from the territories it occupied unconditionally under UN Security Council Resolution 242, nor has it succeeded in forcing Israel to implement dozens of other resolutions of the Security Council. These decisions are violated for decades as they were not taken under Chapter VII of the Charter.

Second: Israel and Resolution 242

Resolution 242 formed the main reference in the Arab - Israeli negotiations, especially on the Palestinian track, it was also the reference to the most important initiatives: the Arab initiative put forward in the 2002 Beirut summit, the road map of the United States put forward in 2004, but problematic implementation of the resolution remained, Despite the continuation of the negotiating process; this resolution represents the spirit of these negotiations.

1: Problematic application of the decision

The researcher believes that the non-implementation of this resolution so far is due to a number of reasons including:

a- The resolution was not adopted immediately after the cease-fire, or shortly thereafter but was issued on 22 November 1967, almost six months after the cessation of hostilities, and this

¹. For thoroughgoing on the status of forces in the fronts, see: Abdul Sattar Qassem, and Ghazi Rababa'a, Arab-Israeli wars in Jawad al- Hamad, the Entrance to the Palestinian Cause, (Amman: Center for Middle East Studies, 1999), pp . 257-274. And Haitham Kilani , Military Strategies for the Arab-Israeli War, 1948-1988 (Beirut: Center for Arab Unity Studies, 1991), and Israeli Military Doctrine (Beirut: Palestine Liberation Organization Research Center, 1969), p. 378.

2. See Resolution 54 of 1948.

3. Melhem Qorban, Issues of Political Thought and Power , (Beirut: The University Foundation for Studies, Publishing and Distribution, I, 1983), p. 206.



means that the Israeli and American insistence on separating the cease- fire and withdrawal was intentional.

b- Versus the three Arab “no”s taken at the summit of Khartoum August 1967 (no to negotiates, no to reconciliation, no to recognizing Israel), Israel sought for its part to keep the land it occupied, which was Seventy thousand square kilometers, considering it necessary to its security knowing that it lacks a strategic depth. This action was endorsed by the United States considering it an act of self defense by Israeli against the Arab states

c-The resolution that was considered the basis and the groundwork for the peace process in the Middle East was not adopted under Chapter VII of the Charter and therefore did not contain any mandatory force in implementation. Its preamble stated that the Security Council expresses its continued concern about the dangerous situation in the Middle East, affirming the inadmissibility of the acquisition of territory by war and the need to work for a lasting and just peace in which every state in the region can live in safety, affirming also that all member states, by accepting the Charter of the United Nations, have committed themselves in accordance with Article 2 of the Charter.

2: Israel's Compulsory Resolution

In our assessment, the Security Council has granted Israel, in a sense that it does not know, a great deal of flexibility in its consideration of Resolution 242, and its lack of seriousness in its implementation. How?

a- There were two notions or concepts of the Israeli withdrawal from the occupied Arab territories, the first: ending the Israeli military occupation unconditionally, on the basis of the Charter, which represents the Arab and the Soviet point of view, and some countries of the Third World, Second: The Israeli and American point of the view which sees linking the end of the occupation and withdrawal with achieving political and military conditions⁽¹⁾ which is intended to conclude a peace agreement and secure borders. However, Egypt and Jordan agreed to the resolution, the first step being to complete the Israeli withdrawal, while Israel insisted that there would be no withdrawal from any part of the territory prior to direct negotiations with the concerned Arab parties leading to a peace agreement with secure and recognized borders⁽²⁾ . Applying the spirit of paragraph c of article 2 of the resolution (Ensure the borders of each state in the region and political independence through measures including the establishment of demilitarized zones). This is what we will witness later on.

b. Israel considered the decision non-binding, so some researchers explain that Israel's failure to implement the resolution is not a leap on international legitimacy. Had the resolution been taken under Chapter VII, the situation would have be different; Israel cannot challenge the United Nations even if supported by a superpower. This was because it was newly established at that time. These researchers come to the conclusion that the reason for what happened and the reason behind the Israeli intransigence is the United Nations inability to have a unanimous will concerning its decisions. It is only natural when the will expressed by the decision such as resolution 242, is a fragile one because of the contradiction of the parties and the conflict in their opinions and diagnoses of the solution, it is easy to smash the wills that should be

¹ . Melhem Korban, Ibid., P. 255.

² . Avi Shalim , The Iron Wall, trans by Nasser Afifi, (Cairo: Rose Al Yousif Foundation, 2000), p. 255..





pressing to implement the resolution. Hence, the dilution of its implementation becomes easy⁽¹⁾.

c. Resolution Interpretation: Israel formally approved Resolution 242 in August 1970⁽²⁾, and this signal confirms the Israeli persistence to save time, and as long as it agreed to the resolution, it is supposed to implement, but the problem posed by the resolution is that it was issued in more than one language: French, Russian, Spanish, Chinese, stipulates (withdrawal of the armed forces Israeli occupation of the territories it occupied in the recent conflict), held by the Arabs, and an English version stating:

(Withdrawal of Israeli armed forces from territories occupied in the recent conflict)⁽³⁾.

And here it must be noted that the architect of this decision Lord Caradon, Britain's delegate to the UN Security Council at that time, set a condition that the resolution does not accept any amendment or compromise and it should either be accepted it as it is or to be refused. Because any amendments, even minor ones, in his opinion, would blow up the project basis⁽⁴⁾. This confirms the deliberate intention to make this decision ambiguous in interpretation. The text is likely to mean that the withdrawal is not from all the occupied territories, but part of it, which Israel is adhering to and insisting on, and confirmed by statements of Israeli officials not to return to the pre-June 4, 1967 borders. It is supported by the United States, especially in subsequent years, on the grounds that chronicle on the ground make it difficult to return to those borders, as has already been noted. Not to mention paragraph 1 (b) of the resolution (... and its right to live in peace within secure borders). What are these secure borders that Israel wants? What is its shape? And, more importantly, who will decide these borders? This matter has been left open to Israel, manipulating it as often as it wishes. Finally, Israel will be the one who will define these borders in the way that serves its interests. This issue will be a major obstacle when discussing the final status issues.

When Israel has agreed to withdraw from the Sinai, the researcher's assessment indicates two important points:

First: the steadfastness of the Israeli position confirms that there is no withdrawal before the direct negotiations, which has already been done with Egypt and Jordan.

Second: The Sinai area will be a demilitarized zone, and safe, in the sense that it was not strategically dangerous to Israeli security, and is consistent with the idea of safe borders.

d- As for the acceptance of the Arabs to sit at the table of negotiations in Madrid in 1991, and what followed, and that this makes it imperative for Israel to withdraw as in the case of Egypt, the Palestinian and Syrian cases differed. The conditions of 1979 are not the same conditions that followed the collapse of the Soviet Union and the imposition of the global dominance of the United States and the weakening the Arab political system.

e- Israel considered its victory in the June 1967 war the most outstanding one in its history. And that it was necessary to preserve this achievement and make maximum use of it in any future peace negotiations. Moreover, the Israeli tactic at that time aimed at prolonging

¹. Melhem Korban, op.cit.pp206-207.

². See Avi Shlaim , op. Cit., P. 255.

³. See the text of the resolution in English << [http // www. Un. Org](http://www.Un.Org) >>.

⁴. Mehran Gozah, Analytical Study: Analysis of Resolutions 242,338. <http://quzah.blogspot.com/2013/05/242-338.html>



negotiations with the UN envoy in order to gain time ⁽¹⁾ , which has actually been done to change the demographic and typographic reality in the occupied territories. The result of which was the annexation of Jerusalem and the Golan Heights.

f- With the passage of time and the emergence of important events on the regional and international arenas, the importance of the subject of the Arab-Israeli conflict receded in favor of other Arab regional issues and crises in the region, including the occupation of Iraq, the spread of the phenomenon of terrorism in a number of Arab countries, the revolutions of the Arab Spring, the big crises like the Syrian and Yemeni crises and the Iranian nuclear file. And all of these crises grant Israel the best regional and international situation to continue its intransigent positions, foremost of which is the non-implementation of Resolution 242 and the continuation of its settlement expansion.

g- In addition to all of this, the American position can be added which is in support of the Israeli position in all negotiations and the continuation of material and moral support for Israel, the latest being the decision of President Trump to recognize Jerusalem as the capital of Israel on one hand, and his decision to stop aid to the Palestinians on the other.

Summary and conclusions

Resolution 242 will remain a major problem in ending the Arab - Israeli conflict and granting rights to the Palestinian people. The Israeli position will remain the strongest in all existing or subsequent negotiations for the following reasons:

1- Lack of seriousness of the United Nations to end the Arab-Israeli conflict and to grant of rights to the Palestinian people, despite all the decisions of the initiatives put forward because of the weakness of this international organization on one hand and the strong and direct influence of the United States on the other. The result of which was the lack of mandatory resolutions issued, including resolution 242, because they were not taken under Chapter VII.

2- The great American support for Israel in all fields and at all levels, especially in the political field, and the failing of the international and regional pressure exerted against Israel, and defending it in the international forums. This applies to the Quartet which has been transformed into an ineffective address as well as the portrayal of Israeli practices, especially the military ones, as a form of self-defense and portraying the Palestinian resistance as terrorism.

3- They continuation of the weakness in the Arab position due to the absence of a unified Arab vision toward the conflict with Israel concerning their approach in dealing with Resolution 242, and exerting pressure on influential parties to implement it according to the form that ensures Arab rights. All the Arabs did in this regard was to present the Saudi initiative at the 2002 Beirut summit, which was based on recognition of Israel, in exchange for Israel's recognition of the resolution and withdrawal from the territories it occupied in 1967. But Israel did not accept the initiative and met it on the second day with a major

¹. See, for example, Abdel Ghani Emad, *Resistance and Terrorism in the International Framework for the Right to Self-Determination in the Arabs and the World after 11 September* (Beirut: Center for Arab Unity Studies, 2nd ed. 2004), p. 182.



military incursion into the self-rule territories it had previously withdrawn from under the Oslo agreement.

4- Israel will continue to boast about a paragraph of the right of the parties to live in peace within secure and recognized borders free from the use or threat of force. This right is left to Israel's interpretation, and not the United Nations', and not even to the general situation that Israel has experienced since the 1973 war as there has been no movement of an Arab army against Israel. Add to this the fall of the theory of defense of safe borders in the presence of air power and long-range missiles.

5- Resolution 242 is the basis for all discussions between Israel and the Arabs as the legal and legitimate reference to which the Arabs adhere and Israel will cancel this condition in any future talks with the Palestinians, and will succeed mostly because of the US support which means that the negotiations will be governed by chronicle on the ground.



Text of Resolution 242(نص القرار 242)

The Security Council expressing its continuing concern at the grave situation in the Middle East emphasizes the illegality of the acquisition of territory by war and the need for a just and lasting peace in which every state in the region can live, and also stresses that all member states, when they accepted the Charter of the United Nations, have committed themselves to act in accordance with article II thereof.

1. Declares that the application of the principles of the Charter requires the establishment of a just and lasting peace in the Middle East, which requires the application of the following principles:

a. The withdrawal of Israeli forces from the territories they occupied (in the English text: "from land occupied by them") in the recent conflict.

b. For every state to end the conditions of war and to respect and recognize the independence, territorial sovereignty and political independence of every state in the region and to live in peace within secure and recognized borders free from the use or threat of force.

2. The Council stresses the need to:

a. Ensure freedom of international shipping corridors in the region.

b. Achieve an urgent settlement of the refugee problem.

c. Ensure the borders and political independence of each state in the region through measures among which the establishment of demilitarized zones.

3. Requests the Secretary-General to appoint a special representative for the Middle East to establish contacts with the states concerned with a view to assisting in the efforts to reach a peaceful and acceptable settlement on the basis of the texts and principles contained in the present resolution.

4. Requests the Secretary-General to inform the Council of the progress of the efforts of the special envoy as soon as possible. "